Fiqh al-Aqalliyyāt (Jurisprudence for Minorities) and the Problems of Contemporary Muslim Minorities of Britain from the Perspective of Islamic Jurisprudence

This thesis is submitted in partial fulfilment of the requirements for the award of the degree of Doctor of Philosophy of the University of Portsmouth

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Abstract

This study seeks to explore some of the main problems contemporary British Muslims encounter from the perspective of Islamic jurisprudence. In so doing, it mainly aims to shed light on the extent Muslims in Britain face problems and what impact they might have on their religious identity as well as relationship, belonging, and contribution to the wider society. In so doing, the study will strive to examine whether existing fiqh (Islamic jurisprudence) literature is adequate to guide contemporary fiqh scholars to deal with such issues effectively and how some contemporary answers to such issues are inappropriate. If that is the case, what would be the way forward jurists should take to find appropriate solutions? Hence, this study will use qualitative methodology to investigate such issues and questions and it will lead the study to emphasise the necessity to find answers to such problems and a mechanism to handle them, which this study would seek to suggest as a jurisprudential approach called fiqh al-aqalliyyāt al-Muslimah (Islamic Jurisprudence for Muslim Minorities) based on values, principles, universalities, and higher objectives of Islamic law: maqāsid al-Shari‘ah (Purpose of Islamic Shari‘ah) presented by revisiting textual sources of Islamic law as well as lived examples of early generations of Islam. It will also make some suggestions about further studies needed as regards to fiqh for Muslim minorities.
Declaration:

‘Whilst registered as a candidate for the above degree, I have not been registered for any other research award. The results and conclusions embodied in this thesis are work of named candidate and have not been submitted for any other academic award.’
Dedication

This thesis is dedicated to three important people in my life. Firstly, to the memory of my late grandparent Pakeer Tambi Mahmood whose pious life mostly stimulated me for the pursuit of Qur’ān and Islamic studies. Secondly, to the memory of my beloved father who is not with me any more to enjoy the fruit of my achievement. Thirdly, to the lifetime president of the Jamiah Naleemiah Institute, Sri-Lanka, Al-Haj Naleem whose institute enhanced my knowledge of Arabic and Islamic studies. May Almighty Allah bless all of them.
Transliteration Table

Consonants: Arabic

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Vowels, diphthongs...etc.

Short: ـ : a ـ : i ـ : u

Long: ﺔ : ā ـ : ū ـ : ī

Diphthongs: ـ : aw ـ : ay
Acknowledgments:

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Chapter 1: Introduction

Primary objective of this research is to examine definitions, themes, and contents of the legal theories of Muslim minority law in Britain: to examine arguments for and against the development of particular Muslim minority law in addition to the corpus of Islamic laws are applicable in Muslim and Non-Muslim countries. Do Muslim communities live under Non-Muslim political authorities need a separate set of Muslim minority law? Why do the Muslim communities in Europe in general and particularly in British context need for such guidance? What is the scope and limitation of this minority Muslim law? What are the rationales and justification for the development of Muslim minority law within European contexts? Why do Muslim jurist consultants (fuqahā) cannot utilize the primary and supplementary sources of Islamic law to solve the challenges and problems faced by Muslim minorities in Britain in particular and in Europe in general? How does this Minority fiqh differ from traditional fiqhi approach of main four schools of Islamic law? Unlike traditional Muslim minorities, who live hundreds of years under non-Muslim lands, Muslims in western nations face some modern social problems and challenges which are different from those of traditional Muslim minorities. Social, religious, cultural, and political problems and challenges of people in Europe are unique which considerably differ from the problems faced by people in other countries, particularly in Muslim countries.

There are ever increasing socio-religious, cultural, and legal problems encountered by Muslims living in European nations in general and in Britain in particular. In traditional Muslim minority countries, Muslim communities have identical Islamic judiciary system that helps Muslim communities to come to
terms with some religious and legal problems. They have their own marriage and divorces laws, laws of inheritance, and some customary laws that help Muslim communities in those traditional Muslim minority countries to solve their religious issues legally. Muslims in India and Sri Lanka are unique in that sense where Muslims have been accommodated with the provision of Muslim personal law for centuries, which is a fresh area of Muslim minority law studies.

Muslim minority communities in Britain and European countries do not have a parallel legal system with English laws to solve problems faced by Muslims. Moreover, four Islamic legal schools of thought do not always provide compatible solutions for the modern problems of Muslim communities in these countries. Traditional Islamic scholars, Jurist consultants, and Muslim clerics who live in these countries are trained in traditional Islamic teachings with a particular school of legal thought. Sometimes their legal verdicts and announcement are not compatible with notions of human right concepts in European nations.¹ Most of these imams and Islamic clerics do not have a comprehensive inter cultural knowledge of the European communities. They do not have enough skills, knowledge, and experience to gauge socio-cultural and legal issues of Muslim communities living in European context which has its own legal frameworks.

Moreover, the general philosophy of Islamic law is instituted to protect and preserve some basic rights of Muslim community whether they live in Muslim countries or Non-Muslim countries. The Muslim minority law should be developed to preserve and protect religious and legal rights of Muslim

¹ Some case studies show that in certain cases brought to Sharia councils operating in Britain, Muslim women seeking divorce were wrongly advised by some Official Muslim Advisers in complete opposite to the legal provisions provided by British legal system in relation to domestic violence: Moore, K.M. The Unfamiliar Abode: Islamic law in the United States and Britain, Oxford University Press, 2010, p. 125
communities in Britain. Sometimes, there appears to be some contradictions between notions of Western human rights concepts and Islamic concept of Human rights or Islamic legal verdicts. Therefore, it is imperative that Islamic scholars/Muslim clerics thoroughly understand these human rights issues comparatively before passing religious verdicts on any issues. In this perspective, the development of Muslim minority law becomes very much imperative in European contexts.

The developing of this branch of study will largely help to enhance social harmony and co-existence among Muslims and Non-Muslims in this multicultural society of Britain. This does not mean that Muslim have their own parallel legal system in the UK; rather Muslim minority law should be a supplementary legal concession for Muslims to resolve their religious problems and issues. Muslim minority community is legally obliged to follow rules of the land. They should also have their own legal provisions to solve their religious problems within their community. Apart from this, the prospective corpus of law should inform Muslims the right way to be part of the host country. This entails the relationship between Muslims and non-Muslims, which has become a major concern for not only Britain but also whole of Europe and North America.

The above mentioned rationales and justification would support the argument to systematically develop the Muslim minority law in European countries. This is a timely needed intellectual endeavour and academic task, which Muslim scholars and legal experts should eagerly engage to protect basic religious rights of Muslim minority communities in Britain and Europe. That is why I have chosen this subject for my research to examine some areas of Muslim minority law in British contexts.
Today, Muslims live in almost all parts of the world. There are two types of Muslim minorities in the world today: one can be described as traditional and historical Muslim minority communities. These types of Muslim minorities have been living in some countries for centuries. They have become Muslim minorities for some historical and political reasons and they live in many countries today such as India, Sri Lanka, and China.

The second types of Muslim minorities are new arrivals of Muslims to Western European countries. The historical origin of these Muslim minorities is relatively new. After the WW2 (World War 2), Many Muslims came to Western European countries for some political and economic reasons in large numbers. Many of them were semi-skilled or unskilled who migrated to escape persecution in their own countries. In recent decades, Muslim population has dramatically increased in numbers. These minority Muslims now live in almost all European countries. However, in countries like UK, France, Germany, Australia and USA millions of Muslims live as minorities today. Gilliat-Ray notes that their number according to 2001 census is 1.54 million in England and Wales, with about 40,000 in Scotland, which makes the total population of 1.6 million. Constituting 3 percent of the British population in 2001, Muslims have increased rapidly in recent years. As new figures from the Labour Force Survey (Office of National Statistics) published in early 2009 show, the population has increased to 4 percent and it is estimated around 2.4 million.²

These Muslim minorities in Britain and European nations face many socio-political, religious, and legal challenges and problems today. Unlike

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traditional Muslim minorities in the other parts of the world, European Muslim minorities, particularly Muslims in Britain have their own challenges and issues. These problems and challenges are somewhat different from those of traditional Muslims in nature.

In order to understand the socio-cultural disparities between the indigenous British people and newly migrated Muslim minority in Britain, it is imperative to know social and cultural background of the minority who came to Britain in the post-war period. Most of the Muslims who migrated from the Indian sub-continent and other parts of the Muslim world soon after WW2 were unskilled and uneducated. They came here to work as factory workers and unskilled or semi-skilled labourers. Their purpose of migration was to earn money and go back to their own countries in due course. However, that intention was not fulfilled in the course of time due to immigration legislation in 1960s. As a result, Muslims like other immigrants started to settle down in the UK permanently in large numbers with their families. Consequently, Muslim population grew gradually but dramatically.

Moreover, many Muslims who settled down in Britain, particularly the first generation who came in 1950s, were still having the ‘myth of return’ as expounded by Anwar.¹ This nostalgic mindset made an impact on their ability to see the host society as their home and feel as they are part and parcel of the society. This indifferent outlook towards the new social environment made them reluctant to change, isolating themselves in enclaves, and non-participating on an individual level in British institutions. “Their participation is limited due to both the external constraints such as prejudice and discrimination and the internal

cultural norms and values.” Consequently, this withdrawal from participating in
the wider society can lead to widening the gap between the host society and
Muslims. If that is the case, seeing each other as the ‘Other’ is unavoidable.
Moreover, many Imams and clerics who were mostly brought from countries of
origin in order to cater for the religious needs of immigrants and their children
were too helpless in guiding them in right direction. It is due to the fact that they
are unfamiliar with the social, cultural, political landscape of the host society.
Consequently, their guidance, contributions, and religious opinions, in particular,
are largely out of context and little relevant in this modern British context. This
social situation may explain why there should be a new approach appropriate to
British social, cultural, and political environment in the light of Islamic
jurisprudence.

It is undeniable that although British Muslims live in England as a
minority community, they are a part of international Muslim community (ummah)
with population of more than 1.6 billion. As noted by Moore, this sense of
belonging to global Muslim community (ummah) becomes stronger when and
where Muslims: whether British or American, “have experienced discrimination
and exclusion at the hands of the dominant society.” It appears that her argument
becomes more relevant in the context of understanding certain crisis that are
global in nature faced by Muslims in both countries: America, Britain, and their
wider implications in shaping the relationship between Muslims and the host
society. Particularly, Muslims would become suspicious of their loyalty towards
their country of residence. Modood writes, “They have found themselves bearing

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4 Ibid. p. ix
the brunt of a new wave of suspicion and hostility, and strongly voiced if imprecise doubts are being cast on their loyalty as citizens.\textsuperscript{6}

Hence, they have dual collective responsibilities and duties. On the one hand, they have some legal, moral, and religious responsibilities and duties in the country they live. In this respect, they are obliged to live according to the laws of land in Britain and they are legally obliged to follow the rules of land. On the other hand, they are religiously obliged to follow Islamic teachings and are religiously obliged to fulfil their duties and responsibilities to the global Muslim community as well. Sometimes, a conflict of interest could arise when British Muslim minority community try to fulfil their moral and religious duties and responsibilities. They are religiously obliged to follow the teaching of Islam yet legally obliged to follow the rules of land in Britain. This is a dilemma Muslim jurists need to focus and address thoroughly.

The Rushdi affair in 1989, the riots in Bradford in 2001, September 11, war on Afghanistan in 2001, London bombing in 2005, the problems in Palestine, and war on Iraq are only a few examples that illustrate this complexity and irony. They are supposed to speak out for their brothers in faith in those countries and religiously obliged to support and defend them yet they cannot do because of the fact that they are obliged to follow the rules of land as well. This complex paradoxical and ironical circumstances and situation compel us to understand the many legal and religious concepts such as a loyalty, citizenship, human right concepts in order to clarify these complexities and ironies.

\textsuperscript{6} Modood, T. ‘Muslims and the Politics of difference’ in Hopkins, P. & Gale, R. (eds.) \textit{Muslims in Britain: race, place and Identities}, Edinburge University Press, 2009, p. 194
As a part of my research project, I shall hypothetically propose some fundamental questions here in this study. How do the British Muslim Minority community reconcile between the notion of religious loyalty in Islam and legal loyalty to British law? Does the concept of modern citizenship differ from classical notion of settlement in non-Muslim polity? Do British Muslim minority violate their religious loyalty if they are compelled to support British foreign policies and legal system? Can we apply pre-Hijra models of migration to the new migration trends of Muslim population to Europe today?

What should be a Muslim’s position, as a citizen of a particular Western state, when his or her country goes to war against a Muslim country? The right example may be the war in Afghanistan. The loyalty and belonging of Muslims of both countries have been on trial and under enormous pressure as to whom they are supposed to give their solidarity and where their loyalty belongs to. Are they supposed to be loyal to their country of residence or their transnational global community of faith? This situation becomes even more complicated, if a Muslim happens to be a combatant soldier of the army of his country of residence and fights against Muslims of a Muslim country.

This legal complexity is demonstrated in case of a Muslim chaplain serving the USA army who sought fatwa (Islamic legal ruling) from Muslim Jurists of the permissibility of going to war in Afghanistan in 2001. The dilemma he was confronted with has two folds. On the one hand, he, as a Muslim, is prohibited by revelation even to reproach his fellow Muslim let alone fight against him, for which he is warned as ending up in the Hellfire. On the other, he is obliged, as a citizen, to be loyal to his country of residence and defend it from its enemies. What would be his position in this crucial issue? Is this matter left to be
decided by him alone as an individual who is free to decide his own destiny or is it a matter mostly to be decided collectively by his community of religion? A myriad of similar issues arise out of Muslims’ presence in western societies, for which they need Islamic guidance.

Thus, it can be argued that living as a Muslim community today under non-Muslim polity is a complicated and complex religious phenomenon in Western countries. This justifies the urgent need of Muslim intellectuals to scrutinise this new social phenomena in light of general philosophy of Islamic law taking into account all new development in geological and social condition of new world order. This research is a humble attempt to address some of these issues. It can be argued that living as Muslim minority in the Western world today is a reality and therefore, it is beyond the control of Muslim minority community in the UK and Western nation to live in isolation: whether they like or not Muslim minority communities are politically, socially, culturally and legally interacted with Western communities of today.

It is unimaginable that all Muslim communities will go back to their own native countries on the advice of some Muslim cleric of some Muslim countries. Practically and politically, such return is not viable today. Therefore, it is the responsibility of Muslim scholars to address the challenges and religious problems that Muslim minorities face in the Western nations in general and in Britain in particular.

It is a postulate of this research to argue that the entire problem faced by Muslim minorities in Britain, whether the issues are major or minor, can be addressed by Islamic scholarship in the Western countries. This demands one
condition. Islamic scholars and jurists should go beyond the literal meaning of the primary sources of Islam and the scope of classical legal thought to address these issues. They should address political, cultural, and religious problems in light of general philosophy of Islamic law. That is the way out for Muslim scholars and jurists to find viable and suitable religious verdicts for ever-increasing challenges.

Now the question is, are the Muslim scholars and jurist qualified and trained enough to visualize and scrutinise these issues in light of the general philosophy of Islamic law? Do they understand the culture, norms, and people of the host society? Do they have thorough knowledge of the socio-political nature of Western society? Do they understand legal frameworks and working culture of this society? If Islamic scholars and jurists were not well trained in both Islamic and Western sciences it would be a very much difficult task for them to address the problems of Muslim minority in the western society today. A team of imported Muslim scholars and jurists cannot visualise the scope and magnanimity of the problems Muslim minority face today in Britain and western nations.

In the context of Muslim minority community in Britain the legal principle of *al-walā’ wa al-barā’* (allegiance and disassociation) becomes a somewhat controversial legal concept. This legal principle demands Muslim community to exert its loyalty to Muslim faith locally as well as globally. Literally, following this legal principle in the modern time is a vexing issue for Muslims in Western nations. It is to say that, to what extent is a Muslim allowed having bond and relationship with a non-Muslim even if that non-Muslim happens to be his kith and kin. How far can a Muslim be loyal to a non-Muslim state?
The citizenship concept practiced in Western countries gives civic rights and freedom for their citizens. In return, these states expect from their citizens to legally abide by their rules and regulations and expect to be loyal citizens. Moreover, these countries expect from their citizens to contribute economically, intellectually, and socially to the wider society. How can a Muslim minority contribute and participate in the political, economic and social life of these western countries without damaging their identity, religiosity, and loyalty to their faith? These questions arise, as there are a number of instructions in the Islamic texts: Qur’ān and hadīth that warn Muslims to be cautious against as to whom they offer their loyalty and allegiance when they coexist with non-Muslims, particularly with Jews and Christians. Now, the question is what would be the situation of Muslim citizens who live among Jews and Christians in western societies? What is the religious position on these issues? Does Islamic classical and contemporary legal thought allow Muslim minority community to co-exist at any cost? Can ambiguity of this paradox situation be cleared in light of the general philosophy of legal thought?

The question of loyalty has been thoroughly examined by classical Islamic scholarship. However, the classical Islamic scholarship had examined this issue in their social and political contexts. Their understanding of the legal concept of loyalty is confined and limited to their social set up. Their opinions and viewpoints are probably in most cases not viable and feasible today in the Western context. They expressed their views on the concept of loyalty when Muslim polity was dominant in the medieval period. Obviously, it was the time when Muslims were living as majorities under dominant Islamic rule. Muslims
were rulers and the non-Muslims were living as minorities having special status called ‘dhimmy’ (protected minorities).

Moreover, classical Islamic jurists and scholars did divide the world into two legal dichotomies in their social contexts: one is the abode of Islam (dār al-Islam) and the other one is abode of war (dār al-harb). This legal description was formulated taking account of medieval socio-political structure of the Muslim world in the medieval times. When Muslim Caliphates dominated the large part of the world, the classical scholars divided the world in this way. Is it this division viable and feasible in the global village of modern world?

