

The Wasatī and Salafī Approaches to the Religious Law of Muslim Minorities*

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Abstract

The article explores the evolution of competing approaches to the religious law of Muslim minorities (*fiqh al-aqalliyāt al-muslimā*): the *wasatī* and the *salafī*. Both approaches are grounded in a similar triumphalist and revivalist contextualization of Muslim presence in the West. The *wasatī* approach, led by al-Azhar graduates and Islamist activists, presents two objectives: making the lives of Muslim minorities easier in order to preserve their Islamic identity, and endorsing efforts to Islamize the West. To promote these objectives *wasatīs* emphasize a systematic search in all four religio-legal schools and beyond them and the liberal application of *maṣlaḥa* (public or individual interest). Some of the results achieved by this methodology demonstrate the potential of *maṣlaḥa* to revise any religious law relating to *muʿāmalāt* (social transactions). The stricter *salafī* approach associated with conservative elements in Saudi Arabia's religious establishment emphasizes the concept of *al-walāʾ waʾl-barāʾ* (loyalty and disavowal). Its juristic interpretations are based on opposition to perceived innovations, imitation of infidels and cooperation with them. I examine the two approaches through a systematic analysis of three issues that are central to the religious law of Muslim minorities: non-Muslim holidays, mortgages and service in non-Muslim militaries.

Keywords

wasatīyya, *salafīyya*, *maṣlaḥa*, Muslims in the West, *fiqh al-aqalliyāt al-muslima*, the religious law of Muslim minorities, Yūsuf al-Qaraḏāwī, The European Council for Fatwā and Research, ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz, the Standing Committee for Academic Research and Issuing Fatwās, Christmas, mortgages, *murābaha*, military service

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In August 1960, Yūsuf al-Qaraḏāwī, then a junior scholar at al-Azhar affiliated with the Muslim Brothers, published *al-Ḥalāl wa'l-Ḥarām fī al-Islām* (The Lawful and the Prohibited in Islam). The book introduced his liberal *wasatī* approach to religious law. Al-Qaraḏāwī wrote the book because he believed Muslims in Europe and the United States knew “very little” about Islam,¹ but his work, which became a best-seller,² did not specifically address the condition of residence in majority non-Muslim societies. In the early 1970s al-Qaraḏāwī began visiting Muslim communities in the West. Subsequently, together with other jurists, he developed, systemized, institutionalized and popularized an approach to the unique challenges faced by Muslim minorities.³ Al-Qaraḏāwī defines *fiqh al-aqalliyyāt al-muslima* as a category of *fiqh* pertaining to residence in majority non-Muslim societies.⁴ His approach to this category, propagated by *wasatī* al-Azhar graduates and Islamist-oriented religious jurists like himself, has been fiercely contested by *salafī*, mostly Saudi-based, conservative jurists. A comparative analysis of the two approaches allows a better understanding of the diversity within the religio-legal corpus that seeks to regulate the lives of Muslims in the West.

Fiqh al-aqalliyyāt al-muslima is not a new category in Islamic law. Already in the 9th century CE jurists debated whether it was legitimate for Muslims to reside in non-Muslim lands. The issue became acute in the 10th and 11th centuries, following the Christian conquest of Sicily and of Muslim territories on the Iberian peninsula. Jurists argued that continued residence abroad would not only weaken faith and practice, but also strengthen non-Muslims in their wars against Islam. Some jurists held that although it is preferable for Muslims to migrate from non-Muslim lands, it is permissible to live among infidels so long as Muslims have no alternative, are helpful to the Muslim cause and are

¹ Yūsuf al-Qaraḏāwī, *al-Ḥalāl wa'l-Ḥarām fī al-Islām* (Cairo: Matkabat Wahba, 2004, originally published 1960), 9-11.

² Husam Tamam, “Yūsuf Qaraḏāwī and the Muslim Brothers: The Nature of a Special Relationship,” in Bettina Gräf and Jakob Skovgaard-Petersen (eds.), *Global Mufti: The Phenomenon of Yusuf al-Qaradawi* (London: Hurst, 2009), 57-8.

³ Yūsuf al-Qaraḏāwī, *Fī Fiqh al-Aqalliyyāt al-Muslima* (Cairo: Dār al-Shurūq, 2006, originally published in 2001), 7.

⁴ Al-Qaraḏāwī, *Fī Fiqh al-Aqalliyyāt al-Muslima*, 32.

able to practice their religion. However, these jurists were vague about the level of religious freedom required to legitimize residence among non-Muslims, perhaps because they wished to avoid establishing a fixed, nonnegotiable rule that would be difficult to apply to specific situations.⁵ Modernist jurists at the turn of the 20th century also legitimized residence in non-Muslim lands on the condition that Muslims enjoy religious freedom.⁶ Contemporary jurists who draw on this legacy are confronted by new religio-social challenges. First, whereas in the past minority status resulted mainly from the occupation of Muslim lands by non-Muslims, most Muslims living in the West today are voluntary migrants or second and third generation descendants of voluntary migrants. Second, the modern and secular character of majority non-Muslim societies presents Muslims with new religio-legal dilemmas that relate to all aspects of life, from electoral politics to pop culture.

Responding to these challenges, both *wasatīs* and *salafīs* legitimize voluntary residence in majority non-Muslim societies, while differing in their approach to the practicalities of daily life in the West in ways that are congruent with the foundations of their ideologies. The *wasatī* approach encourages Muslims to create a presence in the West and modifies some religious laws in response to the special condition of living as a minority; the *salafī* approach permits residence in the West on more restrictive terms, and rejects the permissibility of adjusting religious laws to accommodate the minority condition. While the two approaches are grounded in revivalist, triumphalist justifications, the *wasatī* approach allows for a large measure of interaction with and integration into Western societies, while the *salafī* approach promotes segregation from non-Muslim majorities.

⁵ Khaled Abou el-Fadl, "Islamic Law and Muslim Minorities: The Juristic Discourse on Muslim Minorities from the Second/Eighth to the Eleventh/Seventeenth Centuries," *Islamic Law and Society*, 1:2 (1994), 141-87; Andrew F. March, "Islamic Foundations for a Social Contract in non-Muslim Liberal Democracies," *American Political Science Review*, 101: 2 (May 2007), 243-4; Sami A. Aldeeb Abu-Salieh, "The Islamic Conception of Migration," *International Migration Review*, 30 (1), March 1996, 37-57; Bernard Lewis, *Islam and the West* (New York and Oxford: Oxford University Press, 1993), 51-6.

⁶ Andrew F. March, *Islam and Liberal Citizenship: The Search for an Overlapping Consensus* (Oxford: Oxford University Press, 2009), 171-2.

The terms “salafī” and “wasatī” are used here as descriptive definitions of competing socio-juristic worldviews. Although proponents of both approaches claim to be the rightful followers of the first three generations of Islam (the *salaf*), in contemporary Arabic and in Western discourses on Islam, a *wasatī* is understood to be a follower of a liberal, flexible approach to religious law while a *salafī* is understood to be a follower of a strict, rigid interpretation.

The *fiqh* of Muslim minorities is a subject of increasing scholarly attention. Several scholars have examined the development and institutionalization of the *wasatī* approach⁷; others explored specific rulings pertaining to Muslim minorities in the West.⁸ The aim of this article is twofold: (1) to present a theory on the differences between the foundations, objectives and methodologies of the *wasatī* and the *salafī* approaches to the *fiqh* of Muslim minorities, and (2) to explore these differences through a systematic analysis of three issues that have been the subject of ongoing debates between *wasatīs* and *salafīs*: non-Muslim holidays, mortgages, and service in non-Muslim militaries. The corpus studied comprises several hundred *fatwās* published since the early 1990s in four main platforms: book compilations of *fatwās* (collected by the author in Islamic-interest bookstores and libraries in Belgium, Egypt, England, France, Jordan, Germany, Qatar and the United States); *fatwā* archives on *wasatī* and *salafī* Islamic websites; pamphlets distributed in Muslim communities in Western countries; and newspaper reports.

⁷ Alexandre Caeiro, “The Power of European Fatwas: The Minority Fiqh Project and the Making of an Islamic Counterpublic,” *International Journal of Middle Eastern Studies*, 42:3 (2010), 435-49; Alexandre Caeiro and Muhammad al-Saify, “Qaradāwī in Europe, Europe in Qaradāwī? The Global Mufti’s European Politics,” in Bettina Gräf and Jakob Skovgaard-Petersen (eds.), *Global Mufti: The Phenomenon of Yusuf al-Qaradawi* (London: Hurst, 2009), 109-148; Shammai Fishman, *Fiqh al-Aqalliyat: A Legal Theory for Muslim Minorities* (Washington D.C: Hudson Institute, 2006).

⁸ For example, Vit Sisler, “European Courts’ Authority Contested? The Case of Marriage and Divorce Fatwas On-line,” *Masaryk University Journal of Law and Technology*, 3:1 (2009), 51-78; Alexandre Caeiro, “The Social Construction of Shari‘a: Bank Interest, Home Purchase and Islamic Norms in the West,” *Die Welt des Islams*, 44:3 (2004), 351-75; Basheer M. Nafi, “Fatwā and War: On the allegiance of American Muslim Soldiers in the Aftermath of September 11,” *Islamic Law and Society*, 11:1 (2004), 78-116.

***Wasatīyya* vs. *salafīyya*: foundations, objectives, methodology, and means of diffusion**

The roots of *wasatīyya* (the centrist, or harmonizing middle ground, approach) are located in the works of Muḥammad ‘Abduh (d. 1905) and Muḥammad Rashīd Riḍā (d. 1935). The word signifies a worldview shared by modern scholars and jurists who advocate similar sets of ideas about society, politics and religious law. It is identified with several Egyptian scholars, including the above-mentioned al-Qaraḍāwī; Muḥammad al-Ghazālī (d. 1996), an Azhari scholar and a member of the formative generation of the Muslim Brothers, who was expelled from the movement in 1953 but became one of the most prolific and influential voices of Islamism; and Muḥammad ‘Imāra (b. 1931), a former Marxist who became a prominent contemporary champion of ‘Abduh’s modernism.

Wasatīs base their ideology on Q. 2:143: “Thus We have appointed you a middle nation [*wa kadhālika ja‘alnākum ummatan wasatan*]”; they hold Islam to be a religion that harmonizes rights and duties, individualism and communalism, materialism and spirituality, ideals and reality, and continuity and change. Contemporary *wasatīs* regard their position as a middle ground between Muslims who blindly imitate the West and Muslims who blindly follow traditions and refrain from *ijtihād* (independent juristic effort). They hold that the former risk losing their Islamic identity and the latter risk making Islam irrelevant. *Wasatīs* emphasize the need for Muslim societies to become culturally independent of the West, the need for scientific and technological progress, and the need for the emancipation of women in some social spheres. Drawing on the modernist tradition, they seek to revive Islamic societies and Islamic law based on an Islamic contextualization of modern practices. They seek to find, where possible, practical and flexible solutions to daily problems faced by Muslims, to make life easier (through *taysīr*, facilitation), and to make Muslims fond of their religion. *Wasatīs* systematically search for the most suitable answer to juristic issues in all four legal schools and beyond them, and allow jurists a great deal of individual discretion in *ijtihād*.⁹

⁹ On *wasatīyya*, see Yūsuf al-Qaraḍāwī, *al-Ḥalāl wa’l-Ḥarām fi al-Islām*, 17–38; Muḥammad ‘Imāra, *al-Istiqlāl al-Ḥadārī* (6th October City: Nahḍat Miṣr li’l-Ṭibā’a wa’l-Nashr wa’l-

By addressing religio-legal issues that are unique to Muslims living in the West, *wasatī* jurists seek to promote two objectives. One, drawn from the general *wasatī* worldview, is to make life easier for Muslim minorities in order to preserve their Islamic identity. The other, drawn from both the modernist and Islamist traditions, is to promote proselytizing in the West. *Wasatīs* link these two objectives under one guiding principle: “*al-taysīr fī al-fatwā wa’l-tabshīr fī al-da’wa*” (facilitation in issuing *fatwās* and promoting Islam through proselytizing).¹⁰

According to *wasatīs*, it is the duty of jurists to accommodate rulings to changing times, locations and circumstances. Thus, residence in Western societies is a condition that legitimizes the issuance of lenient *fatwās*. This approach is inspired by the juristic heritage of ‘Abduh¹¹ and Riḍā.¹² Contemporary *wasatī* adjustments are grounded in the conviction that challenges faced by Muslim minorities in modern, secularized, and at times intolerant Western societies are so grave that unless the principle of *taysīr* is applied, many migrants will face formidable hardships and some will abandon Islam altogether. Al-Qaraḍāwī and other *wasatī* jurists explain that weakness justifies accommodations; just as a sick person is entitled to considerations to which a healthy person is not, Muslims who live in majority non-Muslim societies are

Tawzī’, 2007), 178-9, 197-8; Akram Kassāb, *al-Manhaj al-Da’wi ‘ind al-Qaraḍāwī* (Cairo: Maktabat Wahba, 2006), 237-43, 283-4; for an analysis of the *wasatī* worldview, see Sagi Polka, “The Centrist Stream in Egypt and its Role in the Public Discourse Surrounding the Shaping of the Country’s Cultural Identity,” *Middle Eastern Studies*, 39:3 (July 2003), 39-64; Bettina Gräf, “The Concept of Wasatīyya in the Work of Yūsuf al-Qaraḍāwī,” in Bettina Gräf and Jakob Skovgaard-Petersen, *Global Mufti: The Phenomenon of Yusuf al-Qaradawi* (London: Hurst, 2009), 213-38.