Can anyone say that this historical socio-political situation will not have any impact on shaping the outlook of Muslims towards non-Muslims? Does this classical legal thought have any relevance in today’s contexts? The influence of this thinking is sometimes reflected in the legal proclamation and perception of some jurists and scholars.

The question arises as to what extent such classical interpretations that have been the reflection of a particular historical situation can be drawn on to offer solutions to current problems which are peculiar to totally different context? We no longer simply depend on classical Islamic legal interpretation to find answers to modern day problems. The classical legal interpretation and legal reasoning were made by Islamic jurist to meets the needs and demands of their societies. These needs and demands have now changed and thus, modern legal interpretation is needed in our times to meet the challenges of modern world.

The defect and deficiency of classical legal thought demand us to devise and develop a new legal principle to deal with modern issues and challenges. In
this context some scholars are arguing for the formulation of fiqh for Muslim Minorities in the West. This new legal theory of Muslim law should be adequate enough to respond to the peculiar contexts and concerns of the Muslim minorities who live among non-Muslim societies in the West. It is this branch of knowledge in the field of fiqh that has come to be known as fiqh al-Aqalliyyāt: The need for this new approach has become so imperative, particularly for Muslim minorities in the West as a plethora of issues and challenges has been constantly on the rise. It is a collective duty and responsibility of Muslim scholars in the West to engage and come up with legal theories of Islamic law to facilitate Muslim minority communities in Britain.

It is a collective duty of Islamic jurists and scholars in Britain to identify major problems and issues Muslims encounter here. What types of problems Muslim minorities are facing in the western societies? If the problems are social, political, economical, and educational, how do they resolve these problems Islamically? Is the absence of jurisprudential guidance the only obstacle to overcome these problems? If so, does the existing body of jurisprudence which is classical in its nature and feature and time-bound in its contextual existence adequate enough to address these problems? If not, does it necessitate revisiting the sources of jurisprudence: Qurʾān and hadīth and other subsidiary sources including principles of jurisprudence in order to formulate a new and fresh jurisprudential approach to address these problems? Does it require a new form of ijtihād (exerting effort by scholars to extract rules from sources of jurisprudence)?

This does not mean ignoring the intellectual heritages of classical scholars, rather

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7 Ijmāʾ (consensus of scholars on legal opinion), Qiyās (analogical deduction), Qawl al-sahābi (opinion of the Prophet’s companion), Istihsān (juristic preference), Istishāb (presumption of continuity), Maslakah al-Mursalah (public interest), Sad al-Dhrāʾ Iʿ (blocking the means), Sharaʾu mun Qablana (revealed law preceding the shariah of Islam) ʿUrf (custom)
we could selectively choose appropriate and suitable opinions of Islamic legal scholars: modern and classical. This research is an attempt to draw the attention of our scholars and jurist to devise and develop this new theory of Muslim minority law taking into account a holistic approach to our modern problem from all perspectives.

It is high time that Muslim scholars in Britain engage in this area of legal studies collectively away from all ideological differences. Yet, only a few scholars are involved in this field. Today in Britain, the primary concerns of our scholars seem to be to present legal opinions for the problems Muslim masses are facing in western societies. The works of these jurists appear to be largely limited to a particular school of legal thought. Whereas theoretical analysis and juridical reasoning of the subject matter, do not seem to be receiving same level of attention. Therefore, this research attempts to contrive and devise some basic ideas on the legal theories of Muslim minority law in Britain. I do not claim that this a comprehensive and conclusive research on this subject yet, I will try to present theatrical and conceptual frame work to this theory of Muslim minority law.

1.1 Book Review on Muslim Minority Law

I have selectively reviewed some important books and legal treaties in this section. Moreover, I have consulted some conference research papers and websites on this subject. Most of the books and research papers were written by Islamic scholars outside western countries where Muslims live as minorities. Yet some of these research papers were written by Muslim and Non-Muslim scholars
who live in the western countries and therefore, they do have firsthand knowledge of Muslim minority problems.

The book authored by Yūsuf Al-Qaradāwi titled *Fi Qīḥ al-ʾAqālīyyāt al-Muslimīh,* 8 *Sīnāʿīt al-Fatwāَ wa Qīḥ al-ʾAqālīyyāt* authored by Abdullāh Ibn Bayyāh, *Nahwa Taʿṣīlīn Fiṣḥīyyīn li al-ʾAqālīyyāt al-Muslimīh bi al-Muṭtamaḥ al-Ghārbiyāh* by Abdūl-Maǧīd al-Najjār are few works attempted considerably to fill this gap. Yet they were more or less intended to deal with the subject from a general perspective without specifying any particular minority in the West or East.

There are other works too which have contributed to this area of study. Al-Qaradāwi’s legal rulings in his work *Fatāwā Muʿāṣīrah* (Contemporary legal rulings) and his rulings in his website and ‘Islam on line’ web site, and Al-Alawānī’s article *madkhalīn ilā fiqīḥ al-ʾaqālīyyāt* (An Introduction to Jurisprudence of Muslim Minorities) are worth noting. While Qaradāwi’s work concentrate to a great deal on practical issues of Muslims in the European context, Alawānī’s work deals with conceptual theories of *fiqīḥ al-ʾaqālīyyāt* (Jurisprudence for Muslim Minorities). In his book *Fiqīḥ al-ʾaqālīyyāt al-Muslimīh* (Jurisprudence for Muslim Minorities) Khālid Abdul Qādir deals with issues of Muslim minorities in detail in terms of principles of this *fiqīḥ* and some problems of Muslim minorities. Although this book can be considered to be pioneering work in this field, it does not address many contemporary problems of Muslim minorities that emerged because of modernity and secularisation, and their impact on Muslim minority in the West, particularly in Britain. 9

In his book *Al-Ahkām al-Siyāsiyyah li al-Aqalliyāth al-Muslimah Fī al-Fiqh al-Islāmiyyi* (Muslim Minorities in Islamic Law: The Political Aspect), Sulaiman Muhammad, a Jordanian scholar deals with many political issues of contemporary Muslim minorities. This work too could be considered as an initiative in this field. Nevertheless, it deals with general issues without specifying the problems facing contemporary Muslim minorities in the Western societies.\(^{10}\) There are few other works in this field that offer a very sketching and general treatment of the issue.\(^{11}\)

In this report, *Fiqh al-aqalliyāt, a legal theory for Muslim minorities*, Shammai Fishman,\(^{12}\) expounds the legal theories of T. J. Al-Alwāni and Y. Al-Qaradāwi on the Muslim minority law. The writer argues that legal theories of minority laws are relatively new legal concepts that are devised mainly by Al-Alwāni and Al-Qaradāwi. He called them as founders of *fiqh al-aqalliyāt*. This monograph is an introductory work on this subject, which provides an overview for the legal theories of Muslim minority law.

*Muslim minorities: fatawas regarding Muslims living as minorities*, authored by Abdullah Ibn Bāz and Ibn Uthaymin,\(^{13}\) deals with some fundamental questions about Muslims living in non-Muslim countries especially in European countries. Both scholars of Saudi origin argue that if Muslims who live in these

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countries cannot make a living according to Islamic laws, then they should migrate to Muslim countries. They argue that preserving faith is the priority of Muslims. Therefore, if someone finds it difficult to do that they should migrate to a Muslim country. This book deals with many legal issues from a classical and orthodox perspective.

In this lengthy article, *Islamic Law and Muslim Minorities: The Juristic Discourse on Muslim Minorities from the Second/Eighth to the Eleventh/Seventeenth Centuries*, on Muslim and Non-Muslims relationship from classical perspectives of different schools of Islamic law, Khalid Abou El Fadl discusses legal issues of Muslims living under non-Muslim polity. This article is very much informative and provides a lot of research materials and references on this subject.

*When Islam and Democracy Meet: Muslims in Europe and the United States*, authored by Jocelyne Césari, reviews different academic discourses on Muslims presence in Western countries. Particularly, their ability to relate their presence to global Muslim community and to maintain their connection with it has been discussed thoroughly. According to her, “the power of ummah” remains a unifying force. Hence, the author provides a sociological account of Muslim minority communities in Western countries. The writer compares and contrasts some basic Islamic teaching with the notion of democracy in western nations and its influence on Islam.

Hellyer in his book *Muslims of Europe: The “Other” Europeans*, explores Muslims’ presence in Europe, particularly in Britain and their historical roots in Britain. Muslims in Britain are no longer an arrived community, rather an indigenous community in the process. He further argues for the need and necessity for a minority *fiqh*. Andrew F March’s book *Islam and Liberal Citizenship: The Search for an Overlapping Consensus* is an important work on the subject in question. He argues for the viability of Minority law in light of liberal concepts such as citizenship. Muslim also can see the proximity in the terms of citizenship in plural democracies as reasonable and acceptable. This book discusses the issues of Muslim minority with particular reference to Muslim minority law. Different legal perspectives on these issues have been analyzed drawing on different schools of thought in the Islamic legal tradition as well as modern legal opinions.

Khālid Mas‘ūd’s paper on ‘Being Muslim in a non-Muslim Polity: Three Alternate Models’ is an interesting work on the subject in question. The writer compares and contrasts different models of Muslims living under Non-Muslim polity in pre-Islamic periods with that modern times. The writer makes a distinction between the pre-*hijrah* Makkah, the post-*hijrah* Makkah, and the Abyssinian/Hudaybiyyah model. Moreover, he compares these situations with modern situation.

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Following the emergence of these initiative efforts on the formulation of this fiqh, several fiqh councils have been established in Europe and America. To cater for the pressing need of Muslim minorities in this part of the world for religious guidance, two major pioneering religious bodies have emerged, namely European Council for Fatwa and Research (ECFR) and Fiqh Council of North America (FCNA). The latter was established in 1986 as an independent fiqh body after evolving through various stages since 1960 in order to address, according its mission statement, the “needs of the Muslim community (in America) and the complexities of the issues they face.” The former was founded in London, with its headquarters in Dublin, Ireland, in 1997 on the initiative of federation of Islamic organizations in Europe. Headed by Yūsuf al-Qaradāwī, the council is largely a self-selected body composed by Islamic scholars who are residents in Europe and outside of Europe. ECFR has also established two sub-committees for fatwa in the UK and France in 1998 in order to respond to as many issues submitted as possible. Among its main objectives are, according to its constitution, bringing scholars living in Europe under one umbrella in an attempt to unify thoughts and views expressed by them on issues related to Muslims in Europe, issuing collective fatwas, publishing legal studies and research, and guiding Muslims in Europe through legal fatwas in the light of Islamic teachings. ECFR has also established a Research and Studies Committee whose main task is to publish Council’s periodicals.

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20 Islamic Fiqh Academy in India is another prominent fiqh body which specialised in issues related to Muslims in India.
22 Qarārāt wa Fatāwa al-Majlīs al-‘Urūbī li al-‘Iftā‘ wa al-Buhārī (Decisions and Legal Rulings of European Council for Fatwa and Research), Dār al-Tawzī’ wa al-Nashr al-Islāmiyyah, Cairo, 2002, pp. 11-16
Undoubtedly, these efforts of individuals and collective bodies have rendered an immense contribution towards guiding the minorities concerned, at least to cope with problems and issues they face in their new social situation. But they tend to be limited in their purpose and scope as they were initially meant to be temporary means to offer short-term solutions as concessions and allowances for the problems these minorities face. The ideal example is the fatwa (legal ruling) given by European Council for Fatwa and research on the issue of mortgage. The use of this fatwa was conditional on non-availability of Islamic financial institutions and of course, this was the case when this issue was raised nearly ten years ago when Muslims have just begun to realise the necessity of having their own property and there was no halal means to fulfil this need. As it was a pressing need for Muslims in the western countries and there were no halal financial modes of transaction to cater for this need, the council, after long debate and discussion over two to three sittings, issued this ruling. Muslims were allowed, as an Islamic legal concession, to go ahead with this transaction considering their financial capability together with the non-availability of Islamic financial institutions.

A question arises as to whether this fatwa would still be valid when Muslims’ situation in the West changes in years or decades to come in terms of their financial capability and initiating Islamic financial institutions. Indeed, pioneering initiatives are already to be witnessed in the form of banking system such as Islamic Bank of Britain. The focus of the scholars now, therefore, has to change accordingly and thus has to be directed towards how Muslims can be guided through initiating institutions not only in financial sector but also in other spheres of the social fabric. Muslim minorities of the West, particularly Muslims
in Britain may not be ‘minorities’ any longer and have not thus to be considered by scholars of *fiqh* as minorities who took residence in these societies as transients who were to return to their ‘home’ countries once their purpose of migration fulfilled. On the contrary, they may be considered not just as ‘Muslims in Britain’ rather ‘British Muslims’ as they have become part and parcel of the British society, particularly the third generation of Muslim migrants who tend to see themselves as British Muslims and see no contradiction in seeing them as such.

Furthermore, they have been surveyed in a recent opinion poll as being more loyal to Britain than natives themselves.\(^{23}\) Hence, this paradigm shift poses the challenge to Muslim scholars, particularly jurists to look at the situation now, differently. What is needed from them is not just ‘rulings’ which have been the main concern for them when dealing with Muslim minority issues in 1980s and 1990s, rather the formulation of ‘Juristic concepts, principles, and maxims’ which can serve as guiding lights for Muslim minorities in generations to come. In this respect, the paradigm, it seems, has been shifted from being just settlers whose situation has been transient and who needed temporary solutions to permanent stake holders who need broad guidelines in order for them not only to integrate in their respective non-Muslim societies but also to contribute to them.

The issue in question is, therefore, to cover the problems of Muslim minorities on a day-to-day basis providing instant solutions and to identify the fundamental principles and maxims of this *fiqh* on the basis of a sufficient system of jurisprudence should be formulated in an effective and comprehensive manner.

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\(^{23}\) Accessed on 8\(^{th}\) July 2011 at [http://news.bbc.co.uk/1/hi/8038398.stm](http://news.bbc.co.uk/1/hi/8038398.stm). The report by Gallup and the Coexist Foundation says 77% of British Muslims identified with the UK compared with 50% of the general public. The report further says that the vast majority of British Muslims (82%) felt Muslims were loyal citizens yet the general public remained suspicious of them.
The formulation of this *fiqh* in this way needs, therefore, much effort from the part of Muslim scholars. This endeavour should be realised and given priority by them as these minorities immensely feel the need for such *fiqh*. This task requires from them the proper identification of these problems and presenting sound solutions through case studies and research works. It is to stress this inevitable need and the contribution towards the accomplishment of this task that I intended to embark on this study.

Subsequently, the study highlighted the need for further research in this field focussing on selected Muslim minorities for which I have selected Muslim minority situation in Britain. The idea to study Muslims’ situation in Britain, firstly, came to my mind from a little experience I had with the Muslim community in Leicester and its multicultural, multi-religious, and multiethnic social environment and the experience I gained in dealing with issues and challenges Muslims have been facing on a daily basis from the perspective of Islamic jurisprudence. The experience and the familiarity in the subject have given me enough confidence to embark upon this study. Secondly, the proposed study on Muslims in Britain would contribute, I suppose, to bring a new approach to handle the problems of this community from Islamic jurisprudential point of view as a religious minority so that it may help them to strike a balanced approach between the context in which they live and the text in which they believe. The objective of this study is, therefore, to stress the pressing need to find an effective system of jurisprudence within the purview of the Shari‘ah to address the problems of Muslim minorities in Britain through investigating the identified questions mentioned above.
Chapter 2: Methodology

Muslims’ presence in western countries is relatively a new social phenomenon in Islamic history and Islamic legal history and has no such a historical and legal precedent in Islamic history. Therefore, problems and challenges faced by Muslim minorites today are unprecedented. Hence, legal solutions for these social and religious issues have to be devised and innovated through the mechanism of Islamic legal reasoning in light of primary sources of Islamic law. Problems and challenges of Muslim communities in the Western countries are unprecedented in Islamic history. Hence, Islamic jurists today cannot trace the legal verdicts and legal solution in the Islamic legal heritage of the formative period of Islamic history. As a result, Islamic scholars and jurists had to allude to rational reasoning mechanisms to find solutions to the modern problems of Muslim minorities.

Nevertheless, research materials, legal research discourses, and legal research treatises on this new Muslim minority law are meagre in English. It is understandable that this is a new area of legal discussions and Muslim scholars and legal jurists have yet to do much research on this area. Social problems and religious challenges are ever increasing in the Western nations. It is the duty and responsibilities of Muslim intellectuals and academics to find resolutions and religious verdicts for those ever-increasing social phenomena.

I shall mainly utilise research material written in Arabic on this subject: IIIT & ECFR have written on this subject yet their researches and discourses are in Arabic. I shall use all these materials in my research in Islamic legal subject. In my research methodology, I shall utilise a qualitative method in that I shall collect
all data of research so far done on this subject. This will include Islamic legal manuscripts, legal treaties, legal verdicts, and conferences papers on Muslim minority law. I shall initially identify major legal issues and problems that Muslims in Britain encountered in the recent time with vast migration of Muslims from Muslim countries.

I shall also prioritise some major Islamic legal issues in my research, as they are a large numbers of ever-increasing religious issues. The primary objective of this research is to identify some of the most important issues and propose some Islamic legal mechanism to solve these Islamic religious issues. It would be beyond the scope and time limitation of this research to cover all the aspects of Muslim minority law in this research. Therefore, I shall confine my research into some important areas. My research methodology shall include examination of some main Islamic legal literatures, making comparison between legal verdicts of Islamic scholars on particular legal issues, which are common for Muslims living in Europe and North America.

I shall also allude to some historical legal discourse from Muslim history to see some comparable legal verdicts in Muslim history. I shall use correlative and comparative research methods to understand different Islamic legal verdicts in different historical and social contexts. I shall utilise all primary legal sources of Islamic law in addition to supplementary sources of Islamic law. They include higher objective of Islamic legal philosophy, legal device of common good/public interests, legal maxims, common practices, necessities, prevention of harm, laws of priorities and similar Islamic legal devices, which were introduced into the corpus of Islamic law by the classical scholars as a problem solving mechanism in the legal Islamic history. Much of my research methodology will include legal
interpretations and observations. I shall interpret legal verdicts of contemporary scholars and legal jurists in light of above-mentioned primary or supplementary sources of Islamic laws. Moreover, I shall also compare and contrast some of Muslim minority laws with that of common laws in the western countries.

I shall avoid doing any survey or interview in this research simply because it is beyond the scope of this research to do so and any such task itself will be an exclusive research project. Moreover, Muslim communities are ideologically diverse and such research project will be a daunting task within time limits of my research.

This study seeks to investigate, therefore, the plausibility of a proposed methodology in Islamic fiqh to address the problems of Contemporary Muslim Minority of Britain from the perspective of Islamic jurisprudence. Within the overall attempts taken by the Muslim Community in Britain to address the problems it faces in the contemporary British society, this research specifically focuses on a particular formulation of fiqh for the British Muslim Minority as a means to address their problems from the perspective of Islamic jurisprudence. To undertake a research of this nature, inevitably, requires a sound methodological framework. The objective of this chapter is, therefore, to present the methodological framework of this particular research.

2.1 Aims and Objectives of the Study

This study is an attempt to focus on a new fiqh approach in a broader sense applicable to contemporary context of Muslim minority of Britain, which is called fiqh al-Aqalliyyāt. The general objective of the study is to critically analyse the capability of existing fiqh which is limited in time and specific to a particular
context in meeting the challenges of the contemporary British Muslim minority. In doing so, the study aims to explore the classical as well as modern approaches towards Islamic jurisprudence (fiqh) pursued by scholars and jurists in addressing the problems of Muslim minorities. Secondly, the study further aims to focus on seeking fiqh al-Aqalliyyāt in an effective manner within the purview of the Shari‘ah to serve as guidance as well as a code of conduct for Muslims in Britain and to serve as a model for other Muslim minorities the world over. In order to fulfil such an aim, the study will largely focus on the major works and rulings of both classical and contemporary scholars and analyse to what extent they have attained success out of these works in covering the issue in question. By doing so, it is expected to produce the main outcome of the study, which is seeking fiqh al-Aqalliyyāt in a broader sense to address the problems of contemporary Muslims in Britain. As such, the study will be able to emphasise the formation of this fiqh and its required nature today, which can serve as an effective mechanism of divine guidance for Muslims in Britain so that they can preserve their identity against the problems and challenges they face.

2.2 Research Methodology

The definition of methodology varies according to the contents and issues to be dealt with. Constructing a research design as regards to the methodology enables the researcher to carry out an effective and logically sound research. According to Cohen and Manion the “methodology is to help us to understand, in the broadest possible terms, not to the products of scientific enquiry but the process itself.”24 This implies that methodology is the understanding and study of

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methods and principles and of their application in a given field of academic inquiry in a systematic manner.

The methodology of this study is qualitative research as the study aims to find out the mechanism by which the problems of contemporary Muslim minorities can be addressed from the perspective of Islamic jurisprudence. The qualitative methodology helps the researcher “rely on complex reasoning that moves dialectically between deduction (particularising from the general) and induction (generalising from the particular)”25 It “is broad approach to the study of social phenomena; its various genres are naturalistic and interpretative, and they draw on multiple methods of inquiry”26 The rational of the qualitative method is to test hypothesis while referring to the existing body of theoretical knowledge, as theory has a crucial role in any social research.

Within the framework of qualitative research methodology, this research is based on studying the literature available on the subject. According to Marshall & Rossman, the use of these research tools often entails analytical approach called content analysis, which uses written materials. It is “a method for describing and interpreting the artefacts of a society or social group”27 As such, this study, by analysing and interpreting the current status of Muslims in Britain through various written documents including *fatwâs* (legal rulings), aims to stress the necessity of finding an effective system of jurisprudence for Muslim minorities (*fiqh al-Aqalliyyât*) within the purview of the Shari‘ah as a guideline to address their problems from a *fiqh* (jurisprudence) point of view.

26 Ibid. p. 2
27 Ibid. p. 117
2.3 Research Methods

Methodology, as described before, is a systematic procedure for achieving a research objective. Method, on the other hand, is described as a “range of approaches used in educational research to gather data, which are to be used as a basis for inference and interpretation, for explanation and prediction.” According to Kerlinger this procedure is named as “methodology-data collection”, and it aims “to tell the reader what was done to solve the problem.” Method, in other words, has reference to ‘data analysis’ and is defined as ‘analytical methods’. As such, it aims to test the hypothesis put forward by the study.

Analytical methods comprise surveys in terms of interviews and questionnaires, systematic observational techniques, content analysis and other methods. Analytical methods, thus, help the researcher to assemble primary data on the subject matter of the study. The initial method for any research-oriented study is survey of the available literature on the subject researched.

2.3.1 Assembling Secondary Data: Review of Literature

Academic inquiries usually begin with reviewing relevant literature, which can be considered as secondary data, as it attempts to find out the writings and research outcomes of other people. “The literature review, therefore, determined the relevant concepts and the tentative guiding hypotheses.” This study follows this tradition. It aims to present a literature survey related to problems of contemporary Muslim minority of Britain and the attempts made by contemporary Muslim scholars to address such problems from the angle of Islamic

30 Marshel, Catherine & Rossman Gretchen B, op. Cit. p. 45
jurisprudence. In fulfilling this aim, books, journal articles, research as well as conference and seminar papers, and online facilities were utilised. Thus, this study will use the published literary sources such as books, periodicals, and journals to collect data and information related to the topic. The sources will include materials from seminars and conferences as well. In addition, this study will make use of research papers and legal rulings of contemporary scholars.

Secondary data is not only confined to theoretical aspect of the research in question, but also refers to the data assembled through other studies, reports and research in the same area. Using the research and conference papers which studied the current situation of Muslims in Britain would be a useful source in attempting to collect data on multifaceted problems and the efforts taken to remedy such problems from various aspects. Such data helped the researcher to substantiate the strength of the information gathered through literature review and supported the primary data gathered through documentary study.

2.3.2 Assembling Primary Data—Review of Documents

The study largely concentrates on documentary study through data collected. The original data collected through various methods constitute primary data, and the analysis of such data demonstrates the originality of the research. Review of documents as a method of assembling primary data “is an unobtrusive method, rich in portraying the values and beliefs of participants in the setting.”\textsuperscript{31} This implies that reviewing documents has a particular method of data collection, a particular method of data analysis, which is, called content analysis. The choice

\textsuperscript{31} Ibid. 116
for this particular method of data collection was made on the ground of the nature of the information this study aims to collect.

The review of documents is a tool, which is “useful in developing an understanding of the setting or group studied.” As part of the documentary study, the use of documents enables the researcher to link the documents gathered and analysed to the research questions developed in the conceptual framework for the study. This will, in turn, help him to draw conclusions accordingly.

The strength of content analysis is that it can be carried out without disturbing the setting in any way. The researcher determines where the main emphasis lies after the data have been gathered and processed through the study. As contended by Marshall & Rossman, the content analysis relatively clear to the reader. “A potential weakness, however, is the span of inferential reasoning.” This implies that the content analysis of written materials entails interpretation by the researcher. “Care should be taken, therefore, in displaying the logic of interpretation used in inferring meaning from the artefacts.”

### 2.3.3 Data Analysis Methods

Analysis of data refers to the process of examining the data in detail to see what they mean. The process involves looking for patterns, which exist in order to gain a better understanding of the data’s significance. This improved understanding develops through constructing and testing of ‘models’ about how the world works.

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32 Ibid. 116
33 Ibid. 117
34 Ibid. 117
The method for analysing data is determined by the nature of the research methodology adopted. The objective of the study has a role in defining the data analysis methods. The collected data can be categorised into two main categories—words and numbers, and be analysed by two analytical methods—qualitative analysis and quantitative analysis. This research utilises mostly qualitative analysis method in analysing the data. The major task is to find answers to research question. This has a pressing influence on the kinds of analysis needed.

2.4 Limitations and Difficulties

The problems of Contemporary Muslim minority in Britain are varied and proposed solutions by various sections of stakeholders in the British society are diverse in terms of mechanism and perspective. Studying all of them will necessitate a comprehensive study and it is beyond the scope of this study. The current study will concentrate only on certain issues British Muslims are facing that are related to their religiosity. Among the strategies that seek solutions to these multifaceted problems, this research focuses on a particular kind of solution seeking method, which is called *fiqh al-Aqalliyyāt*. This is one limitation of this study, which focuses only on identifying the problems that need to be addressed through a *fiqh* perspective. Secondly, this research seeks to study major works done on the subject and therefore, it will not go into detailed study of secondary literatures in terms of Islamic legal rulings, which are available in hundreds and thousands if not in millions due to time constraint.

Thirdly, the research in question is about a new and growing social phenomenon related to the contemporary Muslim minority of Britain, the researcher encountered difficulties in dealing with the research due to lack of materials available in English. Even if materials were available, they tend to focus on perspectives other than Islamic jurisprudence. Lastly, as most of the available materials were in Arabic, which is another difficulty the researcher encountered in translating them into English.
Chapter 3: The Concepts of Minority and Muslim Minority

In this chapter of our research we will make an attempt to trace and identify the meaning of minority and Muslim minority. In doing so, it mainly focuses on different interpretations given by scholars of various fields of studies on what it means to be minority and Muslim minority. This chapter also examines issues revolving around understanding of religious minority in relation to identity. We have divided this part of our research into four sub divisions; firstly, the definition of minority; secondly, the definition of Muslim; thirdly, definition of Muslim minority; lastly, Muslim minorities of the world today at a glance.

3.1 Definition of Minority

The subject of minority has never been discussed as extensively as it is today. It has been widely articulated in the academia on both national and international level. Nevertheless, a unanimously agreed definition of it is farfetched. Although the subject of ‘minority’ has been widely discussed and documented in international legal documents there seems to be no universally agreed definition available. One of the possible reasons for the lack of universally agreed definition might be that some countries largely prefer to define people with strict definitions. In addition, the diversity in claims of minority status by several minority groups constitutes another obstacle in formulating a universally agreed definition. This has made the task of International law institutions all the more difficult to provide generally accepted guidelines to

realise the definition of the minority concept.\textsuperscript{38} However, because of various efforts put across by many an international legal experts and bodies, some valuable insights into some fundamental aspects, which cannot be ignored when forming a definition of ‘minority’ have been in place. Hence, the contribution made by Capotorti to come up with a definition is worth noting.\textsuperscript{39}

The Special Rapporteur on Prevention of Discrimination and Protection of Minorities, Francesco Capotorti has defined the minority, with the application of Article 27 of ICCPR in mind. According to him, a ‘minority’ is “a group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members – being nationals of the state - posses ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, maintain a sense of solidarity, directed towards preserving their culture, traditions, religion or language.”\textsuperscript{40}

In 1985, the Sub-Commission submitted a text to the Commission on Human Rights on the definition of ‘minority’ prepared by Jules Deschenes. According to this definition, a minority is a group of citizens of a state, consisting of a numerical minority and in a non dominant position in that state, endowed with ethnic, religious, or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another,

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\textsuperscript{40} Capotorti F. Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, New York, United Nations, 1991, p. 98
\end{flushright}
motivated, if not implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and in law.\textsuperscript{41}

Generally speaking, a minority is characterised by five characteristics as contended by Feagin. A minority, according to him, is the one:

1. Who is suffering discrimination and subordination at the hand of majority.
2. Who is distinguished form the rest of the society because of physical and cultural traits and is disapproved as a result by the society at large.
3. Who enjoys a shared sense of collective identity and common burden.
4. Whose socio-political status is determined by socially shared rules, which measure citizenship and belonging.
5. Who tends to marry within his/her own group.\textsuperscript{42}

Hence, as the term minority has been treated according to different perspectives and diverse viewpoints of relevant fields, it may be said that the definition of the term minority is far from being unanimous among the scholars who deal with it from their own field of study. Yet, to understand the true nature of the ‘Muslim minority’, it is necessary to explore the term of ‘minority’ from various perspectives in brief at least in order to highlight the distinct characteristics of the ‘Muslim minority’. This will help to understand how it differs from other types of minorities and how the problems faced by Muslim minority in Britain related, more or less, to the way they are identified. The scrutiny of the term in this way in relation to Muslim minorities will largely help to underline exact nature and the features of the Muslim minority in Britain.

\textsuperscript{42} Feagin, Joe R., \textit{Racial and Ethnic Relations}, Prentice Hall, USA, 1984, p. 10
The Oxford dictionary defines minority as “a small group of people separated from the rest of the community by a difference in race, religion, language.” This implies that a minority is a group of people who could easily be distinguished based on their identical characteristics such as race, language or religion from the majority of the population of any country. According to this definition, all nations of the world contain minorities of one kind or the other.

As defined by Webster’s seventh new Collegiate Dictionary, a minority is “a part of a population differing in some characteristics and often subjected to differential treatment”. According to this definition, it implies that it is not the number that decides a group of people as minority; rather, it is the way in which a particular minority is treated by the rest of the society that largely determines whether that group of people is a minority or a majority. This definition gives an added dimension to the definition of minority in terms of treatment a minority is subjected to by a majority in a given socio-political context. Hence, Louis Wirth argues that a minority is defined as “…a group of people who, because of their physical or cultural characteristics, are singled out from the others in the society in which they live for differential and unequal treatment, and who, therefore, regard themselves as objects of collective discrimination.” According to this definition a minority is:

1. A group of people who are different from others physically and/or culturally.

2. A group of people who receive different and unequal treatment by the society they live in.

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3. A group of people who regard themselves, for receiving such treatment, objects of collective discrimination.

Hasan Zaman argues that a minority can come to existence because of one or more of the following general effects:

1. Minority groups are held in lower esteem and are objects of contempt, ridicule, and violence.
2. They are spatially segregated and socially isolated.
3. They are victims of unequal access to education, employment, and profession.
4. They may suffer from restricted property rights.
5. They may be deprived of the right to suffrage and public office.\footnote{Zaman, Hasan, The Concept of Minority, Research and Documentation, London, 1981, p. 5-6}

Drawing on above definitions, it can be argued that a status of a minority is determined by a combination of factors. One factor or the other can effectively make an impact on deciding a group as minority. As a result, a particular minority can largely be affected because of its status as a minority who is numerically inferior, unequally treated, and collectively discriminated by the rest of the society in which they live in. In other words, its interests and expectations are not effectively represented in the political, economic and social institutions of society.\footnote{Yetman, R and Steele, C H (eds.), Majority and Minority, the Dynamics of Racial and Ethnic Relations, Allyn & Bacon, Boston, 1975, p.2} Given this situation in a society, the majority-minority relation becomes problematic and it puts the relationship between minority and majority in jeopardy. This may lead to an imbalance in both parties’ relationship and impact as a result on interests and ambitions of both groups when this develops to a
situation where a minority strives to maintain its distinctive identity and resist assimilation in the majority. As a result, the minority may be singled out for differential treatment and become an object of discrimination by the majority. If a minority is, however, willing to accept majority’s hegemony, it is accepted and tolerated. This social situation is where the discourse about integration and assimilation is widely debated by social scientists and scholars who are interested in studying problems of Muslim minority communities in western societies.

Overall, for a group of people to face problems by virtue of being a minority is not something unusual and it is rather to be expected only because of differences in race, language, religion, culture, and country of origin which distinguish them from the rest of the community they live in. Hasan Zaman maintains “no social group is more vulnerable to oppression than a minority in a particular society when the differences that they have from most of the people around make them feel outsiders from that society.”47 This situation is more likely to happen when the people around this minority are virtually more powerful and influential.

Sometimes, the same power and superiority a group of people enjoy over the other will be a key factor to determine the above-mentioned people’s dominance over the others despite the latter is numerical status. Indeed, there had been minorities in history who had been politically superior yet numerically inferior and had enjoyed greater administrative and executive power over majority of a particular society. The Mughal of India, for instance, were such a minority in recent history who had ruled India for more than 700 years. In this respect, Ali Kettani contends, “a group of people might still be a minority even though they

have bigger numbers in the population if somehow they are subjected to differential treatment by a smaller but a more influential group, having different characteristics.” Countries like Albania, Lebanon and Ethiopia exemplify this type of minorities. The numerical aspect of a group of people is, therefore, not always a decisive factor for that group to be counted as a minority. Although minorities are generally defined in terms of numbers, some Muslim minorities are a part of large populations such as those of China and India. Hence, they can be considered as numerically significant communities. Moreover, in terms of their population size they exceed many of the Muslim majority nations. Minority status, therefore, does not always depend on numbers and does not necessarily need to be measured numerically.

Nevertheless, Kettani argues that a minority, while having featured by above-mentioned characteristics, should have achieved any solidarity by realising those characteristics, without which “such a group of people can hardly be termed a minority merely because of the existence of ‘different characteristics’.” It is the awareness of their characteristics and safeguarding them against the ‘different treatment’ meted out by the majority that lead to the coming of a minority into existence.

According to Kettani’s explanation, a minority cannot come to existence unless it is firmly rooted in the majority through realisation of its distinct features. An appropriate example can be found in black minority in USA. Kettani argues that “because of the differential treatment meted out by the majority in the United

49 Ibid. p.91
50 Ibid. p.91
States of America to those who share this characteristic (colour of skin) a black minority has come into being.”

As such, where a minority is composed of people coming from another nation, it is regarded as an ethnic minority. In Kenya, people with Indian or English origins, constitute an ethnic minority. In Britain, Australians and Pakistanis are both ethnic minorities, but Pakistanis are also a racial as well as a religious minority. However, there is not a generally accepted definition of the term minority. “The diversity of historical, economic, and social conditions all over the world was perhaps an obstacle to the elaboration of a general concept or definition of ‘minority’, as its content varied from region to region and from country to country as well as from one historical period to another.”