¹⁰ As declared in the closing statement of the twelfth meeting of al-Qaraḍāwī’s European Council for Fatwa and Research on the principles of *wasatīyya*, www.qaradawi.net, March 17, 2008.

¹¹ In 1903 ‘Abduh famously permitted Muslims in Transvaal to wear European-style hats and to eat meat slaughtered and prepared by Christians. He also allowed Ḥanafīs and Shāfi’īs to pray together, stressing that Islam is one religion: John Obert Voll, “Abduh and the Transvaal Fatwa: The Neglected Question,” in Tamara Sonn (ed.), *Islam and the Question of Minorities* (Atlanta: Scholars Press, 1996), 27-39.

¹² Riḍā held, for example, that it is permissible for Muslims living under English law in India to obey English laws, noting that these laws are closer to Islamic law than the laws of other nations: “al-Ḥukm bi’l qawānīn al-Inklīziyya bi’l-Hind,” *al-Manār*, 17 (March 1914), 262-5.

entitled to adjustments to which Muslims who live in Muslim societies are not.¹³

Along with facilitation, *wasatī* jurists seek to promote proselytizing in the West. They hold that Islam is the only salvation for a collapsing West; that all humans are born in a state of Islam and will accept God's final revelation if it is presented to them in a truthful way; that it is the duty of every Muslim migrant to spread Islam among the infidels; that doing so legitimizes residence in non-Muslim societies; and that Islamic law can be adjusted in the interest of Islamizing the West.

The concept of the missionary migrant matured in the late 1990s and became an integral part of *wasatī* jurisprudence on minorities. Its origins can be traced to the modernist project and to the ideology of the Muslim Brothers. Responding to Christian missionary work in Muslim societies against which he fought during his entire intellectual and political career,¹⁴ Rashid Riḍā established in 1912 in Cairo *Dār al-Da'wa wa'l-Irshād*, a college that sought to prepare an Islamic elite to proselytize in non-Muslim countries.¹⁵ The enterprise was short-lived, but Riḍā remained convinced that Westerners would become Muslims if true Islam was presented to them.¹⁶ While the founder of the Muslim Brothers, Ḥasan al-Bannā, demonstrated little interest in Islamizing the West, he too was convinced that Islam was the West's

¹³ Al-Qaraḍāwī, *Fī Fiqh al-Aqalliyyāt al-Muslīma*, 48-52; on *taysīr* as a principle of the religious law of Muslim minorities, see also studies presented at the European Council for Fatwā and Research in 2004: Ṣalāḥ al-Dīn Sulṭān, *al-Ḍawābiṭ al-Manhajīyya li-Fiqh al-Aqalliyyāt*, 17-19; 'Abd al-Mājid al-Najjār, *Ma'ālat al-Af'āl wa-Uṭrūḥa fī fiqh al-Aqalliyyāt*, 28-30, 40 (studies retrieved from the Council's website: <http://e-cfr.net/ar/index.php>); Ṭahā Jābir al-'Alwānī, *Madkhal ilā Fiqh al-Aqalliyyāt*, 103, retrieved from: www.maktoobblog.com.

¹⁴ Umar Ryad, *Islamic Reformism and Christianity: A Critical Reading of the Works of Muḥammad Rashīd Riḍā and His Associates (1898-1935)* (London and Boston, Brill: 2009), 125-74.

¹⁵ For the formative document of the initiative: "Jama'āt al-Da'wa wa'l-Irshād," *al-Manār*, 14 (March 1, 1911), 114-20; for an analysis of its structure, objectives, and failure, see Charles C. Adams, *Islam and Modernism in Egypt: A Study of the Modern Reform Movement Inaugurated by Muḥammad 'Abduh* (New York: Russel & Russel, 1968, first ed. 1933), 196-8; for Riḍā's attack on lack of support for the project by the Egyptian government or affluent Egyptians, see "Al-Islām fī Inkaltrā," *al-Manār*, 18 (February 14, 1915), 73-9.

¹⁶ Rashid Riḍā, *al-Wahy al-Muḥammadī* (Cairo: Dār al-Manār, 1955, 1st ed. 1933), 18-25.

salvation.¹⁷ His agenda called for Muslims to be active in *da'wa* everywhere possible.¹⁸

Islamist works composed in the 1960s and 1970s, including al-Qaraḍāwī's *al-Ḥalāl wa'l-Ḥarām fī al-Islām*, made no mention of using migrants for proselytizing. That changed in the early 1980s. As the number of mosques and Muslim cultural centers in the West increased and as the religious sentiments of some migrants intensified, some Islamists recognized an opportunity. The mass migration of Muslims to Western countries and their permanent residence there testified to the weaknesses of Muslim societies. In the best of the modernist tradition, Islamists sought to provide a triumphalist, revivalist Islamic context for a condition seemingly unfavorable to Islam by transforming migration into an Islamic quest to bring salvation to a declining Western civilization. In 1984, Muḥammad al-Ghazālī argued that the masses of Muslim migrants not only would remain Muslim but also would become a vanguard in the spread of Islam, if the Muslim nation worked to make that happen.¹⁹ In 1986, the Egyptian Islamist journalist Muḥammad 'Abd Allāh al-Sammān (d. 2007) stressed the need to develop a strategy of proselytizing in the West to which all Muslims would be committed.²⁰

In the late 1990s and early 2000s, the concept of the missionary migrant reached its full maturity in *wasatī* works on minority *fiqh*. In a 1996 Masters dissertation, Sulaymān Muḥammad Tūbūlyāk, a Bosnian jurist from the University of Jordan, suggested that Muslims are permitted to reside among infidels, so long as they maintain their religiosity. He justified this suggestion on the grounds that residing among infidels is the only way to fulfill the duty to bring the message of Islam

¹⁷ Ḥasan al-Bannā, "Naḥwa al-Nūr," in *Majmū'at Risālāt al-Imām al-Shahīd Ḥasan al-Bannā* (Beirut: Dār al-Andalus, 1965), 168; Ḥasan al-Bannā, *al-Salām fī al-Islām* (Manshūrāt al-'Asr al-Hadīth, second edition, June 1971), 7-18, originally published in *al-Shihāb*, no. 2, December 13, 1947.

¹⁸ Ḥasan al-Bannā, *Mudhakkirāt al-Da'wa wa'l-Dī'āya* (Dār al-Kitāb bi'l-Miṣr, n.d.), 44-8.

¹⁹ Muḥammad al-Ghazālī, *Mustaqbal al-Islām Khārij Arḍihī: Kayfa Nufakkiru fihī?* (Cairo: Dār al-Shurūq, 1997, 1st ed. 1984), 78.

²⁰ Muḥammad 'Abd Allāh al-Sammān, "Istratijiyāt al-da'wa al-Islāmiyya fī Duwal Ghayr Islāmiyya," in *al-Aqalliyāt al-Muslīma fī al-'ālam: Zurūfuhā al-Mu'āṣira, Alāmuḥā wa-Āmāluḥā*, published by al-Nadwa al-'ālamīyya li'l-Shabāb al-Islāmī, Riyadh, 1986, 181-93.

to infidels.²¹ The Syrian ‘Umar ‘Ubayd Ḥasana (b. 1935) argued that the universal nature of Islam and the prophetic promise that it will encompass the earth make it the duty of Muslims to migrate to lands where they constitute a minority and to spread their religion there.²² Muḥammad al-Kadī al-‘Umrānī, a Dutch-based jurist, stressed that a positive result of contemporary migration to the West is the Islamizing of a considerable number of Westerners, including intellectuals and politicians.²³ Ṭāhā Jābir al-‘Alwānī (b. 1935), an Iraqi-American al-Azhar graduate, founder of the Fiqh Council of North America, and one of the first writers on *fiqh al-aqalliyāt al-muslima*, has asserted that *dār al-ḥarb* (the Abode of War) is an outdated administrative term, not a divine category. Because the message of Islam is universal, non-Muslim countries should be regarded as *dār al-da‘wa* (the Abode of Proselytizing). It is therefore obligatory upon Muslims to create a presence in those countries and to bring to infidels the truth of Islam.²⁴ The main champion of migration for the sake of spreading Islam has been al-Qaraḍāwī. In addition to legitimizing migration for the purpose of studying, making a living or finding political refuge,²⁵ he regards proselytizing among Westerners as a duty that should be encouraged. In his 2001 systematic treatise on *fiqh* for Muslim minorities, al-Qaraḍāwī argued that enabling Muslims to proselytize in non-Muslim countries is one of the objectives that should be promoted in issuing *fatwās*.²⁶ This statement was endorsed by other *wasatī* jurists.²⁷ Al-Qaraḍāwī explained that in light of Islam’s universal mission and the West’s lead-

²¹ Sulaymān Muḥammad Tübūlyāk, *al-Aḥkām al-Siyāsiyya li’l-Aqalliyāt al-Muslima fi al-Fiqh al-Islamī* (Ammān, Beirut: Dār al-Nafā’is, Dār al-Bayāriq, 1998; the book is based on a Master’s dissertation approved in 1996 by the religious law faculty at the University of Jordan), 49-59.

²² ‘Amr ‘Ubayd Ḥasana, “Taqdīm”, in Khālid Muḥammad ‘Abd al-Qādir, *Min Fiqh al-Aqalliyāt al-Muslima* (Doha: Ministry for Awqāf and Islamic Affairs, 1998), 26-31.

²³ Muḥammad al-Kadī al-‘Umrānī, *Fiqh al-Uṣra al-Muslima fi al-Mabjar* (Beirut: Dār al-Kutub al-‘Ilmiyya, 2001), 29-127.

²⁴ Ṭāhā Jābir al-‘Alwānī, “Fī Fiqh al-Aqalliyāt al-Muslima” (Cairo: Nahḍat Miṣr, June 2000), 32, 49-50; “al-Ḥukm al-Shar‘ī fi Mushāraḳat al-Muslimīn fi al-Ḥayāt al-Siyāsiyya al-Amrikiyya,” *al-Sharq al-Awsaṭ*, November 13, 1999, 16; *Madkhal ilā Fiqh al-Aqalliyāt*, 98.

²⁵ Al-Qaraḍāwī, *Fī Fiqh al-Aqalliyāt*, 17.

²⁶ Ibid, 34.

²⁷ Al-Najjār, 42-44.

ership of the world in contemporary times, Muslims must have a presence in the West and spread Islam there; if there were no Muslim presence in the West, such a presence would have to be created.²⁸ In his 2006 summary of the duties of Muslims in the West, he wrote: “Muslims in the West ought to be sincere callers to their religion. They should keep in mind that calling others to Islam is not restricted to scholars and Sheikhs, but it goes so far as to encompass every committed Muslim.”²⁹

Several *wasatī* works on *fiqh al-aqalliyāt al-muslima* published since the late 1990s include a systematic methodology that advances the objectives of facilitation and proselytizing. One mechanism emphasized is to search for the most suitable answer among all four Sunni law schools and beyond them. According to al-Qaraḍāwī crossing *madhhab* boundaries is essential for the *fiqh* of minorities (as it is for *fiqh* in general) because it provides jurists with greater discretion; a *madhhab* that is strict on one issue may be lenient on another, and rulings that have been neglected may be revived at the present time.³⁰ Ṣāliḥ al-Dīn Sulṭān explains that because the world has become a global village, and parts of the Muslim world are denouncing rigid adherence to one *madhhab*, *fiqh al-aqalliyāt al-muslima* should aspire to synthesize doctrines.³¹

Another mechanism emphasized is *maṣlaḥa* (public or individual interest), which includes three categories: necessities (*darūrāt*), needs (*ḥājjiyyāt*) and improvements (*taḥsīnāt*). This mechanism was developed by Abū Ḥāmid al-Ghazālī (d. 1111), who held that the purpose of the *sharīʿa* is the maintenance of religion, life, offspring, reason and property, and that anything that is a necessity for the realization of these purposes may serve as an independent basis for a legal decision.³² In

²⁸ Al-Qaraḍāwī, *Fī Fiqh al-Aqalliyāt*, 33.

²⁹ Yūsuf al-Qaraḍāwī, “Duties of Muslims living in the West,” IslamOnline.net, May 7, 2006.

³⁰ Al-Qaraḍāwī, *Fī Fiqh al-Aqalliyāt al-Muslima*, 57-60.

³¹ Sulṭan, 15-17.