In the light of the above discussions of definitions of the concept of ‘minority’, it can appropriately be suggested that the term ‘minority’ has become a subject of a dynamic discourse among scholars across a number of disciplines since the beginning of 20th C. It has attracted a wide range of scholarly discussions from multifaceted fields of studies. Scholars of various fields such as sociology, law, politics, and religion have defined the term from their respective perspectives. Sociologists, for instance, define the term in terms of differential treatments and collective discrimination being meted out to a group of people because of their physical or cultural characteristics. Political analysts may explore the term within the political contexts of a particular country or a state in which a group of people deserve to be designated as such because of their socio-political

51 Ibid. p.91-2
situation in terms of political power and status. Law experts would define it in terms of rights and privileges a minority is provided by a majority in a particular socio-political context.

As for a minority who is inherently characterised with its religion, the scholars of various disciplines have been at crossroads and face a real challenge of defining that minority. Although a minority can be looked at from a range of perspectives as we saw in the previous paragraph, a religious minority also can be characterised by characteristics mentioned above. Moreover, it can be studied under majority/minority dichotomy in term of number as well. Yet, the difficulty in understanding such a minority whose special feature is religion and forming a straightforward definition out of it, it seems, lies in overlapping nature of its identity and dynamic process of its formation due to multifaceted socio-political situations. Being characterised by many a markers of identity such as ethnicity, race, colour, culture, region...etc, a religious minority with multiple affiliations may identify itself by one or more identifiers, either as an action or a reaction to a socio-political situation it encounters. In circumstances like this one marker or the other will take precedence over other and establish itself as the predominant identifier of that particular minority. This interchangeable nature of identity formation interplayed with a religious minority may pose a real challenge of understanding of it because of its manifold layers of identities.

It becomes even more difficult when that particular religious minority is persistently self-conscious about its religious identity and not ready to scarify it in favour of any other allegiances and affiliations which are still considered to be important components of its multiple identities yet are deemed to be secondary in its view. The displaying of its interchangeable identity might reach its peak, when
it faces socio-political issues and problems. Especially, when there is a large-scale political crisis exists, for example, between two countries - country of origin where a minority migrated from and country of residence where it takes residence - the allegiance, loyalty, and belonging of that particular minority will be put to test and its belonging will come under severe pressure and scrutiny. A situation like this would give a hard time for it to decide where its allegiance belongs to. On the other hand, this may also influence majority’s outlook towards, and perception of minority community. It may also lead the majority community to cast doubt on minority and suspicious of its loyalty. Muslims living as minorities in non-Muslim societies are subjected most of the time to this kind of problem.

This identity crisis and division among citizens of a same county was what to be seen at the time of Rushdi affair in 1989, first and second Gulf war in 1991 and 2003 respectively, Danish cartoon problem in 2005, and problems in Palestine for last few decades. Hence, questions will be raised as to where does the loyalty of that particular minority belong to? A whole out debate would be triggered off around the notion of identity, citizenship, and belonging.

This dilemma of recognition of a religious minority is, therefore, no less manifested anywhere else than in Europe including Britain. The ongoing debate among sociologists on a number of issues revolving around minorities, particularly religious minorities and related such issues as identity, loyalty, and belonging is a testimony of existence of this problem. Moreover, the treatment received by religious minorities at the hands of some governments, particularly in Europe speaks volumes of this problematic situation. The headscarf ban imposed by France in 2005 on Muslim women against their will and various forms of racism directed against Muslims in Britain, for instance, has been a clear
manifestation of this uncertainty prevailing in understanding Muslims as a ‘religious minority’ and misrecognising, as a result, the importance of their religious identity.

The underlying reason for this socio-political crisis can be traced and located, as argued by Chris Allen,54 in the marked shift in discourse on race relations in Europe, particularly in Britain. He argues that there is a discernible shift from ‘racism’ on ‘Asians’ in Britain to ‘Muslim’ and ‘Muslimness’. Drawing on Runnymede Trust’s report on Islamophobia, he draws attention to the noticeable shift-taking place in markers of race. He expresses his concerns over this shift highlighting the impact it can have on religious minorities, particularly Muslim minority in Britain. He throws light on how the markers of race, while racism continues on same markers, have been displaced by newer and more prevalent ones of a cultural and socio-religious nature and how it affects Muslims in Britain as culturally and religiously distinct community. Giving reasons why Muslims in Britain are not protected by legislation when they are targeted by racist attacks he points out that “while traditional markers of race have been afforded legislative protection, the same is not true for religious markers, in relation to which protection is restricted to ethnically definable religious communities. Despite Muslims being increasingly targeted with newer forms of racist prejudice and hatred, as multi-ethnic communities they remain outside the writ of current legislation.”55 In Allen’s analysis, the problem mainly lies at the roots of anomalies in legislation. He examines how the racist elements like BNP are targeting Muslims, particularly after 9/11 using loopholes in the legislation.

55 Ibid. p. 49
He concludes drawing on a number of examples from across the media, voices in the public domain, and mainstream politics that how post 9/11 Islamophobia has impacted upon South Asian communities, particularly Muslims and how it may be used as a means to justify racist attitudes and beliefs in future.\(^{56}\)

Drawing on Allen’s analysis of the issue in question, it can be argued that there is misrecognition of the religious element of the Muslim minority in Britain and it is due to anomalies in legislation. The redress as he suggested, therefore, should be sought through bringing changes in legislation and for that, Muslims also have a responsibility to make it happen. A question arises as to whether seeking the solution for this problem largely depends on lobbying the system to bring in legislative protection for the Muslim minority in Britain? Does the problem end there? It can, of course, be a part of the solution. Indeed, Muslims need to be politically active and self-conscious so that they would be able to seek remedies for their political grievances and win over their political rights. It is true they should lobby the political system in order to win over their political aspirations as suggested by Allen. Yet, how far are Muslims aware of their political grievances? How far are they self-conscious of citizenship and identity issues as questioned by Ron Geaves?\(^{57}\) What stops them from being politically active? Is it because they are unable to lobby the system because they are politically weak? Alternatively, is there any lack of willingness to take part in politics from the part of the Muslim community itself because of ideological issues? It seems that among other reasons it is this final issue that needs more attention from us and receives little attention by Allen as far as contemporary

\(^{56}\) Ibid. p. 50

British Muslim minorities are concerned. Although a detail discussion of this issue will be done in the fourth chapter of this study, it deserves some explanation here in short.

Geaves raises a question, while analysing the relationship between Muslim identity and British citizenship amongst communities of South Asian origin, as how Muslims have prepared themselves to work within terms of citizenship in their new home with its emphasis on democracy, secularism, individual rights, and pluralism? Moreover, he questions how are they going to negotiate and harmonise that framework in terms of Sharī‘ah and Islamic state discourse? He throws light on the real dilemma Muslims are facing when they live in non-Muslim societies; precisely the problem of how to be a Muslim in a secular society and what sort of strategies should Muslims devise when they live as a minority in a non-Muslim society. He further notes that “it has been essential to reconcile faith-based identity and citizenship, individual rights in an environment where the concept of others has dominated, without retreating into isolationism. Perhaps above all, they have needed to discover how to participate in a society which has no need for Islam in its public life.” It is this missing point in Allen’s article that this study will be focusing in the fifth chapter of this study.

Although misrecognition of religion is prevalent in Britain as contended by Dilwar Hussein, compared to France, Britain displays somewhat an inclusive approach towards Muslims as a religious minority but not without issues and problems pertaining to their social, political, educational, and economical life as

58 Ibid. pp. 66-67
59 He contends that the UK also “does not have a system of ‘recognition’ of religion as found in other EU states such as Germany or Belgium: Hussein, Dilwar, ‘The Impact of 9/11 on British Muslim Identity’, in Geaves, Ron, et al., Islam & The West Post 9/11, Ashgate Publishing Limited, England, 2004, p. 116
individuals, families, and as society. Nevertheless, it is not undeniable that Britain, it seems, is slowly taking steps towards recognising Muslims as a religious minority. The ample example of it is its inclusion of a question on religious affiliation in the 2001 census. Moreover, the British government’s positive step to provide goods, facilities, and services on grounds of religion is another example along the line of recognising religion and religious needs of religious communities. Furthermore, the government’s recognition of faith schools can be considered as another step forward in acknowledging needs of religious communities.

However, comparing Britain’s colonial past in the Indian subcontinent, this slow movement is astonishing. It is a historical incongruity that it was Britain who had generously given pre independent, sub continental Muslim minority who are now citizens in Britain with their due rights and privileges as a religious minority when they were subjects of British Raj. Unlike Algerian Muslims under the French colony in Algeria, Muslims in the Indian subcontinent enjoyed near to autonomous social structure under British Empire. They were allowed to govern themselves according to their religion, particularly in personal, family, and socio-cultural matters. Therefore, it seems a lot more paradoxical that Britain is now surprisingly seen to be reluctant to respond to religious needs and sensitivities of the similar Muslim minority who was ones its subjects, particularly South Asian Muslims who form a substantial number in the Muslim minority landscape in Britain compared to other Muslim minority groups who were given their due rights as a religious minority in their country of origin.

62 Ibid
The recognition of a religious minority mostly depends on how far that minority is aware of its distinct characteristics and manifests itself as a ‘religious minority’. If a minority, whether it is religious or not, is less conscious about its identity and neglectful of its commitment to preserve it, the chances of getting dissolved in to the majority are high and its assimilation in the society at large is unavoidable. It seems that the lack of this self-awareness is what caused some Muslim minorities to loose its identity as a religious minority.

Yūsuf al-Qaradāwi, while giving a warning to Muslim minorities in the West of the consequences of losing its religious identity, notes that the early generations of Muslim minorities in Australia who were mostly Afghanis lost their identity as Muslims due to their indifferent attitude towards their religion and religiosity.63 Humayun Ansari argues in light of such theories as assimilation, integration, and accommodation that in the earlier phases of migration into Britain and settlement, many migrants have lost their identity as Muslims or their ‘religious observance frequently declined’. He contends that it happened either because of their sense of inferiority which led them to ‘absorb British values and lifestyles’ or their expectation ‘for integration and upward mobility’ through assimilation and abandonment of their unique cultural features. By doing so, he further elaborates, they ‘sought to accept the standard of the host society’ and also ‘to gain self-esteem through social approval’. Ansari claims that those who did so were helped by better education which resulted in ‘access to more secure jobs and higher incomes’ and this paved the way for them to ‘disperse from inner-city migrant enclaves’ which ‘further facilitated their adoption of the norms of their

white counterparts.\textsuperscript{64} It becomes clear, therefore, from Ansari’s analysis that not only the Muslim minority but also any minority could have easily been assimilated by the host society if it were to be indifferent to, and neglectful of the uniqueness of its identity.

Nevertheless, it was not the same fate that befell all those who migrated to non-Muslim societies, particularly Western societies. There were those who more self-conscious about their religion and religious identity. Ansari maintains that ‘first-generation post-Second World War Muslim migrants in Britain’ who were mostly South Asians managed to maintain their separate identity as Muslims. He contends that case studies have shown that these Muslims have somehow remained relatively unassimilated and retained ‘their own culture and religion’. He further notes, “They were content to remain detached from the wider British society. They had come to Britain to raise their living standards, not to change their way of life. They were prepared to establish contact with British society only to the extent that it impinged on their materiel welfare, but wanted their value system left intact. In sustaining a traditional way of life these Muslims were encouraged by their Islamic faith through its requirement of certain modes of behaviour.”\textsuperscript{65} Yet, a question arises as to whether the latter was enabled to succeed in maintaining their identity due to what was achieved by the former in terms of a high life standard and social status; secure jobs, higher incomes, high standard life style, and acceptance in the society. According to Ansari, it was not the case. They were left behind in many spheres of social life for choosing to live their own way of life isolating them from the mainstream in the society. If that is

\textsuperscript{64} Ansari, Humayun, \textit{The Infidel Within : Muslims in Britain Since 1800}, Hurst & Company, London, 2004, pp. 210-11

\textsuperscript{65} Ibid. p. 209
the case, does it imply that Islam encourages isolation or ghetto like life style? Whether their choice was influenced by ‘their Islamic faith’ as argued by Ansari? Alternatively, was it because of their sole choice influenced by their own socio-cultural background of their home country where they migrated from? A thorough scrutiny into the main sources of Islam namely the Qur’an and Sunnah of the Prophet (the life style of the Prophet) will not suggest the conclusion arrived by Ansari. Instead, both sources evidently regard the engagement and intermingling in society as a virtuously recommended righteous deed, a notion which will be elaborated in detail in the 4th chapter when discussing problems of Muslim minority in Britain. Hence, it can be said that there is little evidence; it seems, in the main sources of Islamic teachings to support Ansari’s argument.

However, comparing the two situations of early Muslim migrants in Britain, we can arrive at following conclusions:

Firstly, that it is not important what type of a society or a social context a Muslim minority lives in, rather how far it is self-aware of its distinct identity and how resilient it is in the middle of a totally different social environment. Secondly, neither of the situations is encouraged by the main sources of Islamic teachings; either preferring social isolation in order to preserve religious identity or favouring assimilation aiming prosperity in its broader sense at the expense of preserving religious identity. Thirdly, social isolation with the hope of preserving distinctiveness of identity has been a general social phenomenon mostly associated with Muslim minorities not only in the West in the contemporary era but also in countries where Muslims live as minorities for centuries like Sri Lanka and it has almost become a norm rather than exception. Lastly, striking a balance between integration and assimilation or engaging in society while preserving
identity has become the most challenging task Muslim minorities confronted with and it has been the great concern of modern-day Muslim scholars who deal with Muslim minority affairs from the perspective of Islamic jurisprudence. Particularly, Al-Qaradāwi, while exploring aims and objectives of providing jurisprudential guidance for Muslim minorities, presents a seemingly viable formula for Muslim minorities in the West to establish themselves as a strong community which reads “preserving identity without isolation and integrating without melting down” (muhāfazatun bilā inghilāq wa indimājun bilā dhawbān).  

Similarly, the misrecognition of a group of people as a ‘religious minority’ could also be caused by one or more of the following reasons. Firstly, it may be because of indifference and negligence showed by majority in accepting them as such for deliberate reasons such as suppression inflicted upon them being subjugated by a conqueror as it happened in many a Muslim lands in the post Ottoman period. This was also the case when South Asian Muslim migrants migrated to Britain in post Second World War period as contended by Ansari. Secondly, it may be due to some seemingly genuine reasons embedded on majority’s inherent outlook in perceiving other people through certain social yardsticks such as colour, race, and class. Perhaps, a better manifestation of this social situation cannot be found anywhere else than in Europe, particularly in Britain. In the 19th C and early 20th C period minorities in Britain were measured through scales of colour, ethnicity, and class. Mostly, the minorities were studied and looked at as ‘coloured’ in terms of colour and ‘Negros’ in terms of race and ethnicity. Sydney Collins, for example, studied ‘Negros’ as ‘coloured people’

66 Al-Qaradāwi, Yūsuf, Op. Cit., p. 35
67 Ansari, Humayun, Op. Cit., p. 211
comparing to Muslims in Tyneside in the years between the two world wars.\(^68\) Similarly, Kenneth Little explores minority communities including Muslims in the dockland of Cardiff in 1940s as ‘coloured people.’\(^69\)

This situation was prevalent until 1990s where minorities were viewed within black/white dichotomy as contended by Tufyal Choudhury.\(^70\) He argues that in 1980s this discourse was criticised and minority communities asserted ‘more specific ethnic labels’. According to him, the early literature on ethnic minority studies tends to examine minority ethnic groups along the line of minority/majority dichotomy and it was assumed that there prevails a conflict between the two and it gave impetus to the emergence of discourse on acculturation and assimilation. As this trend developed, it was also subjected to criticism as ignoring the diversity within the categories of White, Black, and Asian. Choudhury maintains that ‘It also ignored the possibility of interaction between these groups’. Choudhury further argues that ‘the inclusion of more refined ethnic categories in the 1991 Census, including Pakistani and Bangladeshi groups, provided the context in moving the research focus from ethnic towards religion as a significant category of identity. Using the Pakistani and Bangladeshi categories as a proxy group, the Asian/British dichotomy was replaced in the 1990s by a Muslim/non-Muslim dichotomy. An early indication of the importance of religion to the identity of South Asian Muslims came from the research by Hutnik in which Muslim identity was listed by 80 per cent of South Asian


\(^{70}\) Tufyal Choudhury, *The Role of Muslim Identity Politics in Radicalisation*(a study in progress), Department for Communities and Local Government: London, 2007, p. 8; crown copyright and can be accessed at www.communities.gov.uk
Muslims as an important identity item.” Probing into Choudhury’s analysis, it can be noticed that a general consensus has never been achieved in relation to a generally accepted definition of minority let alone religious minority. This may partly explain why minorities of all sorts have more or less been discriminated against and treated differently.

Moreover, this may also partly explain why Muslim minorities in almost all over Europe including Britain are facing difficulties in gaining recognition as religious minorities, particularly when it comes to engage in the public domain; socially, economically, and politically. As a result, identifying a group of people as a religious minority has become an issue in the recent past in Western societies, particularly in Europe where the notion of ‘religious minority’ has become a socio-political dilemma. In this respect, the presence of Muslim minorities in these societies has become a new problem for them as they have never experienced such a social reality in their midst.

In short, the sociologists and anthropologists who studied about minorities in Western societies in the 19th and early 20th century have largely focused on almost all the characteristics helping to form an identity, of these minorities except for their religious identity. It appears that it was the prevalent social trend at that time. It may explain thus why most of the sociological and anthropological studies of 1940s and 1950s have concentrated more on race, colour, and ethnicity of these minorities than their religious identity. This has resulted, most of the time, in failure to grasp the true nature of religious minorities and understand issues and challenges they have been facing in the societies they live in. Hence, the presence of religious minorities in these societies including Britain has posed a crucial question to social scientists as to how a group of people whose most
important identity is religious than any other markers of identity - ethnicity, language, colour, and race - could possibly be identified? Indeed, this dilemma has become more problematic when it comes to define the term ‘Muslim minority’, as Muslims always tend to prefer to identify themselves by their religion above all other identity markers namely ethnicity, language, colour, and race. Why does a Muslim minority prefer to be identified by its religion, is a notion which will be dealt with later in the chapter.