³² Felicitas Opwis, “*Maṣlaḥa* in Contemporary Islamic Legal Theory,” *Islamic Law and Society*, 12:2 (2005), 182-223; Wael B. Hallaq, *A History of Islamic Legal Theories* (Cambridge: Cambridge University Press, 1997), 89-90; *EP*, s.v. *Maṣlaḥa* (Madjid Khadduri), 739.

the 20th century, Muḥammad Rashīd Riḍā developed the concept of *maṣlaḥa* as the principal means of effecting religio-legal change.³³ Riḍā's primary goal was to show that Islamic law was intended to be a comprehensive legal structure for Muslim society.³⁴ Central to this approach was his differentiation between *'ibādāt* (ritual devotion) and *mu'āmalāt* (social transactions). He argued that the latter are only of a general character, allowing for considerable adaptation by successive generations of Muslims in light of the demands of their worldly welfare.³⁵

Al-Qaraḍāwī, who was greatly influenced by the works of al-Ghazālī,³⁶ expanded the definition of *maṣlaḥa* to include, in addition to other purposes, the protection of honor, peace, rights and freedoms; the institution of justice; the removal of oppression; the perfection of character; and making daily lives easier.³⁷ In his methodology for minority *fiqh*, al-Qaraḍāwī emphasizes the use of *maṣlaḥa*. He argues that the religious law of Muslim minorities is realistic rather than idealistic, and that its realism, which characterizes the *sharī'a* in general, is manifested in its recognition of individual and communal necessities. He stresses that a necessity can legitimize something that would be otherwise prohibited, and that a need may legitimize liberal restrictions.³⁸ Similarly, in his systemization of *fiqh al-aqalliyāt al-muslima*, al-'Alwānī suggests that, in accordance with the priorities of the Muslim nation, jurists dealing with Muslim minorities should broaden the list of objectives of the *sharī'a*.³⁹ As explored below, the *wasatī* understanding of 'necessity' and 'need' for Muslims living in the West is liberal and flexible. *Wasatīs*

³³ Malcolm H. Kerr, *Islamic Reform: The Political and Legal Theories of Muhammad 'Abduh and Rashid Rida* (Berkeley and Los Angeles: University of California Press, 1966), 189-90; *EP*, Khadduri, 739; Muhammad Qasim Zaman, "The 'Ulama of Contemporary Islam and the Conception of the Common Good," in Armando Salvatore and Dale F. Eickelman (eds.), *Public Islam and the Common Good* (Leiden, Boston: Brill, 2006), 133.

³⁴ Kerr, *Islamic Reform*, 187; Albert Hourani, *Arabic Thought in the Liberal Age 1798-1939* (London, New York, Toronto: Oxford University Press, 1962), 232-8.

³⁵ Kerr, *Islamic Reform*, 188-9, 197-8.

³⁶ Moataz al-Khateeb, "Yūsuf al-Qaraḍāwī as an Authoritative Reference (Marji'iyya)," in Bettina Gräf and Jakob Skovgaard-Petersen, *Global Mufti: The Phenomenon of Yusuf al-Qaradawi* (London: Hurst, 2009), 88.

³⁷ Zaman, "The 'Ulama of Contemporary Islam and the Conception of the Common Good," 134-5.

³⁸ Al-Qaraḍāwī, *Fī Fiqh al-Aqalliyāt al-Muslima*, 55-6.

³⁹ Al-'Alwānī, *Fī Fiqh al-Aqalliyāt*, 27-8.

elevate proselytizing into an objective of the *shari'a*, and in some cases speculate on what might contribute to Islamizing the West in order to justify suspensions of the prohibited.

The *wasatī* promotion of facilitation and proselytizing may be read in two ways: as a balanced attempt to mitigate religio-legal norms for the sake of maintaining the Islamic identity of migrants and of Islamizing the West; or as a rationalist-objectivist enterprise which, under a revivalist-triumphalist mantle, empowers jurists to suspend the prohibited so that divine Islamic laws accommodate man-made Western norms and legislation. *Salafīs* hold the latter to be true.

In the late 19th and early 20th centuries, the *Salafiyya* movement was associated with 'Abduh's and Riḍā's modernist approach to Islam. Since the 1970s, however, the term is used in contemporary Arabic as a synonym for Saudi *wahhābiyya*, and as denoting the extension of the *wahhābī* worldview outside Saudi Arabia.⁴⁰ 'Salafī' should not be confused with 'jihādī-salafī', which, since the late 1990s, has been used to denote violent Islamic groups.⁴¹ *Salafīs* stress the importance of pure and total devotion to Islam and the principle of *tawhīd* (Unitarianism). They emphasize the Qur'an and the Prophetic traditions as the primary sources of their jurisprudence, read them as literally as possible, and

⁴⁰ Ḥasan b. 'Alī al-Saqqāf, *al-Salafiyya al-Wahhābiyya* (Beirut: Dār al-Mizān, 2005), 13, 19-20; Muhammad-Ali Adraoui, "Salafism in France: Ideology, Practices and Conditions," in Roel Meijer (ed.), *Global Salafism: Islam's New Religious Movement* (London: Hurst & Company, 2009), 368-72; 'Abd al-Hakīm Abu al-Lawz, "al-Salafiyya al-Taqlīdiyya wal-Salafiyya al-Jihādīyya," *Majlat al-Dimuqratiyya*, No. 38, April 2010, 35-40; Juan Jose Stemman, "Middle East Salafism's Influence and the Radicalization of Muslim Communities in Europe," *Middle East Review of International Affairs*, 10:3 (2005); Febe Armanios, "The Islamic Traditions of Wahhabism and Salafiyya," *Congressional Research Service Reports*, December 2003.

⁴¹ Hegghammer traces the earliest origins of the term *jihādī-salafī* to an interview given by Ayman al-Zawāhiri in 1994 to the London-based *jihādī* magazine *al-Ansar*. Hegghammer argues that academics understand *jihādī-salafīs* as having three politically substantial characteristics. First, they are more extremist than other groups; second, they draw more on the *wahhābī* religious tradition than on the religious tradition of the Muslim Brothers; third, they are more internationalist and anti-Western than other groups. As Hegghammer notes, this definition presents several difficulties, for example that several members of the Muslim Brothers, including Sayyid Quṭb, are hailed and cited as sources of inspiration by members of *jihādī-salafī* groups: Thomas Hegghammer, "Jihadi-Salafis or Revolutionaries? On Religion and Politics in the Study of Militant Islamism," in Roel Meijer (ed.), *Global Salafism: Islam's New Religious Movement* (London: Hurst, 2009), 251-5.

encourage a rigid application of Islamic law. They endorse crossing *madhhab* boundaries, although the Ḥanbalī *madhhab*, as interpreted by Ibn Taymiyya and his disciples, is dominant in their jurisprudence.⁴² While they recognize the mechanism of *maṣlaḥa*, they apply it more narrowly than *wasatīs* do. Their *fatwās* manifest distaste for modern practices, in particular those associated with Western culture or values, and they stress the need to segregate women from the public sphere.⁴³ A cornerstone of *salafī* thought is the concept of *al-walā' wa'l-barā'* (loyalty and disavowal), which cautions Muslims against forging friendships or showing affection to non-Muslims. *Salafīs* regard non-Muslims as enemies⁴⁴ and hold that Westerners are inherently hostile to Islam.⁴⁵ They castigate the Muslim Brothers as a deviant group that does not apply Islamic law, embraces innovations and justifies its wrongful ways as necessary for the promotion of *da'wa*.⁴⁶ While the leading contemporary *salafīs* are Saudi and Saudi-based scholars, not all Saudi scholars are *salafīs*, and their conservative views are hotly debated within the Kingdom.

Salafī jurists have issued several hundred *fatwās* pertaining to Muslim minorities. In the 1990s, the champions of *salafī fiqh al-aqallīyyāt* were 'Abd al-'Azīz b. 'Abd Allāh b. Bāz (d. 1999), who, in his capacity as the Grand Mufti and head of the Saudi Council of Senior Religious Scholars, was the Kingdom's leading religious authority from the early 1970s until his death, and Muḥammad Ibn Ṣāliḥ b. 'Uthaymīn (d. 2001), a member of the Council of Senior Religious Scholars. Their place has been taken by several conservative jurists, including the Syrian-born and Saudi-based Muḥammad Ṣāliḥ al-Munajjid (b. 1960), a leading activist in the *Ṣaḥwa* (awakening) movement and a disciple of Ibn Bāz

⁴² Muhammad Al Atawneh, *Wahhābī Islam Facing the Challenges of Modernity: Dar al-Iftā in the Modern Saudi State* (Leiden, Boston: Brill, 2010), 75.

⁴³ Ibid., 99-120.

⁴⁴ Al-Lajna al-Dā'ima li'l-Buhūth wa'l-Iftā' (The Permanent Committee for Academic Studies and Issuing Fatwās), "Ḥukm al-Da'wa ilā Waḥdat al-Adyān," in *Fatāwā al-Balad al-Ḥarām* (Cairo: Dār al-Tawfiqiyya, n.d.), 16-20.

⁴⁵ Muḥammad b. 'Uthaymīn, "Hal al-Gharbiyyūn lā Yakrahūna al-Islām?," in *ibid.*, 14.

⁴⁶ Fatwās regarding the Muslim Brothers issued by Ibn Bāz and Ṣāliḥ b. Sa'd al-Suhaymī, in Jamāl b. Furayḥān al-Ḥārithī (ed.), *al-Fatāwā al-Muḥimma fī Tabṣīr al-Umma* (Cairo: Maktabat al-Hudā al-Muḥammadī, 2009), 172-4, 185-8.

and Ibn ‘Uthaymīn, who has distinguished himself by utilizing advanced media technologies in the service of uncompromising views.⁴⁷

Like *wasatīs*, *salafīs* permit migration for the purpose of spreading Islam. Whereas *wasatīs* legitimize migration for other purposes, *salafīs* permit it almost exclusively for *da‘wa*. Ibn ‘Uthaymīn, who wrote extensively on strategies to promote proselytizing,⁴⁸ argued that Muslims who are strong in faith and who are able to exercise their religion freely may live among infidels so long as they are involved in either (1) proselytizing, which is a form of *jihad*, or (2) studying the condition of the infidels in a way that will facilitate the exposure of their corruption.⁴⁹ Ibn Bāz issued several *fatwās* in which he prohibited travel for commercial purposes while allowing – albeit with evident disapproval and only under strict supervision – academic studies abroad in cases of necessity. He also permitted travel abroad for the purpose of *da‘wa*.⁵⁰ The Saudi Standing Committee for Academic Research and Issuing *Fatwās* (*al-Lajna al-Dā‘ima li’l-buḥūth wa’l-iftā’*)⁵¹ issued a decision that, in principle, prohibited Muslims from living in non-Muslim lands, except for a Muslim who possesses sound religious knowledge and who uses his presence among the infidels to spread Islam.⁵²

The *salafī* approach to *fiqh al-aqalliyāt* is based on two principles. According to *salafīs*, despite the hardships faced by Muslim minorities, no adjustments should be made to religious laws, which must be strictly

⁴⁷ For biographies of the three, see ‘Abd al-‘Azīz al-Khaḍar, *al-Sa‘ūdiyya Sīrat Dawla wa-Mujtama‘* (Beirut: Arab Network for Research and Publishing, 2010), 138-48, 236-7.

⁴⁸ Muhammad b. Ṣāliḥ al-‘Uthaymīn, “Inviting to Allah in Communities Where There Are Muslim Minorities,” in ‘Abd al-‘Azīz b. ‘Abdallāh b. Bāz and Muḥammad b. Ṣāliḥ al-‘Uthaymīn, *Muslim Minorities* (Hounslow, United Kingdom: Message of Islam, 1998), 43-59.

⁴⁹ Muḥammad b. ‘Uthaymīn, “al-Iqāma fī Bilād al-Kuffār,” in *Fatāwā al-Balad al-Ḥarām* (Cairo: Dār al-Tawfiqīyya, n.d.), 189-91.

⁵⁰ ‘Abd al-‘Azīz b. ‘Abd Allāh b. Bāz, “Al-Ghazw al-Thaqāfi al-Gharbī wa’l-Sharqī,” www.binbaz.org.sa, n.d.; “Ḥukm al-Safar Khārij al-Duwal al-Islāmiyya,” www.binbaz.org.sa, n.d.; “Ḥukm al Safar ilā al-Khārij li’l-Dirāsa wa-Ghayrihā,” www.binbaz.org.sa, n.d.

⁵¹ The Committee was created as a branch of the Board of Senior Scholars, the Kingdom’s supreme religious authority, which was established in 1971 by royal decree. It is responsible for the issuance of religious decisions in response to personal inquires and for the preparation of research for discussions held by the Board of Senior Scholars. Al Atawneh, 24-31.

⁵² As quoted by Muḥammad b. Nāṣir al-Shithrī in the introduction to Ṣāliḥ b. Muḥammad al-Shithrī’s *Ḥukm al-Lujū’ wa’l-Iqāma fī Bilād al-Kuffār* (Riyadh: Dār al-ḥabīb, 2001), 8.

obeyed whatever the difficulties may be. Ibn Bāz emphasized that “whatever their situation is,” Muslims in majority non-Muslim countries must cling to the teachings of Islam “in times of difficulty and ease, health and sickness, travel and residence.”⁵³ Ibn ‘Uthaymīn proclaimed that Muslim minorities must apply Allāh’s words and the *sunna* of His Prophet rather than promote individual opinions.⁵⁴ Unlike *wasatīs*, *salafīs* do not treat *da‘wa* in the West as a condition that legitimizes modification of the law; to the contrary, Ibn Bāz explains that it is particularly important that Muslim minorities strictly obey the teachings of Islam, because that will allow Christians and others to appreciate the “significance and greatness” of Islam.⁵⁵

The second principle is that Muslim minorities must not imitate infidels, embrace prohibited innovations that distract them from lawful ways, or associate with infidels in any way other than that which promotes the interests of Islam. Based on the concept of *al-walā’ wa’l-barā’*, *salafīs* strictly limit Muslim relations with non-Muslims.⁵⁶ According to Ibn ‘Uthaymīn, Muslims must deal justly with non-Muslims who do not fight against Muslims, as stated in Q. 60:8. However, “friendship and love” with infidels are not permissible because “the need to have a sound and pure heart is extremely important for a Muslim.”⁵⁷ This principle is rooted in 19th century *wahhābī* jurisprudence. The Saudi jurist Šāliḥ b. Muḥammad al-Shithrī (d. 1889) suggested that it is permissible to live under the rule of infidels only if the Muslim can manifest his religion and if he demonstrates animosity towards non-Muslims. He based the latter argument on Q. 109:1-2, Q. 10:41,104 and Q. 60:4; referring to the latter verse, which describes Abraham’s and his followers’ disassociation from and animosity towards idol worshipers,

⁵³ ‘Abd al-‘Azīz b. ‘Abdallāh b. Bāz, “The Importance of Muslim Minorities Adhering to Islam,” in ‘Abd al-‘Azīz b. ‘Abdallāh b. Bāz and Muḥammad b. Šāliḥ al-‘Uthaymīn, *Muslim Minorities*, 15.

⁵⁴ Muḥammad b. Šāliḥ al-‘Uthaymīn, “Inviting to Allah in Communities Where There Are Muslim Minorities,” in *ibid.*, 54.

⁵⁵ ‘Abd al-‘Azīz b. ‘Abdallāh b. Bāz, “The Importance of Muslim Minorities Adhering to Islam,” in *ibid.*, 15-16.

⁵⁶ Andrew F. March, “Are Secularism and Neutrality Attractive to Religious Minorities? Islamic Discussions of Western Secularism in the ‘Jurisprudence of Muslim Minorities’ (Fiqh al-Aqalliyyāt) Discourse,” *Cardozo Law Review*, 30:6 (2009), 2842-3.

⁵⁷ Muḥammad b. Šāliḥ al-‘Uthaymīn, “Questions and Answers,” in *ibid.*, 82-3.

al-Shithrī explained that Muslims who follow this pattern may reside among infidels.⁵⁸

The *salafī* approach to the religious law of Muslim minorities is firmly entrenched in Saudi Arabia, but it does not represent a Saudi consensus. As will be demonstrated below, some Saudi jurists promote *wasatī* opinions. Furthermore, Saudi institutions that are not controlled by the conservative religious establishment have contributed to the development of the *wasatī fiqh al-aqalliyyāt al-muslima* in various ways: by sending *wasatī* jurists on temporary and permanent missions to the West (for example, al-Ghazālī and al-‘Alwānī);⁵⁹ by financing *wasatī* works (the Saudi-based Muslim World League sponsored the publication of al-Qaraḍāwī’s seminal book on the *fiqh* of Muslim minorities);⁶⁰ and by publishing favorable media accounts (for example, the Saudi-owned and London-based *al-Sharq al-Awsat* reported extensively on some of al-Qaraḍāwī’s *fatwās* in regard to Muslim minorities).

The *wasatī* approach to *fiqh al-aqalliyyāt* was institutionalized by the formation, on March 29, 1997, of the Dublin-based European Council for Fatwā and Research (*al-Majlis al-Urūbbī li’l-Iftā’ wa’l-Buhūth*), at the initiative of the Federation of Islamic Organizations in Europe.⁶¹ While a majority of the Council’s members are based in Europe, al-Qaraḍāwī is at the helm (his deputy, a Lebanon-based Islamist, Fayṣal al-Mawlāwī, died in 2011).

. In contrast, *salafī* rulings on minorities have not been institutionalized; they reflect the efforts of individual jurists and of *salafī* juristic councils based mainly in Saudi Arabia.

Using traditional, modern and post-modern media, *wasatī* and *salafī* rulings compete for hegemony among Muslim communities in the West. *Fatwās* are disseminated by local imams; by the publication of *fatwā* compilations as books; by *fatwā* archives (commonly referred to

⁵⁸ Al-Shithrī, 69-70.

⁵⁹ Al-Ghazālī, *al-Islām Khārij Arḍihī*, 54; al-‘Alwānī, *Madkhal ilā Fiqh al-Aqalliyyāt*, 64.

⁶⁰ Al-Qaraḍāwī, *Fī Fiqh al-Aqalliyyāt al-Muslima*, 17.

⁶¹ On the establishment of the Council and its objectives, see Yūsuf al-Qaraḍāwī, “Taqdīm,” in *Qarārāt wa Fatāwā al-Majlis al-Urūbbī li’l-Iftā’ wa’l-Buhūth* (Dār al-Tawjīh wa’l-Nashr al-Islāmiyya, n.d.), 5-10; Alexandre Caeiro, “The Power of European Fatwas: The Minority Fiqh Project and the Making of an Islamic Counterpublic,” 435-49; Mathias Rohe, *Muslim Minorities and the Law in Europe: Chances and Challenges* (New Delhi: Global Media Productions, 2007), 54-65, 146-54.

as *fatwā* banks) on websites; and by television programs broadcast on satellite channels. Among the most popular Islam-interest websites, according to Alexa.com, an internet ranking company, are several *wasatī* and *salafī* websites that contain *fatwā* archives. Islamonline.net was the primary disseminator of *wasatī* opinions until al-Qaraḏāwī's dismissal from its leadership in 2010.⁶² The Saudi-based Islamweb.com, Islam Question and Answer (established and supervised by al-Munajjid), and the Qatar-based Islamweb.net, sponsored by the Qatari Ministry of Endowments and Religious Affairs, are primary disseminators of *salafī* opinions. The global dissemination of *fatwās* through advanced media technologies encourages jurists to address seemingly uniform "Western" or "European" audiences. This is ironic, because the logic of the *wasatī* project is the accommodation of religious laws to different locations and circumstances.

Wasatī and *salafī* jurists respond to queries posed by Muslims living in majority non-Muslim countries. The queries reflect the challenges and dilemmas faced by devout Muslims in the West. In some cases, *wasatīs* and *salafīs* seek to discredit one another's decisions. The issues of celebrating non-Muslim holidays, taking mortgages and serving in Western militaries have been raised in dozens of queries by Muslims in the West. The debate on these issues demonstrates the differences between the *wasatī* and the *salafī* approach.

⁶² On the institution, evolution and objectives of IslamOnline.net: Bettina Gräf, "IslamOnline.net: Independent, interactive, popular," *Arab Media & Society*, January 2008, 1-4; in March 2010, a dispute between the Qatari fund that owns IslamOnline.net, *al-Balagh*, and the portal's Egyptian office, which produced most of its contents, led to the dismissal of al-Qaraḏāwī from the board of directors. Egypt-based workers suggested that the Qatari management sought to transform the portal to *salafīyya*, and to curb its strong anti-Israeli agenda; this author's study indicates that at least in late 2010 the portal's *fatwā* archive remained *wasatī*-oriented. See: Mona Abdel-Fadil, "The Islam-Online Crisis: A Battle of Wasatiyya vs. Salafi Ideologies?" *CyberOrient* 5:1 (2011). Al-Qaraḏāwī has also used his popular television show on al-Jazeera, *al-sharī'a wa'l-hayāt*, to address queries of Muslims living in the West. The show airs on Sundays, 19:05 Greenwich Time, because, according to him, it is the most convenient time for Muslims living in Western countries; see Ehab Galal, "Yūsuf al-Qaraḏāwī and The New Islamic TV," in Bettina Gräf and Jakob Skovgaard-Petersen (eds.), *Global Mufti: The Phenomenon of Yusuf al-Qaradawi* (London: Hurst, 2009), 158.

Christmas and other non-Islamic holidays

An American Muslim medical doctor wrote in a Qatari-based publication that for “a Muslim living in the West, the Christmas holiday is one of the most stressful times.”⁶³ Christmas festivities present Muslim minorities with two challenges. One is the temptation to join in celebrations full of colorful lights, communal warmth and precious gifts, which children, and some adults, find almost irresistible. The other is the central position occupied by Christmas festivities in Western educational institutions and workplaces, and the commercial function of the holiday, which makes it almost impossible for Muslims living in Western countries to avoid any connection with it. Devout Muslims in the West face a dilemma – is it religiously legitimate to participate in a Christian celebration? This dilemma has numerous components, e.g., is it permissible to accept a Christmas cash bonus or to congratulate Christians on their holiday?

The issue is not unique to Muslim minorities. Similar dilemmas have been faced by generations of Jews living in majority Christian countries. The evolution of Hanukkah among European Jewry into its current children-oriented and commercialized character was influenced by the similar evolution of Christmas during the 19th century.⁶⁴ Concern about the participation of Jewish students in Christmas celebrations played a role in German-Jewish Orthodox insistence on Jewish rather than public schooling during the late 19th and early 20th centuries.⁶⁵ Some Jews who celebrate Christmas or integrate aspects of Christmas into the celebrations of Hanukkah point to the national, civil and commercial character of the holiday. In response, even liberal rabbis have declared that it is prohibited to participate in a celebration of Christ’s birth and some place strict restrictions on any Jewish participation in the holiday, including extending holiday greetings to Christians.⁶⁶

⁶³ Zeyz Ali Merenkov, “A Muslim Perspective on Christmas,” part 1, www.islamweb.net, December 20, 2009.

⁶⁴ Gideon Reuveni, “Bourgeois Lifestyle, Jewishness, and Consumer Culture in Weimar Germany” (in Hebrew), *Chidushim – Studies in the History of German and Central European Jewry*, No. 14 (Jerusalem: Leo Baeck Institute, 2010), 80.

⁶⁵ Mordechai Breuer, *Jüdische Orthodoxie im Deutschen Reich 1871-1918* (Jerusalem: Zalman Shazar Center for Jewish History, 1990, in Hebrew), 95.

⁶⁶ For example, Rabbi Jacob Walter of the traditional wing of the Reform movement in

Dilemmas relating to Christmas have been addressed by several dozen contemporary jurists, whose *fatwās* demonstrate the conflict between the *wasatī* and *salafī* approaches and the different methodologies they apply. Both *wasatī* and *salafī* jurists prohibit the celebration of Christmas, but they disagree over participation in certain aspects of that holiday. *Wasatī* jurists allow some participation in events related to Christmas. Key to their argument is the *wasatī* elevation of proselytizing to a central religio-legal duty. *Salafī* jurists, by contrast, strictly prohibit any participation by Muslims in Christmas celebrations, and they also prohibit Muslims from congratulating Christians on their holiday. Central to their argument is their objection to innovations, and the concept of *al-walā' wa'l-barā'*. While *wasatī* jurists encourage Muslims to integrate into majority non-Muslim societies in a way that reaffirms their religious identity, *salafī* jurists encourage Muslims minorities to distance themselves from any social environment that is not strictly Islamic.

Despite their relative leniency, *wasatī* jurists prohibit Muslims from celebrating Christmas. In one query, an American Muslim identified as K. describes the stresses experienced by his family during the holiday season. At Christmas time, he explains, Christians illuminate their houses with lights, put up Christmas trees and exchange gifts; the television is full of holiday-related programs; and all the stores are decorated for the holiday. Some Muslims, writes K., cannot resist the temptation: they put up Christmas trees and lights to keep their children happy, justifying their actions by claiming that Christmas commemorates the birth of Jesus, who, according to Islam, is a prophet. K. asks whether these Muslims act permissibly. In his *fatwā*, Muzammil H. Siddiqi (b. 1943), an American of Indian origin who heads the Fiqh Council

America wrote that a Jew may not join in Christmas celebrations, but he permitted congratulating Christians on the occasion; Walter Jacob, *Contemporary American Reform Responsa* (Pennsylvania: Central Conference of American Rabbis, 1987), 257-62; Rabbi Yuval Sharlo of the liberal wing of the Jewish-Israeli national orthodox establishment holds that a Jew may not give presents to Christians on Christmas or say “Merry Christmas”; he may, however, say “happy holiday” on the occasion; responding to a query by an Israeli employee in an Israeli-owned shop in New York, he wrote that a Jew may not place a Christmas tree near the Hanukkah menorah: “Hag ha-Molad,” www.kipa.co.il, December 24, 2008; “Etz Hag Ha-Molad Bimkom Avoda,” www.moreshet.co.il, December 11, 2006; “Lomar Le-goy ‘Hag Ha-molad Sameah’,” www.moreshet.co.il, December 9, 2003.

of North America and who earned a PhD in comparative religion from Harvard University, explains that while Christmas has become a national, commercial holiday, it is still a Christian holiday, in which Christians celebrate the “day of the birth of God’s son.” From the Islamic point of view, the belief that God had a son is blasphemous; by participating in Christmas, it is possible that one would slowly lose one’s awareness of this basic point of difference. Siddiqi recognizes that “the festivities and glitter of this holiday” affect children deeply, but emphasizes that this does not legitimize the placement of Christmas trees and lights inside or outside the house. Instead, parents should tell their children that “we are Muslims, and Christmas is not our holiday” and try to take them to Islamic camps and conferences at that time of year. Parents should also give special attention to Muslim holidays, so that “our children will be attracted to our own celebrations rather than looking at others.” Siddiqi repudiates the suggestion that Christmas can be celebrated by Muslims because Islam recognizes Jesus as a prophet. He explains that Jesus was one of twenty-four prophets and messengers, so it is illogical for Muslims to celebrate his birthday and neglect those of other prophets.⁶⁷

Answering a query from Şābir, “a convert for about five years” from the United Kingdom, the editors of IslamOnline.net explain that he must not permit his children to celebrate Christmas, which he describes as a “folk tradition.” The “most important” reason is that, according to a tradition, the Prophet Muḥammad once saw people celebrating non-Muslim holidays and disapproved of the act, explaining to them that Allāh has given Muslims two better holidays, *‘īd al-fiṭr* and *‘īd al-adḥā*. An additional reason “to this already sufficient” one is that celebrating Christmas, even as a non-religious holiday, would set the wrong example for Şābir’s children and create a crisis from which they will suffer in the future. The editors of IslamOnline.net advise Şābir to try to distract his children from the holiday spirit by spending quality time with them, by traveling with them and by avoiding television and shopping malls in order to decrease their exposure to the holiday.⁶⁸

⁶⁷ Muzammil Siddiqi, Ahmad Kutty, “Can Muslims Celebrate Christmas?” IslamOnline.net, December 31, 2009.