3.1.2 Muslim

Definition what is meant by the term ‘Muslim’ is important in the context of discussion on problems faced by a Muslim minority in a non-Muslim society. In this section, we will look at the specific meaning of ‘Muslim’ in the minority context. It is not the intention of this section, therefore, to go into philosophical and theological details of who is defined by ‘Muslim’ (a person who surrenders himself to God) and who is meant by ‘Mu’min’ (a person who believes in God), rather the objective would be to focus on general understanding of who is considered to be Muslim in the light of main sources of Islam, the Qur’ān and Sunnah (the Prophetic tradition) with special reference to minority situations in a non-Muslim social context.

As a prelude to the discussion on the definition of the term ‘Muslim’, it seems appropriate to ask the following question: why should there be a distinction between situations or contexts in order to find a definition of who is designated to be ‘Muslim’? Answering this question should lead us to find a proper definition to the term ‘Muslim’. Before answering this question, it should be noted that generally a Muslim is a person who testifies that “there is no deity but God, and
that the Prophet Muhammad is His last messenger’, irrespective of the extent to which this testimony is interpreted by him in his practical life and be able to live up to the ideals of Islam. A Muslim is, however, required to interpret this testimony to his utmost capacity wherever he happens to live. He is, undoubtedly, obliged to live a life of a Muslim as stipulated in the Qur’ān and the Sunnah (the Prophet’s way of life), but it is not expected from him, in doing so, to risk himself in putting into practice by exceeding his capacity. A Muslim who lives in a non-Muslim social context, for instance, is not a Muslim who lives in a majority Muslim society. Two societies are different and the rights and duties are, as a result, different as well. Nevertheless, it does not mean that a Muslim who lives in a minority social context is allowed to give away basic tenets of Islam such as the five pillars of Islam, Islamic moral values, and do’s and don’ts of day to day life without which his identity as a Muslim would be jeopardised. However, with this basic understanding of who is designated to be Muslim and on what basis a person becomes Muslim, it becomes important to answer the question raised at the beginning of this paragraph in order to understand another dimension of the definition of Muslim.

Islam, as Muslims believe, is a way of life, which encapsulates all human situations and provides guidance for the success in this world and in Hereafter. As a code of conduct covering all aspects of human life, it takes into consideration the human capabilities in leading his or her life according to its teachings. A Muslim is not asked for what he is not capable of when he or she is leading his or her life under its shade. The first and foremost source of Islam, the Qur’ān
stipulates about this as follows: “So fear God as much as ye can,” The meaning and the implication of this Quranic verse has been repeated in many verses of the Qur’ān. The notion of practising Islam to ones ability is an intrinsically interwoven nature of Islamic teachings. The same message has been reiterated by the prophetic tradition as well. The prophet himself has been an example of this tradition in almost all his lifetime. He is reported to have said: “Refrain from what I forbid you and do what I command you to the best of your ability and capacity.” Hence, it is a known fact in Islamic teachings that a person who surrenders himself to God is not expected to do beyond his ability. The Qur’ān reiterate this fact in several places. It mentions this principle in the form of a supplication a believer is making to God as if he is craving for that supplication to be answered by God: “Our Lord! Lay not on us a burden like that which Thou didst lay on those before us (341); Our Lord! Lay not on us a burden greater than we have strength to bear.” This analysis of the notion ‘ability’ in the light of Qur’ān and the prophetic tradition is paramount important in understanding of a situation a Muslim is living in, no matter that Muslim is living in a minority or a majority social context. The notion of ability and strength is applicable in either of situations as long as its social condition is surrounded with such circumstances that strain a Muslim’s ability to practice his religion. An ample example may be found in the life of the Prophet and his companions in Makkah.

Makkan life of the Prophet and his followers as Muslims was constrained by social pressure and enmity of their people. The life in Makkah for early

72 Reported by Al-Bukhārī, Chapter :Kitāb al-l’tisām bi al-Sunnah, and Muslim, Chapter : Kitāb al-Fadā’il
Muslims was almost impossible. For thirteen years the Muslim community lived in Makkah as a minority undergoing enormous hardships, trial, and turbulence. The whole social, political, and economical environment was not conducive for a Muslim to live a full Islamic life as expected by Islamic teachings. They lived to their ability adhering to basic teachings of Islam in terms of morals, teachings, and practices. Although they lived as a community, their adherence to the religion was individualistic. Each and everyone of that nascent community were mostly on their own facing untold social pressure from their immediate family and the society around them. In short, they lived under a non-Muslim social context with no legal system or polity to govern them as required by Islam. Yet, their life as Muslims under this non-Muslim social condition with all its negative implications did not disqualify them as being Muslims. God has not only accepted them but also commended them in the Qur’ān as ‘pioneers of Islam’. (wa al-Sābiqūn al-Sābiqūn: Those foremost (in faith) will be foremost in (the Hereafter) ).

This was the first stage of Islam in its normative period. The second and the last phase of its formation took shape in Madinah where Muslims had their own space, leadership, power, law, and society. Having the Prophet Muhammad as their political leader, Muslims lived as a society governing themselves by their own social, political, economical, and legal system. They also had a minority community comprising Arabs, Jews, and Christians living side by side as one community. It took ten years to form this community to its full formation. Hence, within 23 years time a model Muslim society was founded through the guidance of God’s revelation and its practical model embedded in the Prophet’s lifestyle. It

is obvious that out of a near quarter of a century, thirteen years has been the foundational period of Islam and it was formatted in a non-Muslim social context. In other words, it was the Muslim minority situation that laid the foundation stone for the full fledged society to exist in ten years time. The important aspect to be noticed here in the backdrop of the discussion on definition of ‘Muslim’ within the context of Muslim minority situation is the consideration of ‘realities of a particular social situation at a particular period of time’. It is this element of pragmatism in Islam and its teachings that makes it applicable and adaptable to any social circumstances and situations and makes it surpasses time and space in terms of its relevance to any period of time and compatibility with any social circumstances. Therefore, in the light of above discussion, when defining who is designated to be a ‘Muslim’ in specific terms it is always appropriate to take note of a person’s social situation in which he or she lives.

### 3.1.3 Muslim Minority

‘Muslim minority’ is a term that was not known in political terminology, until the emergence of nation states in the early decades of the 20th century. It was only after the First World War that the Muslim community was fragmented into several states finding it scattered in given geographical territories as nations of the modern world. As a result, it found itself as either majority communities coexist with non-Muslim minorities or minority communities coexist with non-Muslim majorities.

According to M. Ali Kettani, the term ‘Muslim minority’ signifies a group of Muslims living in a political entity in a state of numerical inferiority in
comparison to the non-Muslims.\textsuperscript{75} The same author in a later writing defines a Muslim minority as “a part of a population differing in the fact that its members are Muslims and is often subjected to differential treatment”. Although there are discrepancies in these definitions, they do not convey, however, any contradiction in defining the term. The latter adds extra significance in terms of differential treatment meted out to the minority by the majority. As mentioned under the definition of a minority, the numerical aspect in the former should not be a decisive factor in determining a small group of people as minorities, merely because of their inferiority in numbers. There are cases in which they might be superior politically or socially. In such a case, the group cannot be considered a minority. As contented by M. Ali Kettani, it is necessary that those who share the ‘different characteristic’ of being ‘Muslim’ should be aware of such difference and should have attained a degree of solidarity because of it. Otherwise, there can be no ‘Muslim minority’.\textsuperscript{76}

Taking the above discussions on ‘minority’ and ‘Muslim minority’ into account, we can define a Muslim minority as a group of Muslims who are numerically, politically and socially inferior in comparison to non-Muslims in a given social context, and are subjected to differential treatment, while having a degree of solidarity within themselves for the preservation of their Islamic identity as a religious minority.

One of the general characteristics of Muslim minorities is that they are distinguished from the rest of the population by their adherence to Islam as religious minorities. Islam has its own way of life. It has a distinct value system. It

\textsuperscript{75} \textit{The Muslim Minorities}, Islamic foundation, UK, 1979, p.5
has its own social, political, economic, educational, legal and moral values and doctrines. Thus, unlike other minorities, a Muslim minority is unique in the sense that although it may not be a racial, political, cultural or linguistic minority in its country of residence, it remains rather essentially a religious minority.

Secondly, a given Muslim minority is viewed as a part and parcel of the global Muslim community: Muslim ummah. Muslim minority does not view itself as a separate entity from the rest of the global Muslim community and vice-versa. This element of relationship between Muslim minority and Muslim ummah in general is based on faith rather than any other bonds or identifiers. The manifestation of this bond and relationship is evidently visible in performing major collective rituals such as fasting during Ramadan and making pilgrimage to Makkah when performing haj (annual pilgrimage to Makkah). It is this relationship between Muslims that many non-Muslims find difficult to understand. Particularly, this has become an issue in Britain in the recent history. Muslim minority in Britain has become under spot light of popular media because of this issue raising questions as to how Muslims can give their allegiance to another country and how Muslim minority in Britain can then be loyal to Britain. Indeed, this is an important issue, which will be dealt with in the fourth chapter of this study, and it will be discussed under the section of problem of being loyal to non-Muslim polity within and Muslim ummah without.

Thirdly, of the total Muslim population in the world, one-third lives as minorities in countries where Muslims exist in social contexts that are different from the norms and values of Islam, where the majority has administrative, political and legislative control over them. Countries like India and China are considered to have the largest Muslim minorities, with India having over one
hundred and twenty million Muslims. Indeed, Islam has had its historic, scientific and cultural impact on the Indian subcontinent and its culture in general.

3.2 Muslim Minorities of the World Today at a Glance

Muslim minorities are found in almost all parts of the world today. They spread over 150 countries with differences in terms of their number, culture, ethnicity and language. Although accurate and reliable statistics on the number of Muslim minorities in the world are lacking, there is a general consensus that they constitute the one-third of the total number of Muslims in the world. Thus, they are fluctuating in between 100 Muslims in Haiti and more than 120 million in India. About 90 per cent of all Muslim minorities live in Asia and Africa.77 There are 6 million Muslims in United States.79 In Europe, the number of Muslims is around 6 million in France, perhaps three million Muslims in the United Kingdom and 2.5 million in Germany.80 Altogether, there may be 17-20


80 Murad Wilfried Hofmann, ‘Muslims as co-citizens in the West: Rights, Duties, Limits, Prospects’ (View Points), in Encounter, 3:2, 1997, pp.164-74. He estimates the Muslim population in Europe as 20 million including Bosnia Herzegovina, which is no longer a Muslim minority.
million Muslims in Europe.\textsuperscript{81} In Africa, the number of Muslim minorities is around more than 24 million.\textsuperscript{82}

History proves that numerous Muslim communities existed in various parts of the world through commerce and trade. Muslim merchants who settled down in foreign ports established their little communities through marriage to local women. Examples of such communities were those on the coasts of India, Ceylon (now Sri Lanka), China, East Africa, the Indonesian and Philippines archipelago, and the Island of the Indian Ocean.\textsuperscript{83} In a few cases, majority Muslim communities have been reduced to minority Muslim community status through long scale expulsion and immigration of non-Muslims. Minorities of the former Soviet Union, Thailand and Ethiopia exemplify this type of Muslim minorities.\textsuperscript{84}

Some Muslim communities have been reduced, in some other cases, to minority status through losing their political power. This applies to India and Balkan.\textsuperscript{85} There is another type of Muslim minorities who came into being through immigration and conversion like the Muslims of Argentina, Australia, New Zealand, Western Europe and Northern America. “Some of the Muslim minorities counted as such by biased world statistics are quite the contrary, as true


\textsuperscript{82} These Muslims are distributed among 31 political units most of which are independent. However, the smallest of these units is being scattered on islands throughout the oceans, which are still under foreign domination.( A study on Muslim minorities in Africa, Department of Islamic awakening, Ministry of Hajj & Endowments, K.S.A., in The Muslim Minorities: Proceedings of the Sixth International conference of World Assembly of Muslim Youth, Riyadh, K.S.A., 22-27 January, 1986, vol. ii, pp. 533-57)

\textsuperscript{83} Kettani, M. Ali, The Muslim Minorities, Islamic foundation, UK, 1979, p. 7

\textsuperscript{84} Kettani, M. Ali, ‘The problem of Muslim minorities an their solutions’ in Muslim Communities in Non-Muslim States, Islamic Council of Europe (ed.), London, 1980, p.25

\textsuperscript{85} Ibid. p.95
figures state that Muslims are in majority in countries in question despite the fake statistics that internationally cite smaller numbers for Muslims, especially in certain regions, so as to serve the political purposes of certain groups. The most obvious example of that is the Muslims of Ethiopia: they are a majority, but an oppressed one, deprived of even the most basic human rights.”86 Another type of Muslim minority is Kashmir, which exemplifies a regionally concentrated type of minority.

Chapter 4: Muslims in Britain – Past and Present: Historical and Social background

4.1 Introduction

It is not possible to give an all-inclusive history of Muslims in Britain. The subject area is enormously vast and studies and research works on the subject keep coming and bring forth so far little known historical and social points of contact. This chapter, therefore, will focus on key historical stages of when Muslims arrived in Britain in different ages and historically important events that took place in relation to their interaction with the British society. It would, also, shed light mainly on historically important phases of their arrival in Britain in the recent past and their relationship with the society at large as a religious minority. In doing so, it strives to locate their demographical landscape at present and throw light on historically important events, and incidents, which shaped their presence in Britain at present as a sizable minority living in a non-Muslim society.

The underlying objective is to help understand, firstly, the nature and the shape of the relationship Muslims had with the British society in the past, how it developed throughout the ages, and what direction it has been taking in the recent past. In particular, it will analyse how Muslims in Britain have been perceived by the society at large and vice-versa in the past and present and whether perceptions about each other might have been one of the causes of problems both parties are facing at present.

Secondly, it aims to find out partly what sort of problems they have been facing in their interaction with the British society with reference to their overall religious needs as individuals, families, groups or communities since their
presence in Britain as settlers after the Second World War and partly, what sort of challenges they face in the contemporary British social context vis-à-vis their engagement with, and contribution to a non-Muslim society as a religious community.

Lastly, it highlights what sort of measures Muslims have been taking to address issues and problems they have been facing as a religious minority in the British society in the post-Second World War Britain. This will help shed light if there is any Islamic legal (fiqh) precedence or source of reference in the past initiated by them with the help of Islamic jurists as a means to solve their religious issues so that contemporary Muslims may find similarities or guidance or even learn lessons when they come to deal with similar situations from the perspective of Islamic jurisprudence.

From exploring the existing literature on Muslims in Britain, it can be noticed that the bibliography of research on the subject through various fields of studies is on the increase. The growing bibliography comprises a number of academic disciplines from sociology, economics, politics, geo-politics, culture, ethnicity, to religion. There is little doubt that these studies have contributed to enrich and enhance the ongoing research and chronology on the subject and are useful in documenting Muslims’ presence in Britain. Moreover, these contributions are important in providing valuable insights into under what circumstances they have arrived, what problems they faced, how they managed to survive when they arrived as individuals and how they formed themselves when they were joined by their families, how they established communities and institutions, and what challenges they are facing at present socially, politically, economically, culturally, and religiously.
Dispite the richness of these studies, they also have their limitations depending on the purpose of such studies undertaken. While some of them seek to provide detail information on Muslims in Britain, others attempt to offer brief and panoramic view of them in a given time. While an approximate approach for the former can be found in Humayn Ansari’s study on Muslims in Britain since 1800, an example for the latter can be seen in Paul Weller’s religious directory. In some cases, the study is limited by the specificity of the subject area studied and the ethnicity of the people or groups observed.

Ron Geaves’ monograph, for instance, constitutes an example for this type of study where the author mainly focuses on the national ‘sectarian’ influences present within Muslims in Britain, particularly within South Asian Muslims. Hence, the study is specific to Muslims from South Asian region and it does not include Muslims of Arab, African descent, Turkish or other ethnicities and their organisations and movements. Undoubtedly, the book is of enormous use with useful information. Moreover, it is an added contribution, which enriches the general understanding of Muslims in Britain. Nevertheless, the title of the book, Sectarian Influences within Islam in Britain, is perhaps misleading as this research is more of a study of Muslims than Islam. Precisely, the author pays particular attention to a segment of British Muslims descending from a particular

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88 Weller, Paul, (ed.), Religions in the U.K., 2001-2003, The Multi Faith Centre at the University of Derby, 2001. This laborious study is a directory of national and local religious organisations and places of worship. The work provides with a panoramic view of multi-faiths existing in the UK. The author begins with a useful introduction and continues to outline the history, beliefs, practices, and diverse theological groups and organisations of Muslims in Britain. The distinct feature of the book is to contain an extended bibliography and index of local and national Muslim organisations.
89 Geaves, Ron, Sectarian Influences within Islam in Britain: with reference to the concept of ‘ummah’ and ‘community’, Leeds. Department of Theology and Religious Studies, University of Leeds, 1996
region with special reference to their theological and ideological differences and their impact on the Muslim community within the society at large and out of society. The title appears to imply that Islam itself is a religion of sectarianism, a notion that has hardly any evidence when looking at the inherent nature of the fundamental teachings of Islam. It is true that Muslims who align with a certain sect or a group draw on the fundamental teachings of Islam, precisely the Qur’ān and the Prophetic traditions for their claims and argue that they are closer to Islam than others. Moreover, they present the same evidence which their counterpart presents for their side of argument in order to prove they are right. Yet what is evident in looking at both side of the arguments is mostly the manipulation of the text and implementing it inappropriately either through deliberately ignoring the other part of the text or taking it out of context or misunderstanding it unwittingly altogether.