⁶⁸ Muzammil Siddiqi, “As a New Muslim, Can My Kids Celebrate Christmas?” IslamOnline.net, December 18, 2006.

According to *wasatī* jurists, one may not participate in Christmas plays. Manāl Sa‘d from Belgium asks whether it is legitimate for her child to play the role of an angel in a narration of Jesus’s birth. Jamal Badawī, a member of the European Council for Fatwā and Research, answers that it is not, because the play is based on religious beliefs that contradict Islam.⁶⁹

Participation in other holidays that have religious roots is also prohibited. Valentine’s Day⁷⁰ and Halloween are rejected because of their pagan and Christian roots. Muzammil Siddiqi describes Halloween as a “repugnant” holiday, in which pumpkins are wasted in vain, and reasonable people act bizarrely and engage in dangerous acts.⁷¹

Wasatī jurists permit participation in secular non-Islamic holidays. Answering a query from Ziyād, a Muslim-American teacher, Badawī writes that celebrating Thanksgiving is legitimate, because it is a cultural and social event with no religious basis.⁷² The European Council for Fatwā and Research has ruled that there is “no objection whatsoever” to Muslim participation in Independence Day, Union Day, Mother’s Day and Childhood Day, so long as Islamic manners are observed in all matters.⁷³

While unequivocal about the impermissibility of Muslim participation in Christmas celebrations, *wasatī* jurists hold that it is permissible for Muslims to congratulate non-Muslims on that occasion. The decision issued by the European Council for Fatwā and Research demonstrates the elevation of proselytizing into a principal religio-juristic objective. The Council notes that it has received numerous queries on this issue from Muslims living in the West. One may congratulate non-Muslims “either verbally or by sending a card that contains no symbols or icons of religious implications that may contradict Islamic faith and principles, such as a cross.” The decision is based on Q. 60:8-9 and

⁶⁹ Jamal Badawī, “Our kids & non-Islamic Feasts” (“Live Dialogue with a Jurist,” IslamOnline.net, December 24, 2003.

⁷⁰ Su‘ad Salih, “Valentine’s Day from an Islamic Perspective,” IslamOnline.net, February 14, 2010.

⁷¹ Muzammil Siddiqi, “Celebrating Halloween,” IslamOnline.net, January 6, 2010.

⁷² Ibid.

⁷³ European Council for Fatwā and Research, “Congratulating Non-Muslims on Their Festive Occasions,” IslamOnline.net, April 23, 2006.

traditions, according to which Allāh commanded Muslims to differentiate between non-Muslims who fight against Muslims and non-Muslims who interact with Muslims in peace. The latter must be treated in a kind manner. A Muslim must never be less charitable or pleasant than a non-Muslim, and should return good treatment with similar treatment. Invoking proselytizing as a religio-legal objective, the Council argues that the significance of congratulating non-Muslims on their festive occasions “increases dramatically if we are interested in inviting them to Islam and making them like Muslims, which is an obligation upon us all.” It is impossible to achieve the goal of converting non-Muslims by treating them roughly, sternly and violently; instead, they should be treated in a way that builds trust, as was the way of the Prophet with the polytheists in Mecca despite the animosity that was directed against him and his companions.⁷⁴

In response to a query from a Muslim PhD candidate from Germany, al-Qaraḍāwī held that it is not permitted to celebrate Christian and Jewish holidays, “as they have their holidays and we have ours.” However, it is permissible to congratulate Christians and Jews on those holidays. In reference to *salafī fatwās* on non-Muslim holidays, which invoke Ibn Taymiyya’s (d. 1328) strong opposition to any form of participation in, or endorsement of, a non-Muslim holiday (see below), al-Qaraḍāwī argues that had Ibn Taymiyya lived today, he would have adapted his ideas to changing circumstances. He legitimizes congratulating infidels on their religious holidays on three grounds: (a) the world has become a global village, and Muslims need to interact with non-Muslims who, regrettably, have become their mentors in many sciences and industries; (b) Muslims need to be gentle and engaging in order to proselytize; and (c) Christian holidays are today most commonly celebrated as national traditions; therefore, if Muslims congratulate Christians, there is no risk that their false religious ideas will be reaffirmed.⁷⁵

Other *fatwās* by *wasafī* jurists legitimize passive participation in a range of events related to Christmas so long as it does not signify recognition of beliefs that contradict Islam and does not involve impermissible activities. Based on the objective of ‘facilitation,’ jurists seek to

⁷⁴ Ibid.

⁷⁵ Yūsuf al-Qaraḍāwī, “Tahni’at Ahl al-Kitāb bi-A’yādihim,” in *Fī Fiqh al-Aqalliyyāt al-Muslima*, 145-50.

help Muslims avoid confrontations with non-Muslims, and to serve Muslims' financial interests. For example, Hind, a Muslim from Canada, was advised by Aḥmad Kutty (b. 1945), a Canadian of Indian origin who pursued his doctoral studies at McGill University and who serves as a senior lecturer at the Islamic Institute of Toronto, that it is permissible to accept her Catholic mother's invitation to Christmas dinner because, as a Muslim, it is her duty to treat her parents in a kind and gentle manner.⁷⁶ A similar *fatwā* was given by Badawī in response to a query from a Muslim identified as Ḥasan, who asked whether it is permissible to attend a Christmas dinner to which he was invited by friends; Badawī responded that it is not *ḥarām* to eat with non-Muslims, even on their holiday, but it is undesirable to sing religious songs along with them. He encourages Ḥasan to organize alternative Muslim events, such as Qur'an competitions with awards followed by pizza parties.⁷⁷ Badawī tells Imān from Australia that there is nothing wrong with her children learning in school about the festivities of other cultures.⁷⁸ Tato from Singapore was advised by the editors of IslamOnline.net that it is legitimate to receive a Christmas bonus, because bonuses are usually given to employees without regard for their religious affiliation. The editors support their decision with a *fatwā* of Sano Koutoub Moustapha, professor of *fiqh* at the International Islamic University in Malaysia, who condones accepting a Christmas bonus based on the fact that Jesus was a Messenger of Allāh.⁷⁹ His justification contradicts several of the above-mentioned *fatwās*, which emphasize that Christianity distorted the truth about Christ and his birth and that Muslims therefore cannot join Christians in their celebrations of his birth.

Like *wasatīs*, *salafī* jurists prohibit the celebration of Christmas.⁸⁰ However, drawing on the impermissibility of imitating infidels and on the concept of *al-walā' wa'l-barā'*, they make no exceptions to this rule. Al-Munajjid emphasizes that Muslims are not permitted to take part in non-Muslim celebrations even if the sole purpose is to encourage the

⁷⁶ Ahmad Kutty, "May I Celebrate Christmas with My Christian Mother?" IslamOnline.net, December 24, 2006.

⁷⁷ Badawī, "Our Kids and Non-Islamic Feasts."

⁷⁸ Ibid.

⁷⁹ Sano Koutoub Moustapha, "Can Muslims Accept Christmas Cash Bonus," IslamOnline.net, January 3, 2010.

⁸⁰ Islam Question and Answer, "Ruling on Joining in the Kaafirs Festivals," n.d.

infidels to take part in Muslim celebrations. He invokes a tradition narrated by Abū Dāwūd and Aḥmad Ibn Ḥanbal according to which the Prophet said, “Whoever imitates a people is one them,” and the saying of the Khalifa ‘Umar, “avoid the enemies of Allāh during their festivals.”⁸¹ A woman who wanted to convert to Islam but feared she might not be able to attend Christmas celebrations with her family was instructed by Ibn ‘Uthaymīn that it is not permissible to join her family for their holiday, because the first thing she should do after being blessed with Islam is to distance herself from her former religion and its festivities.⁸² A man who had been a Muslim for three years was advised by the editors of Islamweb.net that he can still visit his non-Muslim family but may not join them in their festivities. The editors emphasized that calling his parents or anyone else to Islam is “one of the greatest forms of kindness that you do to them.”⁸³

Attendance at the funeral of a non-Muslim parent is also disputed by *salafīs* and *wasatīs*. While *wasatī* jurists allow Muslims to attend the funeral of a non-Muslim parent, *salafīs* do not. According to the European Council for Fatwā and Research, Allāh instructed children to be kind to their parents [Q. 17:23] and the Prophet once stood up when a funeral passed in front of him; when asked if he knew that the deceased was a Jew, he replied: “Is it not a Soul?” The Council also held that a Muslim may attend a religious ceremony for a deceased parent in a church or a synagogue, so long as he or she does not take part in the religious rites.⁸⁴ By contrast, the editors of the *salafī* Islamweb.net held that a Muslim woman may not attend the funeral of a Christian parent for two reasons: women should not attend funerals, and Muslims should not attend churches.⁸⁵

Salafīs urge believers not to allow any Christian celebration at home, even in the case of a mixed-marriage. The editors of “Islam Question

⁸¹ Muḥammad Ṣāliḥ al-Munajjid, “Taking Part in Non-Muslim Celebrations in Order to Encourage Them to Take Part in Our Celebrations,” Islam Question and Answer, n.d.

⁸² Muḥammad b. Ṣāliḥ al-‘Uthaymīn, “Can She Attend Christmas Celebrations in Order to Greet Her Relatives?,” Islam Question and Answer, n.d.

⁸³ Islamweb.net, “A New Muslim Attending a Christmas Family Gathering,” December 24, 2009.

⁸⁴ European Council for Fatwā and Research, “Participating in the Funeral of a Muslim Parent,” IslamOnline.net, April 1, 2003.

⁸⁵ Islamweb.net, “Attending Funeral of Muslim Parent,” October 21, 2004.

and Answer” hold that a Muslim husband can prohibit his non-Muslim wife from participating in Christmas celebrations. They explain that the obligation to obey a husband does not distinguish between a Muslim and a non-Muslim wife; non-Muslim women should accept the principle of obedience before marrying a Muslim. While the Muslim husband does not have a right to compel his Christian or Jewish wife to become a Muslim, he does have the right to forbid her from going to church and from committing evil openly in the house, e.g., by displaying statues of Jesus or ringing bells. This right should be exercised according to his obligation to his family, as stipulated in Q. 66:6: “O You who believe, protect yourselves and your families from a fire whose fuel is people and stones.”⁸⁶

The celebration of any non-Islamic holiday, including a civil one, is prohibited by *salafis*. A Muslim from Minnesota asks whether it is permissible to hold a Thanksgiving dinner; he emphasizes that Thanksgiving is one of the rare occasions on which his entire family gets together. The editors of Islamweb.net hold that it is forbidden because this is an imitation of non-Muslims; they base their decision on the Prophet’s statement that a person who imitates a people is one of them.⁸⁷ Responding to a son who fears that his mother will be angry with him if he stops celebrating Mother’s Day, Ibn ‘Uthaymīn writes that this celebration is forbidden for two reasons: it is an innovation, because it was not celebrated by the Prophet and his Companions, and it is an imitation of the infidels, with respect to whom “we have been commanded to differ.” To explain why ignoring Mother’s Day is not a breach of the duty to respect and obey one’s parents, he draws on a tradition narrated by al-Bukhārī according to which the Prophet said, “there is no obedience if it involves sin; obedience is only in that which is right and proper.” Muslims, he states, are commanded to respect their mothers at all times, “so what is the point of singling out a particular day to honor her.” Ironically, he adds, Mother’s Day was invented by societies in which “disobedience toward parents is widespread, in which mothers and fathers can find no refuge except [in] old people’s homes, where

⁸⁶ Islam Question and Answer, “Muslim Forbidding His Non-Muslim Wife to Celebrate Her Religious Festivals,” n.d.

⁸⁷ Islamweb.net, “Muslims Preparing a Turkey Dinner on Thanksgiving Day,” December 24, 2009.

they are left alone and no one visit[s] them.”⁸⁸ Bin Bāz prohibits the celebration of birthdays on the grounds that they constitute an unlawful innovation and imitation of Jews and Christians.⁸⁹ The senior Saudi jurist ‘Abd Allāh b. ‘Abd al-Raḥmān al-Jabrīn (d. 2009) wrote that one may not celebrate the year 2000 even as an act of courtesy to Christians, because the celebration of an infidel holiday is tantamount to recognition of an innovation and it strengthens the innovators.⁹⁰

The *salafī* aversion to practices that originated in Western societies leads jurists to oppose some gestures that are not related to festivities, religious or otherwise. For example, al-Jabrīn rejects the custom of bringing flowers to hospitals as blind imitation of a Western practice and a waste of money: the flowers do not help cure patients, and are thrown away after an hour or a day.⁹¹

Unlike *wasatīs*, *salafīs* prohibit Muslims from congratulating Christians on Christmas. Based on the concept of *al-walā’ wal-barā’*, they reject any form of good, or even cordial, relations between Muslims and non-Muslims. The editors of Islamweb.net proclaim that a Muslim may not congratulate a Christian on holidays and celebrations because this would constitute approval of sins and transgressions; further, it is the obligation of Muslims to show the infidels “dislike [,] for they oppose Allāh and ascribe partners and sons to him”; the editors quote Q. 60:4, according to which Abraham and his followers told their people that there would be animosity and hatred between them until they believed in Allāh alone.⁹² Ibn ‘Uthaymīn prohibits congratulating Christians on Christmas because it constitutes recognition of infidel rituals. He explains that congratulations signify approval of the holiday and help Christians to propagate their infidel beliefs. His *fatwā* relies on the Ḥanbalī jurist Ibn al-Qayyim al-Jawziyya (d. 1350), a disciple

⁸⁸ Muḥammad b. Ṣāliḥ b. ‘Uthaymīn, “His Mother Will be Angry If He Does Not Celebrate Mother’s Day,” Islam Question and Answer, n.d.

⁸⁹ ‘Abd al-‘Azīz b. ‘Abd Allāh b. Bāz, “Ḥukm al-Iḥtifāl bi-‘id al-Milād,” in *Fatāwā al-Balad al-Ḥarām* (Cairo: Matktabat al-Tawfiqiyya, n.d.), 1031-2.

⁹⁰ ‘Abd Allāh b. ‘Abd al-Raḥmān al-Jabrīn, “Ḥukm al-Iḥtifāl bi-‘ām Alfayn,” in *Fatāwā al-Balad al-Ḥarām* (Cairo: Maktabat al-Tawfiqiyya, n.d.), 23.

⁹¹ ‘Abd Allāh b. ‘Abd al-Raḥmān al-Jabrīn, “al-Taqlīd al-A’mā li’l-Gharb,” in *Fatāwā al-Balad al-Ḥarām*, 201.

⁹² Islamweb.net, “The Ruling on Congratulating Non-Muslims on Their Celebrations,” December 30, 2009.

of Ibn Taymiyya, who held that wishing someone “a merry Christmas” is a greater sin than congratulating him for drinking wine, committing murder or having illicit sex.⁹³

Based on the principle of *al-walā’ wal-barā’*, *salafī* jurists oppose demonstrations of affection for non-Muslims even if these are unrelated to their holidays. Ibn ‘Uthaymīn prohibits holding a farewell party for a non-Muslim because that constitutes an honor that a person who disbelieves in Allāh does not deserve.⁹⁴ He prohibits congratulating an infidel on his safe arrival home, quoting a tradition narrated by Abū Hurayra, according to which the Prophet said, “Do not initiate the greeting of *salām* with the Jews and Christians, and if you meet them in the road push them towards the narrowest part.”⁹⁵ He also writes that a Muslim should not address a non-Muslim as “my brother,” unless that non-Muslim is a biological brother or shared a wet nurse; other than those two kinds of brotherly bonding, the only brotherhood is that of the believers.⁹⁶

Unlike *wasatī* jurists, *salafīs* allow almost no exception to the prohibition of acknowledging a non-Muslim holiday. According to *salafīs*, a Muslim may not accept a Christmas cash bonus⁹⁷; eat food prepared by infidels for their holidays⁹⁸; accept gifts related directly to an infidel holiday⁹⁹; distribute candies on those holidays¹⁰⁰; hold parties that

⁹³ Muḥammad al-‘Uthaymīn, “al-Tahni’a bi-‘id al-Kristmās,” in *Fatāwā al-Balad al-Ḥarām* (Cairo: Al-Maktaba al-Tawfiqiyya), 183-5; this decision was circulated in European Muslim communities as a pamphlet: “Fi Tahni’at al-Kuffār bi-‘yadhim wa-Ḥukm al-Dhahāb lahā,” distributed by “Jam’iyyat Ihyā’ al-Turāth al-Islamī” as part of Kitāb Fatāwā wa-Rasa’il fi al-Tawḥīd Part 1 (22). For an English translation: “Ruling on Celebrating non-Muslim Holidays and Congratulating Them,” Islam Question and Answer, n.d.

⁹⁴ Muḥammad b. ‘Uthaymīn, “Farewell Parties for Kaafirs,” Islam Question and Answer, n.d.

⁹⁵ Muḥammad b. ‘Uthaymīn, “Tahni’at al-Kāfir,” in *Fatāwā al-Balad al-Ḥarām*, 185.

⁹⁶ Muḥammad b. ‘Uthaymīn, “Ḥukm qawl ‘Akhī aw Ṣadiqī’ aw al-Ḍaḥk li-Ghayr al-Muslimīn li-Ṭalab al-Mawadda,” in *ibid.*, 186.

⁹⁷ Islam Question and Answer, “His Company Gives Its Employees a Christmas Bonus,” n.d.

⁹⁸ The Standing Committee, “It Is Not Permissible to Eat Foods that Are Prepared by the Kuffār for Their Festivals,” Islam Question and Answer. n.d.

⁹⁹ *Ibid.*; Hatem Muhammad al-Haj Aly, “Should I Accept Christmas Gifts from a Co-Worker or Anyone Else?” myislamweb, December 23, 2009.

¹⁰⁰ Muḥammad al-‘Uthaymīn, “al-Tahni’a bi-‘id al-Kristmās.”

imitate an infidel celebration¹⁰¹; sell the infidels items that they use to celebrate their holidays, such as clothes, perfumes, decorations and greeting cards¹⁰²; or collect donations for poor families on the occasion of Christmas.¹⁰³ *Salafī* jurists base these *fatwās* on what they call the illegitimacy of Muslim participation in acts of blasphemy and Muslim imitation of infidel innovative practices. They invoke Ibn Taymiyya's strong prohibition of any form of Muslim participation in or imitation of non-Muslim holidays.

While *salafīs* prohibit Muslims from giving Christians presents on their holidays or giving other Muslims presents on those occasions, they permit Muslims to accept presents from Christians on Christian holidays. This opinion is based on Ibn Taymiyya, who supported accepting infidel gifts, drawing on several traditions, including that 'Alī b. Abī Ṭālib accepted a gift he was given on the occasion of Nayruz, the Persian New Year. The editors of *Islam Question and Answer* explain that the purpose of accepting gifts is to soften the hearts of the infidels and make Islam attractive to them. Citing Q. 60:8, they assert that Muslims should be just to non-Muslims who do not fight them. At the same time, however, they cite a number of other verses (Q. 58:22, 60:1, 3:110, 11:113 [mistakenly referenced in the *fatwā* as 12:113] and 5:51) to emphasize that kindness to non-Muslims should not be confused with love and friendship and that even when accepting gifts from infidels, Muslims must maintain the concept of *al-walā' wa'l-barā'* and educate their children in the light of that principle.¹⁰⁴

While the Saudi Arabian religious establishment has been the main center for the issuing of strict *fatwās* on non-Muslim holidays, not all members of this establishment endorse these views. Qays Āl al-Shaykh Mubārak (b. 1960), a member of the Council of Senior Religious Scholars since 2009 and a Māliki, holds that a Muslim may accept an invita-

¹⁰¹) Ibid.

¹⁰²) Muḥammad Ṣāliḥ al-Munajjid, "Selling Greeting Cards for Christian Holidays," *Islam Question and Answer*, n.d.; Islamweb.net, "Selling Christmas gifts and decorations," December 15, 2010.

¹⁰³) Muḥammad Ṣāliḥ al-Munajjid, "Collecting Donations to Give Gifts to Poor Families at Christmas," *Islam Question and Answer*, n.d.

¹⁰⁴) *Islam Question and Answer*, "Accepting a Gift from a Kaafir on the Day of his Festival" (n.d.).

tion to attend a non-Islamic holiday because rejecting such an invitation would alienate non-Muslims from Islam.¹⁰⁵ Mubārak's view is liberal not only in comparison to decisions by senior Saudi jurists, but also in comparison to *wasatī* decisions, which permit congratulating non-Muslims on their holidays but prohibit attending their festivities.

Mortgages

Q. 2:275-7 prohibits usury (*ribā*), and warns that Allāh and his Prophet will wage war against those who do not obey this command.

This prohibition creates a challenge in modern economies, in which corporate and individual transactions often rely on interest-based loans. Islamic banking systems have developed several mechanisms that circumvent the prohibition on *ribā*. In real estate, the most popular one is *murābaḥa*: the bank serves as an intermediary that buys a house at the request of a customer and then sells the house at a higher price, which the customer pays in installments.¹⁰⁶ In some Western countries Islamic banking systems are not available. Because most Muslim migrants in the West are not affluent and cannot afford to buy a house with a mortgage, the issue has become highly relevant.

Responding to this situation, at its fourth session held on October 27-31, 1999, the European Council for Fatwā and Research decided to legitimize mortgages. The decision, which followed a two-year study, marked the forefront of *wasatī* innovation in providing practical solutions to problems faced by Muslims in Europe. It was based on the central objectives of *wasatī* jurisprudence on Muslim minorities: making the lives of Muslims in the West easier in a way that helps preserve their religious identity, and promoting their ability to proselytize among infidels. To reach the desired result, the Council used the two main mechanisms of the *wasatī fiqh al-aqalliyāt al-muslima*: a liberal approach to a 'necessity,' and a search for the most suitable answer in all four established law schools. The *fatwā* received great attention in

¹⁰⁵ 'Abd Allāh al-Dānī, "Ijābat al-Da'wa li-Ghayr al-Muslimīn Mubāḥ," *Ukūz*, December 23, 2010.

¹⁰⁶ Mervyn Lewis and Latifa M. Algaoud, *Islamic Banking* (Northampton, MA: E. Elgar Publishing, 2001), 52-5; Saeed Abdullah, *Islamic Banking and Interest: A Study of the Prohibition of Riba and its Contemporary Interpretation* (Leiden: Brill, 1996), 76-95.

Arab media,¹⁰⁷ and this author's field experience indicates that it is hotly debated in European mosques. The methodology used to legitimize mortgages demonstrates the liberal nature of *wasatī* application of *maṣlaḥa* and its potential to radically affect religious laws. This potential was recognized and opposed by three members of the Council, who resigned in protest (though only one resignation was permanent).¹⁰⁸

The *fatwā* issued by the European Council for Fatwā and Research begins with a reaffirmation of Islam's prohibition on usury. It encourages Muslims in the West to find religiously legitimate alternatives to mortgages, such as the *murābaḥa* system offered by Islamic banks. It encourages Islamic organizations in Europe to ask European banks to adopt Islamic systems in order to attract Muslim customers. If, however, there is no alternative to a mortgage, then a Muslim living in Europe who does not own a house and does not have the means to purchase one without a loan is permitted to take a mortgage.

The Council bases its argument on two notions. One, it invokes the juristic principle that a need (*ḥāja*) can be regarded as a necessity (*ḍarūra*). The *fatwā* explains that a 'necessity' is something without which a Muslim cannot live and a 'need' is something without which a Muslim would be put in a state of hardship (*ḥaraj*). Q. 22:78 and 5:6 state that Islam will not put Muslims in a state of hardship. Thus, certain needs can be regarded as necessities, and in addressing them it is possible to legitimize what is prohibited. While having a home (rented or owned) is a necessity for a Muslim family (as indicated in Q. 16:80), owning a home is, for European Muslims, an individual as well as a communal need (both categories considered in the *fatwā* as tantamount to necessity) that should be regarded as a necessity because it is crucial for improving their financial condition, for preserving their Islamic identity and for promoting the spread of Islam. A Muslim in Europe who does not take a mortgage may be forced to pay rent to a non-Muslim landlord for many years, without getting any closer to owner-

¹⁰⁷ The London-based *al-Sharq al-Awsat* recognized the dramatic consequences of the *fatwā* by reporting it on its front page: Imām Muḥammad Imām, "al-Majlis al-Urūbbī li'l-Iftā' Yujīzu Shirā' al-Manāzil bi-Qurūḍ Ribāwiyya," *al-Sharq al-Awsat*, November 3, 1999, 1.

¹⁰⁸ Alexandre Caeiro, "The Social Construction of Shari'a: Bank Interest, Home Purchase and Islamic Norms in the West," *Die Welt des Islams*, 44:3 (2004), 359.

ship and remaining under the threat of eviction, while a Muslim who is permitted to take a mortgage will be relieved of these concerns and will be able to choose a home that is close to a mosque and to an Islamic school. Buying homes may bring together Muslims living in majority non-Muslim countries, strengthen their ties and enable them to create small Islamic enclaves within the larger society. Furthermore, mortgages advance proselytizing efforts in two ways: by becoming homeowners, Muslims will present a respectable face to non-Muslims; and relief from the financial burden of renting a house will make it possible for Muslims to pursue their duty to engage in *da'wa*.