What is required, as a matter of fact, is a holistic approach not only to the text but also to the context in which teachings of Islam, although they are now documented as a set of guidelines and rules, were originally introduced by the Prophet through revelation from God over a period of 23 years, according to needs, requirements, and contexts in 8th C Arabia. When a certain part of text is drawn, after the end of its revelation by God and its application by the Prophet, for the purpose of implementation in a certain context, it is always advisable in order to do justice to the text not only to look at the text but also to the context. It seems that Geaves did pay little attention to throw light on both the said inherent nature of Islamic teachings as well as the contributing factors which caused British Muslims from the South Asian origin to split themselves into different
sects and groupings. This missing point is what this study aspires to address in the following chapter.

There are some other studies which treat Muslims in Britain in detail. *The infidel within: Muslims in Britain since 1800*[^90] by Humayun Ansari is a case in point. The author deals with Muslims’ arrival in Britain before and after the Second World War and their settlement in different parts of Britain from a historical and social point of view. As one of the main sources which deal with Muslims in Britain, it largely focuses on the experience of Muslims in Britain coming from diverse cultural, ethnic, and linguistic backgrounds and their contribution to shaping modern British society over the past two centuries.

According to the author, up to the end of the 19th C it was the class factor that had been more at play in the British society than race in shaping the relationship between Muslims and the wider society. Yet, generally speaking, he makes no mistake in underlining the religious factor which runs through the fabric of Muslims’ interaction with the wider society, particularly with their arrival in Britain after the Second World War, but he is quick to spotlight the element of cultural formation which is often intrinsically interwoven with the attachment to Islam. In this respects he rightly points out some contentious issues which is relevant to the current study such as the generation gap, arranged marriage, patriarchal culture, art and music, and issues related to education. But, the book does not point out how these problems and issues can be addressed through religious guidance and what sort of jurisprudential mechanism British Muslims can undertake in dealing with these problems. Overall, the book is largely helpful

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to identify most of the problems contemporary Muslim communities facing in Britain and the text, therefore, has been quite extensively used in this study.

The other type of study which deals with Muslims in Britain is based on race and colour. In this respect *Coloured Minorities in Britain: Studies in British Race Relations based on African, West Indian, and Asiatic Immigrants*\(^9\) authored by Sydney Collins is worth mentioning. The author mainly focuses on different national, tribal, and linguistic minorities and groups who migrated to and settled in Britain in the years between the two world wars and immediately after the last from a racial point of view. The interwar period has seen an increasing racial tension between ‘coloured people’ and the white majority. These tensions and other socio-economic problems have grabbed the scholarly attention and been a source for the emergence of scholarly work like the one under scrutiny. As a comparative study, the author largely concentrates on how the race relationship has taken shape between these communities, particularly between Muslims (Indians, Pakistanis, and Somalis) and Negro communities in Tyneside and Welsh town on the one hand and Muslims and the wider society on the other.

The author provides in the third chapter of the book an insight into how race relationship evolved and developed between Muslims and the wider society in Tyneside and Welsh town highlighting their internal structure and their relationship to the host society and the forces at play which reinforce or weaken these relationships during the time in question. The book contains undoubtedly useful information that adds to the general understanding of race relationship between emigrant communities, particularly Muslims and the indigenous white

society during the time in question. Moreover, it deals with socio-economic problems Muslims were facing during the time in question in terms of housing, family relationship, education, and religion.

The author has also thrown light on crucial issues Muslim youth were undergoing when interacting with the wider society and the consequences resulted, by this interaction, in their personal life. This change in their life has made parents, author points out, extremely concerned about them being influenced by the British social life and its negative impact on their social habits and personal behaviour such as alcohol consumption and attending dance clubs. Although, children are ‘trained to become Moslem in religion and culture’ at home as well as ‘Zoaia,’ through parents’ influence at home and ritual practices in the Zoaia, so that they may withstand the influence of outside home, the effectiveness of this training has been more or less diminishing when they become teens and lasting as a result, according to the author, only to their adolescence.

Exploring the contributing factors to the emergence of this social dilemma, the author maintains that “the Moslem child…is confronted with two types of social life and trained to adjust himself to both. What seems to happen is this: Until adolescence, the child’s life is strongly influenced by Moslem customs and values. Later he tends gradually to free himself from these controls and to orientate his life increasingly towards the ways and values of British society.”

Indicating this drift, the author observes that children above the age of fifteen show little interest in the religious rituals held in Zoaia. They are generally less enthusiastic than aged about eleven or twelve. “Of an average of about eighteen

92 Ibid. p. 170-71
93 “A north African dialectical form for Zawiya, used to describe a prayer room”: Ibid. p. 166
94 Ibid. p. 170
worshippers at the daily *salahs* held in one of the Zoaias, there has seldom been more than one of the Anglo-Asiatics present at any time."\(^{95}\)

Although remedies were taken by the community through various such measures as training children ‘to observe Moslem customs’ at home and evening Qur’ān teaching at Zoaia so that they may become strong in their religion and its practice, as observed by the author, the results were less effective, time bound, and short-lived in comparing the age limit of the younger generation as noted above. In other words, the macro environment outside home: school, society, and friends both at school and wider society seem to be stronger in influencing the teens than the micro environment which is their home. The impact outside world makes on their life style is far greater than the household environment and has, thus, caused them to endanger their religiosity as Muslims. Overall, what the author identifies as an impediment with the Muslim community in Tyneside and Welsh town is a tendency “for some Anglo-Asiatics after adolescence to weaken their social ties with the Moslem community in response to the strong pull of British social life.”\(^{96}\) It is this social setback that has been a constant fear and concern expressed by not only classical Muslim jurists but also contemporary Muslim scholars when reasoning their reluctance to permit Muslims to reside in non-Muslim societies. This has also increasingly become a pressing issue confronted by Muslims in the contemporary British society which is still at large and this study aspires to address in the following chapters.

Collins, while repeatedly emphasising the same observation again and again throughout this study as a rational for the decline of religious interest among

\(^{95}\) Ibid.
\(^{96}\) Ibid. p. 172
some section of the community, also highlights another reason for this social failure; the absence of social institutions for Muslim communities in Britain. Quoting a Yemeni Arab who mentioned how legal action in his country would serve as a deterrent to those who lax in their religious duties, Collins observes that “the absence of legal sanctions and positive measures against recalcitrants is considered as encouraging laxity”. What this statement implicitly means is that Muslims, either as individuals or a community, may not be able to become committed to their religion unless they are provided with not just religious teachings per se at home at a micro level but also facilitated with a proper social, educational, and religious environment in the form of institutions at macro level including ‘legal sanctions and positive measures against recalcitrants’, as observed by Collins.

The quotation and the observation made by Collins may sound accurate compared to the true nature of Islam, its social order, and the function of Muslim communities confining itself only to the boundaries and parameters laid down by Islam. Therefore, to fully appreciate Islam and its teachings in real life as prescribed by the fundamental sources of Islam: Qur’ān and Sunnah of the Prophet and as understood by Muslims for the last fourteen hundred years, it may sound appropriate to have Islam implemented in its total form, governing not only individuals or personal lives of Muslims as minimum as expected by secularism but also society and its institutions including its legal system as laid bare by Islamic fundamental sources. Yet, the crucial issue is how far this totality as a complete social system or a way of life can be actualised within another social system which is far greatly different not only at an individual level but also societal as well as institutional level? In other words how far Islam as a complete
way of life can be accommodated let alone implemented in a secular liberal social system like Britain? Is there any room within Britain for Islam to be practiced in its totality as explained above? Or can Muslims simply choose to put Islam in practice as much as they can at an individual level that is to implement it at a personal level, while accepting to subscribe to social, political, economic, educational, and legal institutions of British social system at a social level? If it is so, what system or mechanism can possibly fill the gap which would supposedly be left by ‘the absence of legal sanctions and positive measures against recalcitrants’ as found out by Collins as reasons for crisis in Muslim life in Britain? Does British legal system allow and permit for such ‘legal sanctions and positive measures’ to be implemented against such ‘recalcitrants’? If not, are there any alternative measures Muslims in Britain can possibly bring forth to tackle with the issue in question? These and similar questions are considered to be serious issues faced by Muslims in Britain not only in the past but also at present in the contemporary social context in which they have seen their third generation teens undergoing similar crisis when they are confronted with the real life experience out side their home. The need to look at this issue from Islamic juridical point of view is what misses in Collins’ work and this lacking is what can be noticed in most studies on Muslims in Britain including the following one. This missing point is what this study attempts to deal with in the following chapters.

*Negroes in Britain: A Study of Racial Relations in English Society* authored by Kenneth Little⁹⁷ is another source used in this chapter and this work

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examines issues emanated from social interactions and reactions resulted in the presence of coloured people in Britain with special reference to coloured community in the dockland of Cardiff in 1940s. As a case study Little analyses ‘social and psychological consequences of socio-geographical urban isolation’ of minority communities including Muslims in Cardiff. Significantly, the relevance of both works by Collins and Little to the current study can be measured by their treatment of some issues related to relationship between Muslims and the indigenous society in terms of integration and assimilation: an issue which is still being debated in the circles of contemporary British academia in relation to Muslim and non-Muslim relationship within the scope of pluralism and multiculturalism. The contemporary debate among scholars which revolves around this issue is one of the focal points that will be addressed in the following chapters.

The *Islamic Britain: Religion, Politics and Identity among British Muslims: Bradford in the 1990s*98 is another material used in the current study. Authored by Philip Lewis the text deals with Muslim communities in Bradford from a religious studies perspective. As a case study, it largely focuses on the element of relationship of religion and ethnicity which largely tends to underlie the engagement of these communities with the British society. It serves as a microcosm of Muslim minority communities in Britain who settled in Britain after the Second World War and found no option but to abandon ‘the myth of return’ and eventually had to struggle through to develop a British Muslim identity. As an empirical study, it seeks to highlight the dynamics of Muslim community

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formation in Britain, particularly in Bradford as a sample where, according to the author, a microcosm of Muslim community’s engagement with the wider society in its various levels may largely be spotlighted. More importantly, the author’s treatment of the subject of the ‘nature of the intellectual and cultural formation of the religious leadership which took place largely in South Asia and their (religious leadership) ability to connect with the different linguistic, cultural, educational experience of British born and educated in Britain’\(^9\) is largely a relevant issue to the current study. The issue becomes significant as the study attempts to identify the causes of problems faced by contemporary Muslim minorities in Britain vis-à-vis Muslim religious leadership and their capacity to guide Muslims to become true representative of their religion while serving the society they live in as exemplary citizens. Moreover, it also seeks relevance to the study under scrutiny as the author spares no attempts to highlight the tension which exists between younger and older generation of Muslim minorities in terms of adherence to religion and respecting their inherited culture.

The other book used in this study is Nielson’s *Muslims in Western Europe*\(^1\). The author provides an overall introduction to Muslim communities living in contemporary Europe. In dealing with Muslims in Britain, Nielsen sheds light briefly on their early history in Britain while giving a fare account of their social, political, cultural, and religious position. He makes an attempt to explain how Muslim communities in Britain emerged as settlers, what caused them to migrate, what makes their present-day ethnic composition, where their demographic distribution concentrates, and what shape their organisational

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\(^9\) Ibid. p. 7

\(^1\) Nielsen, Jorgen, Muslims in Europe, 2\(^{nd}\) ed., Edinburgh University Press, Edinburgh, 1995
patterns takes place. Importantly, the book deals with political, legal, and cultural contexts in which they live in and also issues related to role of the family, worship, education, and religious thought. The author’s insight into legal issues pertaining to Muslim minorities living in a non-Muslim society is what makes this work particularly relevant to issues discussed in the study under scrutiny.

*Islam in Britain* authored by Nabil Matar\(^1\) is another text used in this chapter that deals with Muslim and non-Muslim interaction during 16 and 17 centuries. The significance of this text lies in its treatment of Muslim-non-Muslim relationship, their perceptions of each other, particularly in terms of religion, culture, and civilization which are still forcefully at play in perceiving each other in the contemporary Western world. In that sense, the text distinguishes from the works of Ansari, Little, and Collins who are more concerned about race and class factors than religion, although it is unfair to say that the religious factor has been totally ignored by them in their works mentioned above.

The other distinctive feature of Matar’s book can be gauged by its effort to throw light, from a religious, cultural, political, and social perspective, on root causes of image construction actively engaged by each other both negatively as well as positively. Yet, the book is quite distinctive in its attempt to highlight Muslim-non-Muslim interaction in a positive way.

Matar believes that the relationship between Muslims and Christians during the time in question was not always, as assumed quite often, problematic and oppositional, rather there were, as portrayed by Matar, positive, cultural, intellectual, and religious interactions between each other. Yet, scrutinising the

text one can easily identify the root causes of modern-day problems encountered by both Muslim minorities and Western Europeans in general and the Muslim minority and the British society in particular in their interaction with each other. This is an aspect which makes this work more relevant to the current study as it attempts to address the problems contemporary Muslim minorities facing in Britain. Particularly, at the roots of such crisis as racism, Islamophobia, caricature of the Prophet, and Pope Benedict’s the XIV remarks on Islam and the Prophet, for instance, lie the problems of image construction of the ‘other’, prejudices, and stereotypes projected polemically during the time in question examined by Matar.

More importantly, a close scrutiny of this book, particularly chapter 5, will provide a reader with the root causes, which are mostly overlooked by many writers, of the ongoing Israel-Palestine conflict. Scrutinising British eschatological writings during the time in question, as articulated by Matar in detail in this chapter, one can simply discern a craving wish English and Scottish eschatologists had polemically presented envisaging conversion of Jews into Christianity. In doing so, they hoped, the divine promise, which is the

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102 Eschatology and the Saracens, Ch. 5, Ibid. pp. 153-83
103 Eschatology, as noted by Matar, has been “a genre of religious discourse which examined contemporary and future events in the light of Christ’s Second Coming as pronounced chiefly in the books of Daniel and Revelation”: Ibid. p. 153
104 Matar presents enough evidence to show how the historical eschatological polemics have gained currency in Britain throughout the centuries since 16th C and why they have received an ideological explanation in 20th C historiography by English and Scottish eschatologists. Having referred to not less than ten sources Matar maintains that “the link between Muslim danger (Ottoman Empire) and Protestant militarism-cum-millenarianism (Millenarianism, which is a 1,000-year period, “is viewed as a time during which man’s yearning for peace, freedom from evil, and the rule of righteousness upon earth are finally realized through the power of God”: The New Encyclopaedia Britannica in 30 Volumes, Encyclopaedia Britannica Inc., London, 1975, V. 12, 15th ed., p. 200) clearly shows how and why some English and Scottish thinkers became preoccupied with the Restoration of the Jews”: ibid. p. 169. The reason why, he further comments, “numerous English writers reveal they adopted Jewish Restorationism (which means, according to Matar, “that the Jews would “restore” to the promised land in order to fight the Saracens and the Turks, convert to Christianity and then declare in Palestine the Protestant English kingdom of Christ”: ibid. p. 168) not because of their philo-Semitism, but because they viewed it as the Christian equivalent of the Crusade. Since English soldiers had failed to “take possession” of the Holy Land and destroy the Saracens, that enterprise would be carried out by the Jews during their Restoration and before their conversion to Protestantism”: ibid. p. 169
creation of Protestant English kingdom of Christ, can be fulfilled by Jews by restoring Christianity in Palestine by expelling Muslims. Consequently, the coming of Jesus to the Promised Land: Palestine would be expedited as they wished.

Hence, it does not come as a surprise that the crisis in Palestine started with the creation of the state of Israel in Palestine in 1948 might have its roots in anti-Islamic polemics articulated by both English and Scottish theologians and preachers during the Reformation. There have been numerous such eschatologists in 20th Britain giving an ideological explanation why they should support to “take possession” of Holy Land by the Jews, as contended by Matar.

Moreover, gauged by the intense debate around the biblical eschatology which has been on its peak during early 20th C Britain, as extensively referred by Matar in this book, it can be assumed that the impact of such theological polemics on the British society cannot be underestimated. The socio-political implications of such a religious phenomenon, as a result, might have influenced on the then British government, which had its involvement in the creation of Israel in Palestine. Britain, therefore, being a part of the conflict since its beginning, has been pushed, willingly or unwillingly, to take it on board when forming its foreign policy towards Palestine issue. Whether Britain has worked to resolve it or not, every time there is a problem between Israelis and Palestinians, it has resonated in Britain and tended to cause tension between Muslims and the society at large. Evidently, the tense situation prevailing between Muslims and the wider society in Britain since recent past as a result of Israel’s military action in Lebanon in 2006 and in Palestine in 2008 and 2009 has been an example of this social reality. This

105 Ibid. p. 169
social condition would also explain why the notion of British foreign policy has attracted a wide debate since the recent past in the national and international political and intellectual discourse as being one of the causes of Muslim extremism and radicalisation of Muslim youth in Britain.

Therefore, it can be assumed that some of the root causes for the emergence of the conflict between Israel and Palestine since its beginning has been deeply rooted in the psyche of the British society. Hence, the origin of the conflict, it appears, has been largely religious than political although it is not adequately acknowledged enough by analysts of the conflict and thus the religious dimension has been almost overtaken by the political one. The political side of the problem is, therefore, only a tip of the iceberg. Secondly, there seems to be no proper solution for this ongoing conflict in Palestine without addressing its historical root causes highlighted above, thereby easing the tense situation which tends to shape the Muslim, non-Muslim relationships in the contemporary British society.

Hence, against this background the book becomes relevant to the current study as it helps identifying the root causes of ongoing political conflicts, which tend to shape the contemporary Muslim and non-Muslim relationship in Britain. It is needless to say that such problems as highlighted above cannot be thoroughly dealt with without accurately addressing the deep-seated root causes of the current situation.