The other argument presented in the *fatwā* draws on the *wasatī* method of cross-*madhhab* search. The *fatwā* invokes the Ḥanafī opinion (endorsed by some Ḥanbalīs) that prohibited contracts between Muslims and non-Muslims are permitted outside the Abode of Islam (*dār al-Islām*). This opinion is based on two notions: first, while living among infidels, a Muslim is not obligated to follow the rulings of the *sharī'a* on civil, financial, political and similar matters, because following them is beyond his ability, and Allāh does not require people to do more than their ability; and second, Islam seeks to strengthen its believers in all respects, including the elimination of financial hardships. The Council's *fatwā* criticizes the argument of several Ḥanafī jurists, namely, that Muslims in non-Muslim societies can charge interest, but not pay it, because they do not benefit from paying interest. The Council explains that no consensus was reached on this issue, and that by paying interest on a mortgage the Muslim receives a benefit, because he will eventually own a home. The Council emphasizes that it regards the Ḥanafī legitimization of mortgages in Europe merely as a supplement to its main argument, to wit, that in the European context a mortgage may be considered a 'need' that qualifies as a 'necessity.' It notes that jurists of all law schools can permit mortgages based on its main argument.¹⁰⁹

The Council's argument that renting an apartment is dishonorable overlooks the fact that, across Europe, renting apartments is a common

¹⁰⁹) For the full text of the *fatwā* see *al-Sharq al-Awsat*, "Fatwā Tujīzu Shirā' al-Manāzil bi-Qarḍ Ribāwī li'l-Muslimīn fi Ghayr Bilād al-Islām," October 3, 1999, 25; Yūsuf al-Qaraḍāwī, "Shirā' Buyūt al-Suknā fi al-Gharb 'an Ṭariq al-Bunūk," in *Fī Fiqh al-Aqalliyyāt al-Muslīma*, 174-9.

practice among all social classes and tenants' rights are firmly protected by law. The Council's argument that the purchase of houses will encourage the creation of Islamic enclaves in European cities ignores the fact that such enclaves have already been created in less privileged areas, in part due to the absence of financial resources.

The Council's decision was opposed by several of its members. 'Abd Allāh b. Bayya, a Mauritanian-born, Saudi-based jurist and politician (b. 1935), wrote that a 'need' can be regarded as a 'necessity' only in regard to Islam's weaker prohibitions and that a 'need' by itself cannot legitimize usury.¹¹⁰ Two other members of the Council – Denmark-based Muḥammad al-Barāzī, a Muslim Brother, and the England-based Pakistani Ṣuhayb Ḥasan 'Abd al-Ghaffār – criticized the *fatwā* on two grounds. First, they argued that the Council misinterpreted the Ḥanafī school in two ways: (a) Ḥanafīs permit usury only in *dār al-ḥarb*, a category that does not apply to contemporary European countries; (b) Ḥanafīs allow Muslims in non-Muslim societies to take interest but not to pay (as mentioned above, the Council addressed this issue in its *fatwā*). Second, al-Barāzī and al-Ghaffār asserted that the Council wrongfully applied the principle of a 'need' that becomes a 'necessity' because the financial weakness experienced by Muslims in Europe is not the result of avoiding mortgages, but of disunity. It is therefore legitimate for a Muslim to take a mortgage only if he is unable to rent a home for an appropriate price or to purchase one in a religiously lawful way.¹¹¹

Despite the criticism, al-Qaraḍāwī reaffirmed the Council's legitimization of mortgages and its broad interpretation of the concept of necessity. More than a quarter of al-Qaraḍāwī's 2001 book on the religious law of Muslim minorities is dedicated to his Council's 1999 *fatwā*; clearly, al-Qaraḍāwī felt that he needed to defend it. He conceded that in legitimizing interest-based loans for European Muslims, he adopted a position that he had opposed his entire career.¹¹² He attributed his

¹¹⁰ 'Abd Allāh b. Bayya, *al-Farq bayna al-Ḍarūra wa'l-Ḥāja Taṭbīqan 'alā Ba'd Aḥwāl al-Aqalliyyāt al-Muslīma*, n.d, 155-62, retrieved from: www.aahlalheeth.com.

¹¹¹ Al-Qaraḍāwī, *Fī Fiqh al-Aqalliyyāt*, 179-181.

¹¹² On al-Qaraḍāwī's earlier strong opinion against interest and his view that a 'need' cannot be considered a 'necessity' to legitimize an interest-based transaction, see *al-Ḥalāl*

change of heart to the softness and confidence that comes with age.¹¹³ In his response to al-Barāzī and al-Ghaffār, al-Qaraḍāwī stressed that to determine whether owning an apartment constitutes a ‘need,’ one should consult not only jurists but also non-religious experts as well as European Muslims who rent apartments.¹¹⁴ In his defense of the *fatwā* he added several elements to the Council’s description of ownership as a condition for leading an Islamic life in the West and promoting Islam. He argued that Muslims who own apartments have access to better education; reside in greater proximity to local mosques, Islamic centers and other Muslims; enjoy better public services; enable their wives to walk around the house without being watched by neighbors (as is the case in rent-based residential areas); and gain the respect of all walks of society, from school teachers to drivers of garbage trucks. Al-Qaraḍāwī hinted that the lateness of his juristic transformation on the matter had been harmful to the interests of the Muslim nation, noting that Muslims from the Indian subcontinent, who adhere to the Ḥanafī school, and have taken mortgages, are some of the richest men in contemporary London.¹¹⁵ Other *wasatī* jurists have also defended the Council’s stand on mortgages.¹¹⁶

Salafī jurisprudence strongly prohibits all forms of interest and loans and all bank operations charging interest, and considers only Islamic banking systems legitimate.¹¹⁷ The special conditions of Muslims in the West are no exception to this rule. A man from the United Kingdom presents an appealing case: he lives in a rented apartment; if he takes a mortgage, which is the custom in his country, he will pay less every month and in the end the house will be his. Is it then *Ḥalāl*? Al-Munajjid responded that it is not, no matter how great the need: The payment of interest is prohibited according to the Qur’an, *sunna* and scholarly consensus. A need is no excuse to do something that Allāh

wa’l-Ḥarām fī al-Islām, 230-233; he emphasized that in Islam the prohibition on usury is universal, whereas in Judaism it applies only to transactions between Jews. *Ibid.*, 36.

¹¹³ Al-Qaraḍāwī, *Fī Fiqh al-Aqallīyyāt al-Muslimīna*, 169-170.

¹¹⁴ *Ibid.*, 182-3.

¹¹⁵ *Ibid.*, 154-61.

¹¹⁶ Muzammil Sidiqqi, “‘Necessity’ That Allows Buying a House on Mortgage,” *IslamOnline.net*, August 22, 2000.

¹¹⁷ Al-Atawneh, 121-34.

has forbidden. A Muslim must fear Allāh and remember that He is always watching; he should prefer the Hereafter to this life. If he cannot find anyone to lend him money lawfully, then he should be patient in the hope of earning reward. Whoever gives up something for the sake of Allāh will be compensated by Him with something better.¹¹⁸

The editors of Islamweb.net warned a Canadian inquirer that taking a mortgage is a great sin; they advised him to ask his bank to provide him with a *murābaḥa* loan.¹¹⁹ A bank employee in a country in which Islamic banks do not exist asked Islamweb.net whether he may take advantage of a preferential loan he was offered. He may well have regretted raising the question: the editors not only informed him that taking such a loan is a grave sin, but instructed that he must quit his job in the usurious bank. Their *fatwā* stipulates that if a person can live in a house of a friend or a relative, or rent a house, then his circumstances do not justify taking a mortgage.¹²⁰

Salafī prohibitions on usury apply to additional aspects of housing contracts. For example, a person interested in signing a contract to buy a flat that stipulates a fine of 2,000 pounds for any delay in payment is advised by the editors of "Islam Question and Answer" that the contract is illegitimate because it involves usury.¹²¹ A nephew who was a witness to an interest-based loan taken by his uncle says he feels "constantly depressed," having realized that he had done something wrong; the Saudi Standing Committee confirmed that he was involved in a forbidden transaction and asked him to repent and seek the forgiveness of Allāh.¹²² A Muslim who wanted to take an interest-based loan in a foreign country and then avoid paying the interest was advised by the editors of "Islam Question and Answer" that the transaction would still be considered impermissible, because it involved the signing of a pro-

¹¹⁸ Muḥammad Ṣāliḥ al-Munajjid, "Should He Go For an Interest-Based Mortgage If that Is Cheaper than Renting?," Islam Question and Answer, n.d.

¹¹⁹ Islamweb.net, "Buying a House or Apartment through Mortgage," September 9, 2001.

¹²⁰ Islamweb.net, "Bank loan to buy a house," July 14, 2002; b. 'Uthaymīn also prohibited working in a usurious bank: "al-'amal fī al-Bunūk al-Ribāwīyya wa-Mu'āmalatuhā," in *Fatāwā al-Balad al-Ḥarām* (Cairo: Dār al-Tawfīqīyya, n.d.), 488.

¹²¹ Islam Question and Answer, "Buying a Flat by Installments When There is a Clause in the Contract That Stipulates a Penalty in the Event of Late Payment," n.d.

¹²² Standing Committee for Academic Research and Issuing Fatwās, "Ruling on Being a Witness to a Riba-Based Loan," Islam Question and Answer, n.d.

hibited agreement. The editors added that usury is a major sin, whether the transaction is between two Muslims or between a Muslim and an infidel.¹²³

Despite their strict opposition to mortgages, *salafīs* do not order believers who have committed the sin to leave their homes. The Saudi Standing Committee decided that a person who has taken a mortgage must repent, ask for forgiveness and resolve not to repeat the sin, but should not “knock the house down, but rather make use of it.”¹²⁴ Wives, furthermore, are not held responsible for the sins of their husbands: A German-Muslim married to a German convert to Islam was told that she should gently advise her husband against his plan to buy a house with an interest-based loan; but even if he ignores her recommendation, she has done her duty.¹²⁵

Fighting in non-Muslim Militaries against Muslims

In 1907, in a *fatwā* relating to the Russian-Japanese war, Rashīd Riḍā ruled that it is permissible for a Muslim to fight in the ranks of a non-Muslim military. Drawing on *maṣlahā*, he invoked two justifications. First, a Muslim’s “obedience to the state protects his brothers from amongst the state’s subjects from any oppression or evil that may befall them if the state is an oppressive, autocratic one; it makes them equal to any other citizen in rights and privileges if it is a representative, just state; and it benefits them in other ways if the state is in between.” Second, the knowledge and practice of war are amongst the most important facets of social life; thus, if Muslims are forbidden from acquiring them, they will be weakened.¹²⁶

Riḍā’s opinion has been endorsed by several contemporary *wasatī* jurists. In 1996 Sulaymān Muḥammad Tūbūlyāk approved of service in non-Muslim militaries. He argued that in some countries Muslim

¹²³ Islam Question and Answer, “Should He Take a Riba-Based Loan If He Does Not Intend to Pay the Interest,” n.d.

¹²⁴ Quoted in Islam Question and Answer, “He Took a Loan With Riba to Buy a House Under Pressure from His Father,” n.d.

¹²⁵ Islamweb.net, “Reluctant to Live in an Apartment Her Husband Bought With Riba,” June 23, 2009.

¹²⁶ March, *Islam and Liberal Citizenship: The Search for an Overlapping Consensus*, 192-3.

citizens cannot avoid military service, and that because a Muslim military does not exist anywhere in the world, joining the ranks of a non-Muslim military is a means of preparing for *jihad*. He nevertheless emphasized that fighting alongside non-Muslims who fight other non-Muslims is permissible only if it serves the interests of Islam and the Muslims, and that it is impermissible for a Muslim to join non-Muslims in fighting Muslims. If a Muslim is forced to fight against Muslims, he must use any means possible to be exempted, including the paying of ransom. If that does not help, then the Muslim soldier must avoid killing Muslims in battle.¹²⁷

The 9/11 attacks brought the issue of Muslim participation in non-Muslim militaries to the forefront of juristic attention. The attacks increased tensions between Muslim minorities and non-Muslim Western majorities. The plotters were ‘sleepers,’ or terrorists who disguised themselves as loyal residents of their countries, and the attacks gave rise to anti-Islamic sentiments in the United States and Europe. Following the attacks, the American military actively recruited Muslim-Americans, eager to employ individuals with linguistic skills in Middle Eastern languages and a cultural understanding of the Muslim world. In 2009, 3,557 of America’s 1.4 million soldiers identified themselves as Muslims.¹²⁸ The wars launched by the United States in Afghanistan and Iraq presented a challenge to some Muslim-American soldiers, as well as to Muslim soldiers in allied armies. While from a religio-legal point of view a Muslim is forbidden to fight against another Muslim, in the post 9/11 atmosphere, avoidance of the military based on Islamic principles risks causing not only personal hardship but also negative publicity that could intensify concerns about the ‘dual-loyalty’ of Muslims in the West. The dilemma intensified with the outbreak of the war in Iraq, which was widely regarded in Muslim countries, as well as by many in the West, as illegitimate.

The *wasatī* response to Muslim participation in post-9/11 Western military campaigns shifted gradually from full legitimization immediately after the attacks, based on application of *maṣlaḥa*, to strong prohibition following the launch of operation Iraqi Freedom. The shift

¹²⁷ Tübülyäk, *al-Abkām al-Siyāsiyya li’l-Aqalliyyāt al-Muslima fi al-Fiqh al-Islamī*, 112-33.

¹²⁸ Andrea Elliot, “Complications Grow for Muslims serving in U.S military,” *New York Times*, November 8, 2009.

demonstrates that while *wasatīs* are inclined to adjust religious laws to the special conditions of non-Muslim societies, they do not accept the liberal nation-state as a primary source of allegiance: service in the United States military was legitimized only when *wasatī* jurists believed the American cause was justified, and when these jurists were concerned about the hardships that might be incurred by the Muslim community if Muslim soldiers refused to fight. But legitimization was revoked when jurists decided that the American cause was not justified and Muslim participation in the war was not a necessity to safeguard the Muslim minority from harm and spread Islam in the West.

Shortly after 9/11, as the United States was preparing to retaliate in Afghanistan, a Muslim chaplain in the American army, Muḥammad ‘Abd al-Rashīd, presented al-‘Alwānī with a query on the permissibility of participation in a war against the perpetrators of the attacks. Al-‘Alwānī consulted with al-Qaraḏāwī, who joined four jurists in approving of participation. Their decision, discussed in detail by Nafi,¹²⁹ was based on two considerations: first, the 9/11 attacks were terrorist acts, and Muslims should be united against those who terrorize innocents. Second, if Muslim-American military personnel were to resign their positions, they would cause harm not only to themselves but also to millions of Muslim-Americans, and this harm would be greater than that caused by participating in war. The jurists advised the questioner that he should ask to serve in the rear, unless such a request would raise doubts about his allegiance or loyalty.¹³⁰

Following the commencement of the war in Afghanistan in October 2001, *wasatī* positions became more complex. In a *fatwā* responding to a query from Zaynab, a Canadian, on the permissibility of participation in the war, al-Qaraḏāwī authorized participation provided that the soldier does his best to avoid direct confrontation. His *fatwā* demonstrates the centrality of ‘facilitation’ in *wasatī* jurisprudence and the application of proselytizing efforts as a *maṣlaḥa* that justifies permitting the prohibited.

The *fatwā* begins by stressing that a Muslim who fights another Muslim has committed *kufṛ* (disbelief); several traditions on this mat-

¹²⁹ Basheer M. Nafi, “Fatwā and War: On the Allegiance of the American Muslim Soldiers in the Aftermath of September 11,” *Islamic Law and Society*, 11:1 (2004), 78-116.

¹³⁰ Quoted in *ibid.*, 80-82.

ter are invoked, including one narrated by al-Aḥnaf, in which the Prophet reportedly said that if two Muslims fight each other, not only the killer but also the killed is doomed to hell fire, because he was willing to kill his fellow Muslim. However, al-Qaraḍāwī argues that a Muslim who is recruited to a non-Muslim army to fight against Muslims finds himself in a special circumstance that demands special consideration. This Muslim might be a “helpless” soldier who has “no choice” but to yield to the orders of his commanders. If that is the case, the Muslim soldier can join the rear to help in military service, while avoiding combat confrontation to the extent possible. If he does participate in war against Muslims, the soldier should have an inner feeling of resentment, which is the “least of faith.” Al-Qaraḍāwī’s approval is based on what he terms *fiqh al-muwāzanāt*: applying juristic preference and choosing the lesser of two evils. In his view the harm caused by avoiding the battle is greater than that caused by participating in it, because if a Muslim soldier refuses to fight other Muslims, “the Muslim as well as the Muslim community may be accused of high treason. Such an accusation may pose a threat to the Muslim minority and this may also disrupt the course of *da‘wa* that has been in full swing since tens of years ago [viz., for decades], and has started to reap fruits.”¹³¹

Fayṣal al-Mawlāwī’s position on the question posed by Zaynab was ambivalent. He wrote that “the American-Muslim soldier is between the devil and the deep blue sea and he is facing a difficult situation.” On the one hand, it is a basic rule in Islam that a Muslim is not allowed to fight fellow Muslims. On the other hand, Q. 64:16 excuses a Muslim for not being able to carry out Allāh’s orders if he has no means to put them into effect. According to al-Mawlāwī the issuance of a general *fatwā* that gives precedence to religious identity over citizenship would impose great harm on Muslims, but so would the opposite. Thus, each Muslim soldier should assess the consequences of fighting and of abstaining, and reach a decision by himself; such a decision, however, should not expose him to danger that he cannot bear.

Other *wasatī* jurists presented legalistic or political solutions to the conundrum. Al-‘Alwānī stated that Muslim-American soldiers, like

¹³¹ Group of Muftis, “Ulama’s Fatwas on American Muslim Participating in US Military Campaign,” IslamOnline.net, October 16, 2001.

other American citizens, have the right to become conscientious objectors if they feel that a war is unjust. In September 2001, the current Grand Mufti of Egypt, 'Alī Jum'a, proclaimed that Muslims are not allowed to fight other Muslims in Afghanistan or anywhere else, adding that Muslims can request exemption based on the American constitution, demand to be shifted to managerial positions, or tender their resignation; if, however, they are forced to participate in a military campaign, they should take care not to kill a Muslim under any circumstances. Aḥmad al-Raysūnī, a Moroccan, was the only jurist quoted on IslamOnline.net who closed the door entirely to Muslim participation in wars against other Muslims; he nevertheless expressed his conviction that the American administration will exempt Muslims from fighting other Muslims, both to show respect for Islam and to preserve discipline and stability in the American military.¹³²

As the war in Afghanistan continued and the war in Iraq began (March 20, 2003), *wasatī* jurists changed course and issued strong prohibitions on Muslim-American participation. Realizing that Operation Iraqi Freedom was not popular in the United States, and interpreting the war as a conspiracy against the Muslim nation, they decided that the participation of Muslim soldiers in the American military cannot be justified by necessity or by the prospect of proselytizing. The war in Iraq was described by *wasatīs* as an illegitimate, flagrant aggression, an extension of the crusader goal to destroy the Islamic revival and to enforce American world domination. Muslims were instructed to resist the war and "defend the oppressed Iraqis."¹³³ In his *fatwā*, Fayṣal al-Māwlawī declared that it is not permissible for the Muslim-American and Muslim-British soldiers or any other Muslim soldiers to participate in the war against the Iraqi people. He added that "it is totally prohibited for them to participate in any aggressive war against any country." 'Alī Jum'a issued a similar prohibition, stating that "if a Muslim is compelled to go there [to Iraq] he must not participate in fighting, even if he is killed for this." The al-Azhar jurist 'Abd al-Mājid Subḥ asked Muslim-American soldiers to follow the example of the boxer

¹³²) Ibid.

¹³³) Group of Muftis, "War on Iraq: New Crusade or Imperialism?" IslamOnline.net, March 26, 2003.

Muḥammad ‘Alī, who “abstained from participating” in the Vietnam War.¹³⁴

Al-Qaraḍāwī’s approval of Muslim participation in the American campaign in Afghanistan was rejected by several *salafī* jurists, who denied the legitimacy of the American-led war and asserted the impermissibility of assisting the infidels.¹³⁵ In *jihādī* works, condemnation was harsher. Ayman al-Zawāhirī, Bin Lādin’s deputy and successor, suggested that al-Qaraḍāwī should be tried for “grand treason.”¹³⁶

While the issue was triggered by the war in Afghanistan, *salafī* objection to the *wasatī* approval applies to all conflicts involving Muslims and non-Muslims. Answering the query of a Muslim working in the army of a “non-Muslim state,” al-Munajjid held that it is not permissible to take part in an army waging war against Muslims; he cautioned that doing so constitutes major *kufḥ*, resulting in the excommunication of the sinner, based on Q. 5:51: “And whoever is an ally to them [Jews and Christians] among you – then indeed, he is one of them.” He added that participation is permitted if it can bring “some benefits to the Muslims, such as [exposing] information and secrets” of the infidels; or if participation is of a strictly religious nature – for example, serving as imam in a non-Muslim military, while advising Muslim soldiers to avoid any action that would strengthen the infidels.¹³⁷ Al-Munajjid’s *fatwā* was inspired by Ibn ‘Uthaymīn’s *fatwā*, which decreed that if a Muslim soldier is not helping the infidels to wage war against Muslims or their allies, and his work will help Muslims to learn the military secrets of the infidels, or to call non-Muslims to Islam, then serving in an infidel military is permissible.¹³⁸

¹³⁴ Group of Muftis, “Participation of Muslim Soldiers in US & Its Allies Armies in War on Iraq,” IslamOnline.net, March 20, 2003.

¹³⁵ Nafi, “Fatwā and War: On the Allegiance of the American Muslim Soldiers in the Aftermath of September 11,” 108-113.

¹³⁶ *The Open Meeting with Sheikh Ayman al-Zawahiri*, part 1, As-Sahab Media, 2008, 5-12, retrieved from: www.tawhed.net.

¹³⁷ Muḥammad Ṣāliḥ al-Munajjid, “It Is Not Permissible for a Muslim to Fight with Kaafirs against the Muslims at All,” in Muhammad Saed Abdul Rahman, *Islam: Questions and Answers: (Vol 6), Alliance and Amity, Disavowal and Enmity* (London: MSA Publication, 2003), 84-5.

¹³⁸ Muḥammad b. Ṣāliḥ b. ‘Uthaymīn, “Military Service in Kaafir Armies and Working as a ‘Chaplain’ in Those Armies,” Islam Question and Answer, n.d.

In response to a query from a medical student who wished to enlist in the military in order to finance his studies, but was concerned that he would be sent to Iraq, the editors of Islamweb.net explained that enlistment, like taking an interest-based loan, is a major sin, because it may lead the Muslim to engage in war against other Muslims or die in battle “not for the sake of Allāh.”¹³⁹

Salafī jurists prohibit any form of indirect assistance to infidels fighting against Muslims. A Muslim businessman who had been “offered a golden opportunity to sell equipment” to a non-Muslim military that is “waging war against the Muslims” was advised not to sign the contract as this would constitute *kufṛ*. The editors at “Islam Question and Answer” explained that it is not permissible to sell even a date to infidels, if that date assists them in fighting Muslims.¹⁴⁰ Al-Munajjid ruled that it is impermissible to donate blood to a non-Muslim who is in a state of war against other Muslims, because doing so may help the infidel aggressor in his aggression.¹⁴¹ In contrast, *wasatī* jurists permit blood donations to non-Muslims.¹⁴²

Conclusion

The *wasatī* and *salafī* struggle for hegemony in the field of Muslim minorities is an extension of a rivalry that is taking place in the Arab world between pragmatic and conservative jurists who seek to regulate the lives of believers in accordance with their respective socio-juristic views. Both approaches are grounded in a triumphalist, revivalist contextualization of Muslim presence in the West. *Wasatīs* draw on this contextualization to liberalize some religious laws in a way that allows integration, while *salafīs* draw on the same contextualization to endorse

¹³⁹ Islamweb.net, “Taking a Riba Loan or Taking Military Contract to Finance Medical School Costs,” May 10, 2004.

¹⁴⁰ Islam Question and Answer, “Ruling on Helping the Kuffar against the Muslims,” n.d.

¹⁴¹ Muḥammad Ṣāliḥ al-Munajjid, “Giving Blood to a Kaafir Who Is Not Hostile towards Islam and Who is Not in a State of War with Us,” in *Islam: Questions and Answers: (Vol 6), Alliance and Amity, Disavowal and Enmity*, 83-4.

¹⁴² Muzammil Siddiqi, “Blood Donation to Non-Muslims,” IslamOnline.net, January 4, 2010.

uncompromising application of religious laws in a way that encourages segregation from non-Muslims.

Some *wasatī* decisions on minority situations demonstrate the potential of a liberal and broad application of *maṣlaḥa* to affect religious laws. One possible result of *wasatī* ideology and methodology would be the gradual creation of a unique system of religious law for Muslim minorities. In my view, however, this outcome will be determined not by the theoretical foundations of *wasatī* socio-juristic theory on minorities, but by the scope of its application in issuing *fatwās*. Only if a critical mass of radically liberal *fatwās* develops will *wasatī fiqh al-aqalliyāt al-muslima* become a separate system of Islamic law. To date, this has not happened.

Another question is whether Muslim communities in the West will gradually divide along the *wasatī/salafī* lines. This prospect has important implications for relations between devout Muslims and their majority non-Muslim societies. The diffusion of *fatwās* in the West awaits serious quantitative field studies. However, this author's qualitative field experience in mosques across Europe indicates that the evolution of such a division is not inevitable. On the shelves of bookstores attached to mosques, *wasatī* and *salafī* compilations of religious decisions are placed next to each other. In the communities that I have encountered, rather than adhering to one approach, individuals selectively choose between the two, based not only on their own understanding of *fiqh* but also on social, political and financial considerations. Human realities have been and will remain more complex than the jurists who seek to shape them.