In addition to the sources mentioned above, this chapter will also use some other books, articles, and websites that are relevant to the titles and subject matters under scrutiny.
4.1.1 Muslims in Britain since 8th to 17th C as Visitors and Sojourns

For well over a century, a substantial number of Muslims have been living in Britain. Their presence in Britain as groups and communities is traced back to the 19th C. There seems to be no dispute between scholars who deal with the presence of Muslims in Britain from the historical perspective that their existence as settler communities dates back to mid 19th C. Ansari maintains that it was the time “when the first relatively permanent Muslim populations were established in Manchester, Cardiff, Liverpool, South Shields and East End of London.”106 This opinion has almost been shared by Lewis107 and Collins.108 Although this was the first phase of settlers in Britain, which would be discussed in the following section, Muslims’ interaction with Britain and British isles goes as far back as to early centuries of Islam’s emergence in the Arabian Peninsula in the 8th C.

Ansari contends that their presence was to be seen in France in 732 followed by establishing “their hegemony over Spain and Sicily.”109 Bernard Lewis is of the opinion that “Muslim armies occupied Sicily, parts of southern Italy, and seemed to menace even Rome itself.”110 Philip Lewis also maintains that the early contact of Muslims with Britain goes back to 8th C. He notes that the eighth-century Anglo-Saxon monk, Bede, in Jarrow in North of England had

106 Ansari, Humayun, Op. Cit., p. 25  
107 Lewis, Philip, Op. Cit., p. 11  
110 Lewis, Bernard, The Muslim Discovery of Europe, Phoenix Press, London, 2000, p. 18
mentioned about Muslims in his book *Ecclesiastical History of the English* with following remarks: “swarm of Saracens ravaged Gaul with horrible slaughter.”

There has been mutual relationship between rulers of the Muslim world and kings of Europe during medieval time. It has been recorded that Charlemagne (d. 814) and King Offa (d.796) were in close connection with Muslim rulers of their time, particularly Abbasids, which culminated in having mutual relationship with each other. The relationship King Offa had with Abbasids had been as close as Charlemagne’s connection with them. It can be pointed out that, as a proof of this mutual connection between the two sides, the ever first gold coin minted in Britain by King Offa has the inscription of the declaration of Islamic faith in Arabic. According to Al- Hassani, the coin is now in the collection at the British Museum. A coin of this nature, it can be argued, cannot come to existence unless there had been a considerable degree of interaction between Offa and the Muslim rulers of the time in terms of trade and diplomacy.

Having scrutinised the nature and the feature of the coin, some scholars even argue that it is not only an indication of trade and diplomacy, but also an

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111 Lewis, Philip, Op. Cit., p. 10
112 Charlemagne (English: Charles the Great, b.742 / d. 814) was the eldest son of Pepin III and also called “Pepin the Short”: The New Encyclopaedia Britannica in 30 Volumes, Encyclopaedia Britannica Inc., London, 1975, V. 4, 15th ed., p. 44
113 Offa was the King of Mercia from 757 until his death in 796. He was arguably the most powerful and successful of the Anglo-Saxon kings. Essex, Kent, Sussex, and surrey came under his rule. Defeating Welsh and the West Saxons he established his supremacy over all England south of the river Humber: The Hutchinson Dictionary of World History, Helicon Publ. Ltd., Oxford, 1999, p. 434; Al-Hassani, Salim, T.S., ed., 1001 Inventions: Muslim heritage in our world, Foundation for Science, Technology, and Civilization, Manchester, 2006, pp. 150-51
115 According to Mohammad S. Seddon, the major hypotheses surrounding the coin are: ‘as a trade token; special payment to the pope; a gift-giving presentation; a symbolic gesture of supremacy and as a declaration of Offa’s conversion to Islam’: Seddon, M.S., *King Offa (757 – 796)* unpublished dissertation (P.G. Dip, Lancaster University, 1999, pp. 53-62
acceptance of Islam by the King. Al-Hassani, although does not rule out the possibility of the King’s conversion to Islam, is of the opinion that “the more likely story is that it was produced for trade or for pilgrims to use as they travelled through Arab lands.”

It is an irony though that historians dealing with the history of Muslims’ interaction with Europe and vice versa are astonishingly silent about the presence of King Offa in the history of Muslim-British interaction. There is no mentioning whatsoever about his relationship with Muslims in general and his peaceful encounter with Muslim rulers. Montgomery Watt and Bernard Lewis, for instance, unfailingly present a historical account of Charlemagne’s historical connection with Harun al-Rashid have little mentioning of King Offa who had also had relationship with Abbasid rulers almost in the same period as Charlemagne did with them as highlighted before. Whether this lack of information form the part of both historians is due to lack of enough evidence or for any other reason is not quite clear. However, it is reasonable to suggest that there might have been some sort of peaceful interactions between the Kings of Europe and Abbasid rulers of the time as indicated by evidence shown above.

The Ballycotton cross-found on the southern cost of Ireland dating back to the 9th c is another evidence to indicate Islam’s early interaction with Britain. The significance of this indication largely lies on the Arabic inscription the cross has

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117 Supporting the possibility of Offa’s conversion to Islam, Moinuddin states, as quoted by Seddon, “that the coin is, ‘Prima-Facie evidence that King Offa, by putting his Arabic inscription, announced to the world at large’ and ‘like the ‘flag of any country so its “money” is a sign of its “sovereignty” and independence as well as its “face” and Offa’s gold coin represents this beyond any dispute and doubt’”; Seddon, M.S., Op. Cit., p. 61
on its centre which set in a glass bead in kufic Arabic script, which reads the Arabic phrase ‘Bismillah’ (In the name of Allah).\textsuperscript{120}

The field of scholarship had been another mode of interaction between Muslims and Britain as early as 8\textsuperscript{th} and 9\textsuperscript{th} C. As a geographer, Muhammad Ibn Musa al-Khwarizmi (780-850), for example, who was also an astronomer and a mathematician has founded algebra\textsuperscript{121} and algorism,\textsuperscript{122} as contended by al-Hassani and B. Lewis respectively. Al-Hassani maintained that he has depicted a detailed description of the British Isles in his book: \textit{Kitābu Sūrat al-Ard} (Book of the depiction of Earth)\textsuperscript{123} and thus it can be believed, he suggests, that it has been the first of its kind, which includes a map of the world.\textsuperscript{124} Although al-Hassani’s opinion of authorship of the book by al-Khwarizmi has been shared by Watt and B. Lewis, the originality of the book, nevertheless, has been disputed by both of them and both of them are of the opinion that the book was “based on the \textit{Geography} of Ptolemy,”\textsuperscript{125} Yet, B. Lewis did not fail to credit both the book and the author. He maintains thus that Al-khwarizmi not being content with mere translation of Ptolemy’s work had “incorporated number of corrections and additions deriving from the geographical information available to the Persian and Arabs.”\textsuperscript{126} He further maintains that Al-khwarizmi has given a “brief account of

\begin{itemize}
\item Rafferty, J., \textit{Christian Art in Ancient Ireland}, the National Museum of Ireland, Dublin, 1941, pp. 143-44
\item Al-Hassani, Salim, T.S., ed., \textit{1001 Inventions: Muslim heritage in our world}, Foundation for Science, Technology, and Civilization, Manchester, 2005, pp. 64-7
\item Lewis, B., \textit{the Muslim discovery of Europe}, Op. Cit. p. 137; Watt is of the opinion that algorism is a term derived from the name: al-Khwarizmi, Watt, W. Montgomery, Op. Cit., p. 33
\item Lewis, B., \textit{the Muslim discovery of Europe}, Op. Cit. p. 137
\end{itemize}
western Europe,”127 an opinion shared by Al-Hassani acknowledging al-Khwarizmi’s knowledge about British Isles as mentioned above.

The other notable pattern of interaction, which took place between the two sides, was travels undertaken by knowledge seekers from one country to another and learning from one another. Particularly, British men were travelling to Muslim countries, learning Arabic, and translating what they learnt into Latin. Among the prominent persons, as contended by Watt, who travelled extensively to and stayed long in the Muslim lands, particularly in Spain with the purpose of learning was Adelard of Bath (1080 -1160).128 Staying well over seven years with Arabs, he has been able to author a book Quaestiones Naturales that consists of seventy-six chapters. The book is in the format of dialogue in which he discusses quite extensively different scientific questions.129 Watt although uncertain about Adelard’s scholarship in Islamic Spain, has acknowledged the fact that he was well aware of “Arab Scientific scholarship”130 and also authored the book mentioned above131 by which he was able to help spreading “knowledge of Arab science.”132 It is surprising that B. Lewis does not mention Adelard in his masterpiece of The Muslim discovery of Europe which is referred in this study.

Popularly known as the First English Scientist, Adelard also translated Al-Khwarizmi’s work on mathematics and astronomical tables, as contended by Watt.133 As a matter of fact, it was through these translation works that the

127 Ibid.
131 In Watt’s words the book is called “Natural Questions”. Ibid. p. 69
132 Ibid. p. 69
133 Ibid. p. 61
numerical value of ‘zero’ and the Hindi-Arabic numerals were introduced into Britain.\textsuperscript{134} It has been largely acknowledged by historians in the West that “if not for the work of Al-Khawarizmi and its translation made by Adelard, it is likely that Britain would have been using Latin numerals for much longer period.”\textsuperscript{135}

The other important personality, like Adelard, who travelled through Muslim lands: South of Spain, Cordoba, Toledo, and Seville in seeking knowledge was Daniel of Morley.\textsuperscript{136} Having equipped with number of sciences in many a fields of knowledge, Al-Hassani contends, Daniel was masterly able to lecture in Mathematics and Astronomy at Oxford by 1180.\textsuperscript{137} Similarly, Norman Daniel is of the opinion that Michael Scot’s translation of Ibn Rushd’s (Averroès) work on Aristotle is largely considered to be one of the remarkable contributions that paved the way for the 'Renaissance' in the West.\textsuperscript{138} Watt contends that “it was through the earlier translations that Arab science and philosophy made its great impact on the intellectual life of Western Europe.”\textsuperscript{139} Jack Goody sharing Watt’s opinion contends that “rebirth of learning in Western Europe began long before the Renaissance and that owed a great deal to Islam and its translations.”\textsuperscript{140} He further notes that “there was an influx of Aristotle’s writings in natural philosophy and science from about 1200, the principle part of which came from Arabic versions and from the commentaries of Avicenna and Averroès.”\textsuperscript{141} It is not unreasonable to argue that if not for such translations as of Daniel of Morley, it is

\textsuperscript{135} Ibid.
\textsuperscript{137} Ibid. p. 98
\textsuperscript{139} Watt, W. M., Op. Cit. p. 62
\textsuperscript{141} Ibid.
more likely that the modern world would have been deprived of seeing the fruits of knowledge about Aristotle whose thought was not only transmitted to Europeans by Arabs, as contended by Watt, but also kept alive and extended its range.\textsuperscript{142} Watt maintains that “when about 1100 Europeans became seriously interested in the science and philosophy of their Saracen enemies, these disciplines were at their zeniths; and the Europeans had to learn all they could from the Arabs before they themselves could make further advances.”\textsuperscript{143}

It becomes clear from the section discussed above that a great deal of Muslim scholarship in various fields had played a significant role in building bridges between Muslim world and the West, especially in the fields of science and philosophy. According to Salim al-Hassani,\textsuperscript{144} the West, especially Europe had benefited from the Muslim civilization quite enormously and indebted to it a great deal for being a vehicle by which the fountains of knowledge on science and technology were passed on to the West during medieval time. As contended by many historians, he further observes, it is a well-known fact that there was a dynamic intellectual give and take process, which helped illuminating the Muslim world as well as the West in all fields of knowledge from agriculture, to geography, music, science, mathematics, astronomy and social science.\textsuperscript{145}

Against this historical backdrop, a question arises as to why the two worlds, after having benefitted from each other through mutual knowledge

\textsuperscript{142} Watt, W. M., Op. Cit. p. 43
\textsuperscript{143} Ibid.
\textsuperscript{144} Al-Hassani, Salim, T.S, Emeritus Professor of Mechanical Engineering at the University of Manchester, Institute of Science & Technology (UMIST), UK and Chairman of the Foundation for Science, Technology, and Civilization. He is also the chief editor of the book titled “1001 Inventions: Muslim heritage in our world”, Op. Cit.
\textsuperscript{145} Guest speech delivered by Salim, T.S Al-Hassani at the occasion of the MA graduation ceremony held on 25\textsuperscript{th} November 2007 at Markfield Institute of Higher Education; Salim, T.S Al-Hassani, ed., \textit{1001 Inventions: Muslim heritage in our world}, Op. Cit.
seeking as well as sharing experience could hardly move on building better relationship between each other. Consequently, both sides were entangled in bitter enmities and hatred towards each other as reflected in battles, wars, and polemical writings directed against each other? What did in fact prevent them from benefitting each other socio-politically, as they did in the fields of science and philosophy? Why have both sides become antithetical to each other perceiving one as enemy of the other while there have been a number of commonalities between each other which can bring them together?

First and foremost, the influence of Muslim Spain, for instance, on medieval Europe as noted above may be considered as a consolidating meeting point for the two worlds to appreciate each other’s common endeavour and contribution towards building bridges between each other.

Secondly, the Islam that the Prophet Muhammad introduced in Makkah and what Muslims are following all over the world is a religion emanating from Abraham\textsuperscript{146} as Judaism and Christianity. Hence, Islam is not less a Western religion than the latter two if both were to be considered as Western.

Lastly, the common rich legacy shared by each other in terms of science and philosophy as seen before has been more than just a knowledge sharing experience which bonds both together socially and politically while being inherited a common legacy religiously.

\textsuperscript{146} The Prophet Abraham prayed to God, according to the Qur’ān, to descend a Muslim community after him who worships and obeys Him: ("Our Lord! Make of us Muslims, bowing to Thy (Will), and of our progeny a people Muslim, bowing to Thy (Will)"); Chapter: The Cow, Verse no: 128, Trans. Ali, Yousuf; The opinions of the Qur’ān interpreters on this verse of the Qur’ān appear to be almost unanimous that the said Muslim community in the Prophet Abraham’s prayer may be a reference to the followers of the Prophet Muhammad: Ibn Kathir, Ismail Ibn Umar, Tafsir al-Qurān al-Azim; al-Tabari, Ibn Jarir, Jami al-Bayan fi Tawil al-Qurān; al-Razi, Fakhr al-Din, Tafsir al-Fakhr al-Razi.
Then, did the failure to move on building better relationship socially and politically happen because of the confrontational meeting points that occurred between Muslims and Medieval Europe? Was it happened when the former emerged as a political power and echoed in various such forms as battles and wars known as Crusades and counter campaigns, as contended by Watt\textsuperscript{147} and Ansari\textsuperscript{148} who argue that Islam was seen as a threat by the Christian world during medieval time? Instead, did it come about because of exclusivist worldviews and approaches taken on board by both parties when perceiving one another as viewed by Jacques Waardenburg, Goody, and Matar? Alternatively, did it occur because of barriers put in place by negative socio-political consequences which resulted in the Colonial domination of Western powers over the Muslim world in the recent past which made the two worlds look at each other with enmity and suspicion as suggested by Watt and Waardenburg?

In fact, it is not one factor or the other that may have brought about this disruption in their relationship. Rather it appears, from going through the works done by authors mentioned above which will be discussed in the following paragraphs and with some detail in the following chapter, that a combination of all factors with varying degrees has contributed one way or another to the emergence of this setback. It is not unfair to suggest, therefore, that the rift that came about in the relationship of both sides, which is widening since recent past, causing socio-political problems threatening the co-existence of Muslims and the wider society in Britain could be traced back to bias and prejudices perpetuated by, and towards each other resulted in centuries long negative images and stereotypes deep-seated


\textsuperscript{148} Ansari, Humayun, Op. Cit.
in the psyche of large number of people of both sides. Therefore, the unhealthy relationship which is perpetually lasting among Muslims and the wider society which reflects in the form of social unrest, riots, and attacks has thus become one of the main problems Muslims and non-Muslims facing today in the British society which this study endeavours to address in the following chapters.

Hence, it can be suggested that the confrontational meeting points that occurred in the history of Muslim-European relationships including Britain triggered by exclusivist worldviews may have contributed to the emergence of such an unhealthy socio-political trend. Therefore, had it not been for the polemics and misperceptions entertained by both parties against each other, the healthy interactions manifested between each other as highlighted above could have been extended to other such areas as social and political. This might have been instrumental to keep the mutual relationship between the two worlds: Muslim and the Western uninterrupted till today. The Crusades have thus been identified by some scholars as one of the historical outcomes for the perpetual misperception of Christendom about Islam and Muslims.

Watt contends that Muslims presence in Spain and Sicily in the early 8th C was conceived by Europeans as a threat to Latin Christendom. “The crusading movement of the later eleventh century may be regarded as a vigorous response to Islam” as “Rome itself was threatened” and the picture of Islam was depicted as a result in the minds of people in Europe “as the great enemy.”149 Sharing Watt’s opinion on the notion of perceiving Muslims as the enemy by European in the medieval period, Ansari notes that, by establishing their supremacy over Spain, Sicily, and southern Italy, Muslims were able to make their presence in Europe

149 Ibid. pp. 13-14
reckonable in terms of military power and perceived “as a major threat to Christendom”. Considering the imminent threat from Muslims, the Christian Europe launched a counter military campaign known as Crusades to stop Muslims from expanding their hegemony all over Europe. It was against this background that the Crusades of the early middle Ages were launched in order to respond to “a military and ideological enemy, with the military contingent led by Richard I of England (the Lionheart) representing his country’s robust contribution to the campaign.”

What it appears form the historical accounts mentioned above is that, firstly, Muslims were present in some parts of Europe as it is today, yet their presence was not either as migrants or settlers, but rather they were as occupiers and conquerors, particularly with having ruled Spain for nearly eight centuries since 8th C to the end of 15th.

Secondly, these historical accounts also would prove that the Muslims’ presence in Europe, particularly in Britain has begun not just after the Britain’s colonial history, but it goes as far back as 8th C as noted above. It is undeniable that the largest presence of Muslims in Britain as in other parts of Europe was highly visible in the aftermath of the break-up of most colonial powers. From then on, Muslims from across the British Empire and later the British Commonwealth started arriving in Britain and this has thus given rise to the emergence of modern landscape of British Muslim history.

Lastly, it seems that the misperception people in Europe had of Muslims and vice versa as the ‘other’ - besides all achievements and advantages benefitted

150 Ansari, Humayun, Op. Cit., p. 26
151 Watt, W. Montgomery, Op. Cit., 2-4
by each other through interactions in terms of knowledge, discoveries, and findings - which is still at play in the form racism, Islamophobia, stereotypes, and prejudices as noted before might have been caused to exist because of early confrontational meeting points that have taken place in the form of wars against each other.

The other important meeting point Europe and the Muslim world had encountered with each other was the emergence of “Turks” as a rival power in Europe. The defeat of the Byzantine Empire in 1453 as well as the siege of Vienna in 1529 by Ottomans had made Europe, particularly Britain reckon the Muslim power in the region to the extent that Elizabeth I offered, acknowledging Muslim’s dominance and strength, to enter into an alliance with Murad III (1546-95) to overthrow the then King of Spain as she viewed Muslims as ‘fellow monotheists’ and the Spanish King as ‘idolatrous’. It was through this mutual political alliance that both the British and the Ottomans co-operated with each other “as trading partners and…military allies.”

As partners in trade and military, the travel and commercial activities between each other were on the increase than ever before. The venues of partnership had developed and transformed, as a result, into a new phase of mutual relationship. As such, Ottoman Muslims found their way into Britain as merchants. Ahmet Efendi, for instance, was believed to be the first Turk to arrive in England as a merchant. Subsequently, “in 1627 nearly forty ‘Turks’ were said to be living in England as tailors, shoemakers and menders and button

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makers, and one even as a notary.”\textsuperscript{155} Moreover, the high profile diplomatic ties between the two were enhanced. Thus, “Ottomans ambassadors were appointed in the seventeenth and eighteenth centuries and the diplomatic exchange between the court of James I and the Sublime Porte came to be conducted by a ‘Ledger Ambassador.’”\textsuperscript{156}

Looking at the interaction pattern Muslims had with Britain for nearly a millennium since 8\textsuperscript{th} C to 17\textsuperscript{th} C as discussed above, it can be noticed that the interaction between Muslims and Britain had evolved through two different types of relationship. Broadly speaking one is external and the other one is internal, particularly since 15\textsuperscript{th} C with the dominance of Ottomans in the region. Hence, from 8\textsuperscript{th} C to 17\textsuperscript{th} C the relationship between Muslims and Briton had evolved more or less through individual as well as collective interactions. It had been largely sporadic and was based on to a large extent pull and push factors triggered by social, economic, and political considerations weighed strategically by both sides as seen before. The lack of uniformity in the pattern of Muslims’ interaction with the British society has been, therefore, one of the characteristics which single out this long period from the succeeding centuries: 18\textsuperscript{th} C and beyond. Thus, the 18\textsuperscript{th} C Britain and the period leading up to Second World War, which will be discussed in the following section, had witnessed a systematic migration pattern of Muslims into Briton as groups and settlers with specific motives.

4.1.2 Muslims in Britain since 18th C to Second World War as Migrants and Settlers

This section of the chapter seeks to explore in brief what sort of interaction Muslims had with the indigenous British population as well as the socio-political institutions of Britain since 18th C to Second World War during which Muslims arrived in the British Isles as lascars, traders, and settlers in particular after they had arrived as visitors and sojourners. The significance of this phase as they arrived in Britain is largely reflected in how both Muslims and the British society had interacted with each other, particularly how Muslims were viewed and treated by the wider society as a minority in general and a religious community in particular although Ansari, Little, and Collins are appeared to be more comfortable to see the relationship between the two sides from class and racial perspective rather than a religious perspective. Yet, by looking at the anecdotal evidences presented by the same authors mentioned above and examining the way Muslim migrants and settlers were treated by the society at large during the time in question one cannot simply ignore the possibility of them being viewed and treated as a religious ‘other,’ too and the relationship between the two thus was to a large extent shaped by this tense social reality as well.

The notion of religious factor which presumably interplayed between Muslims and the British society when they interacted with each other during this time can not be downplayed. There exists enough evidence to suggest, as contended by Ansari, Goody, Matar, and Waardenburg, that the British society had already perceived Muslims as religious ‘other’ even before they arrived in Britain as settlers because of prejudices and negative images British people
seemed to have had about Muslims as a result of long fought religious battles during medieval time known as Crusades. Similarly, it cannot be denied that Muslims, although their motives of migration to Britain was largely economic as maintained by Ansari, Lewis, and Nielson, were also appeared to be largely religious and their relationship with the British society was to a great scale shaped by this outlook. The anecdotal evidence shows how resolute they were in the face of hostilities they faced in the host society and what efforts they have taken to remain so continuously throughout their presence in Britain since 18th C to Second World War and how they still continue to do so to date. On the other hand, it is equally evident that Muslims also have their fare share of pessimistic thinking towards non-Muslims as ‘other’ as Jacques Waardenburg, Habit Abdullah, and E.M. Sartain explore in their works extensively. Yet, the question arises, within the scope of this study, as to how far Muslims have succeeded as a religious minority in their efforts to withstand the challenges posed towards their religiosity by the host society and to what extent they have managed to become part and parcel of the wider society through contributing to it while safeguarding their identity; this is an issue which will be discussed in the course of this chapter.

Hence, it examines how Muslims had reacted and responded to the socio-economic and religio-cultural realities of their new environment and what sort of mechanisms and strategies they initiated in an attempt to withstand challenges

158 Abdullah, Thabit, ‘Arab Views of Northern Europeans in Medieval History and Geography’ in Blanks, David, Images of the Other: Europe and the Muslim World before 1700, Cairo Papers in Social Science, Vol.19, Monograph 2, Summer 1996
they faced in a little known social context alien to their social and cultural ethos and norms. It further attempts to highlight if there were any initiatives taken up by Muslims, given their varied expressions of diverse schools of thoughts in matters of religion, culture, and customs, to negotiate survival in the face of challenges. In doing so, the third and fourth chapters of Ansari’s book: *The infidel within: Muslims in Britain since 1800* have been used quite substantially in this section.

Ansari mainly focuses on what sort of social relationship eighteenth and nineteenth century Muslims had with people of Britain and more often how they were perceived by the indigenous population in terms of colour, class, and race. He maintains that, up to the end of 19th C the class factor was more crucial in defining relationship between Muslims and the indigenous population than race or any other popular social yardsticks. He further argues that Muslims who came to Britain during this time, particularly in 18th C, no matter what social backgrounds they came from and social strata they ranked within, they were not without restraints in their dealings with the host society and had to function within the parameters of the social and political realities of that time, more precisely their engagements with the society had to be within the framework of British Empire and its supremacy over the Muslim world and its subordination to British interests. This has been resulted in producing unequal relationship between colonial masters and subject people160 and thus developing a social gap in the wider society at large. It was against this backdrop that “Muslims from different social backgrounds, with varying levels of skills and knowledge of British society,

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160 Ibid. p. 52
strove to achieve different kinds of engagement with the society in order to retain some measure of control over their lives.”

Against this social background, how successful they were in handling key spheres of their lives in terms of norms, culture, customs, and attitude, largely depended on how they planned their stay in that social milieu. For most of them it was not their intention to settle in Britain permanently for two main reasons. Primarily, they were not sure what the future holds in store for them in an unfamiliar country, particularly in terms of culture and religion. Secondly, they were not free to make their own choice in terms of their stay and settlement as they left their kith and kin back home and the options were, therefore, limited for them to settle permanently.

Hence, given the background mentioned above, the duration of their stay in Britain had its lasting effect on shaping the nature of their relations with the wider society. As contended by Ansari, there is little wonder, therefore, that “the more transient their situation, the less committed and participatory they seemed to be.”

Hence, it was this stage – 18th C to Second World War – for the first time in the British history that Muslim settler communities either as transient or permanent “from a range of social, economic, and ethnic backgrounds made an impact on British society and the ways in which they did so were influenced to varying degrees by their religious identity.”

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161 Ibid. 52-3
162 Ibid. p. 52
163 Ibid.
These Muslim settlers had primarily started to emerge in Britain’s port cities as sailors, and then were “joined by merchants, itinerant entertainers, servants, princes, students and a sprinkling of people from the professional classes.”\textsuperscript{164} Mostly, they arrived from “different parts of the British Empire with predominantly Muslim populations – Yemen, Somaliland, Malaya and India”\textsuperscript{165} with distinct cultures, languages, and political traditions.

Among countries which came into contact with Britain during eighteenth and nineteenth centuries, the Indian subcontinent was the foremost whose relationship and interaction with Britain was multifaceted and whose considerable number of population tends to shape the majority proportion of the modern-day British Muslim minority landscape. But it is not to say, nevertheless, that the modern-day Indian, Pakistani, and Bangladeshi Muslim communities are the direct extension of their ancestral settlers in 18\textsuperscript{th} and 19\textsuperscript{th} C, a notion which has hardly any evidence to suggest to that effect, rather they are to a large extent the third generation of the subcontinent Muslim migrant communities to Britain after the Second World War, a subject which will be dealt with in the later part of this chapter.

However, by the end of eighteenth century, the travellers and visitors from the subcontinent started to arrive in British Isles seeking employment as well as experiencing a new culture. Encouraged by the East India Company and attracted by future opportunities in the new land, a number of Indians who arrived in Britain at this time had decided to settle in it. Among the prominent ones who embarked upon such an adventure was ‘Sake Dean Mohomed who came with

\textsuperscript{164} Ibid. p. 24-5 \\
\textsuperscript{165} Ibid. p. 24
Captain Baker of the East India Regiment in 1784 and was among the first to settle’.\textsuperscript{166} This phase of the arrival into Britain though remained limited and confined to a number of persons, nevertheless, was noteworthy as it brought in sort of people who were ‘members of India’s professionals and wealthy elites’ such as Mirza Abu Talib, Lutfullah, Mirza Ihtisamuddeen, and Sayyid Ahmed Khan.\textsuperscript{167}

Apart from these elites, Britain saw an influx of Indian students who embarked upon to study law at reputable English and Scottish universities so that they can retain, on returning home, the social status they used to enjoy before being subjects of British Empire.\textsuperscript{168} Among the prominent ones who ventured into seeking western education, according to Ansari, were Muhammad Ali Jinnah, who became the leader of the Muslim League and founding father of Pakistan and Muhammad Iqbal who was revered as the interpreter of Muslim nationhood in India. While the latter arrived in England in 1905 for his studies at Cambridge and returned home in 1908 after being qualified as a barrister, the former came as a student in 1892 and in 1930 he did come again and practiced law in England until 1934.\textsuperscript{169} Apart from the sort of people mentioned above, there were “several wealthy merchants, learned Moulvies, the expositors of Mohammedan law and faith…”\textsuperscript{170} Moreover, “there were also scholars of languages, such as Professor

\textsuperscript{166} He is the author of \textit{The Travels of Dean Mohomet} which was the first work to be published in English by a Muslim in Britain. He also set up an ‘Indian Vapour Bath and Shampooing Establishment’ in Brighton. To his success, he was appointed as ‘Shampooing Surgeon to His Majesty George IV’, as quoted in Ansari, Humayun, Op. Cit. Ibid. pp. 30-31
\textsuperscript{167} Ansari, Humayun, Op. Cit. p. 31.
\textsuperscript{168} Ibid. p. 31
\textsuperscript{169} Ibid. p. 31-32
\textsuperscript{170} Ally, M.M., Op. Cit. p. 23
Syed Abdoolah, who taught Hindustani at University College, London in the late 1860s.”\textsuperscript{171}

The other notable arrivals in Britain since the end of the eighteenth century were the servants of the employees of the East India Company. They were brought over in great numbers to work for their masters who had made enough money in India and wanted to live the life style they had become accustomed to there.\textsuperscript{172} “The most famous example was Munshi Abdul Karim, who arrived soon after Queen Victoria’s Golden Jubilee in 1887, and as a favourite of the Queen taught her Hindustani and rose to become her Indian Secretary.”\textsuperscript{173}

England was attracted by other nationals as well from around the globe, notably Moroccans and other Arab nationalities who were mostly merchants. One of the few attracting cities of England at the time was Manchester whose popularity was well echoed throughout the Muslim world ‘as the textile-manufacturing capital of the world’. This was mainly possible because Ottomans as a dominant power in the region had played a significant role in introducing the Manchester centred textile industry to Muslim territories through which it was a transit to India, China, and beyond. With the opening of Suez Canal at the end of the 1860s, the industry further boomed and it continued throughout the century gravitating outsiders, particularly Arabs into the industrial city. Hence, ‘the traders from various parts of the Middle East and North Africa settled in the city.’\textsuperscript{174}

\textsuperscript{171} Ansari, Humayun, Op. Cit. p. 32
\textsuperscript{172} Fryer, P., \textit{Staying Power: the History of Black People in Britain}, London, 1984, p. 77
\textsuperscript{173} Visram, R., \textit{Asians in Britain: 400 Years of History}, London, 2002, p. 91
\textsuperscript{174} Ibid. p. 34
The section discussed above shows how Muslims from various regions and continents had made their presence in Britain as individuals and groups and a sizable amount of them, it seems, had been living just as transients in different time span till the first half of the 20th century. Drawing on the above discussion, it can be suggested, therefore, that most probably the earliest Muslim settlement in Britain though it was transient, it appears, dates back to the middle of the 19th C “when the first relatively permanent Muslim populations were established in Manchester, Cardiff, Liverpool, South Shields, and the East End of London.” According to Collins, the settlers were seamen and initially “settled in a number of British ports and vary in the size of their population from a few thousand, as in Cardiff and Liverpool, to less than two hundred, as in Hull and North Shields.” As far as the origins of these early settlers are concerned, Ansari maintains that they were, apart from Indian seafaring communities, mostly Yemenis and Somalis together with Ottoman Turks. They started arriving in Britain after the opening of the Suez Canal in 1869. Of those seafarers, Yemenis in particular had “worked on ships arriving at British ports…and did not always return to Aden, and so pioneered the Muslim settlements of the late nineteenth century, mainly in Cardiff and South Shields, but also in Liverpool and London.” According to a recent study, as observed by Lewis, there is evidence that the Yemeni settlers

177 Ansari, Humayun, Op. Cit. p. 37; see also Nielsen, J., p. 4
178 Nielsen, J., Op. Cit. p. 4
179 Ibid. p. 38
have established their communities even in Hull and Sheffield in the 20th C in addition to the cities mentioned above.180

Although there appears to be a slight discrepancy in the exact timing of the establishment of these settlements, the opinions largely confirm and complement each other as far as their locations are concerned. The existence of early Muslim settlement in Britain can be traced back to the third quarter of the 19th C and were located in the main ports of 19th C Britain, and the settlers represented a bulk of ethnicities.

There is also some evidence to suggest that there were other seamen too who were popularly known as lascars: the sailors. Mostly Indians, the lascars had settled in some other port cities, apart from London,181 such as Ben Lomond, Aberdeen, Dumbarton, and Clydemank in Scotland.182 Although they “were present in Britain’s ports in sizable numbers”183 yet, unlike other settler communities mentioned above, their settlements were not intended to be permanent and were largely, as maintained by Lewis, “shifting and impermanent…in London and various ports…”184

With the emergence of these Muslims settlements in Britain, Muslims’ interaction with the British society had marked a significant turning point in Muslims’ relationship with the British society and vice versa. Most importantly, the treatment Muslims received by the wider society on their arrival in Briton during this time was to a large extent unwelcoming. Unsurprisingly, Britain’s political power in the world during this time in general and its hegemony over

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180 Lewis, Philip, Op. Cit., p. 11
181 Ibid.
182 Ansari, Humayun, Op. Cit. p 36
183 Lewis, Philip, Op. Cit p. 11
184 Ibid.
Muslim lands ruled by Ottomans in particular had led Muslims to be viewed less equals after being equals and rulers, and treated more or less as subjects as a result. Muslims were now seen as subordinated people within the framework of British Empire.

It was against this background that Muslims, who arrived in Britain in 18th and 19th C, as individuals and groups, had to face problems and hardships in their race to acquire the material, moral and cultural space that comprised British society at that time. Moreover, their quest to survive as a religious group with distinct needs and requirements was an uphill task for them let alone fulfilling rituals and daily practices of their religion as a community or groups. Therefore, it was not easy being Muslims at that time as a separate community amidst a non-Muslim society which was distinct in almost all spheres of life, especially in social, religious, and cultural aspects. It is true, as contended by Ansari, that colour, race, and ethnicity of Muslims might have served to a certain degree as contributing factors for being treated as such by the society and had to face, as a result, untold sufferings during the period under scrutiny. Yet, it is undeniable that their being ‘Muslims’ with a distinct religious identity had also equally subjected to undergo immense hardships, particularly in practicing their religion including maintaining themselves as a separate community or group.

The evidence shows, as contended by Ansari, that many of the Indian Muslim sailors were brutally treated on ships, particularly in terms of their customary life pattern which Muslims unfailingly uphold in all most all circumstances. On one occasion, for instance, they were forced to eat pork. “The

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185 Ansari, Humayun, Op. Cit. p. 27-8 & 52-3
186 Ibid. p. 52
187 Ibid.
insult carried further by violently ramming the tail of a pig into their mouths and twisting the entrails of a pig round their necks.”"\textsuperscript{188} Consequently, of the many of whom this was their awaiting fate some even jumped ships hoping to escape such harrowing ordeals and “took their chances in London’s East End”\textsuperscript{189} where the seamen’s boarding houses were located.

Such cruel conditions might have been prevalent largely because of the way they had been viewed, undoubtedly, as ‘coloured’ or as ‘subjects’ of the Empire as noted before and cited by Ansari and therefore, the “interactions between Muslims and British society were largely shaped by contemporary popular views regarding their position in the human hierarchy relative to degree of civilization. These views were complicated by the juxtaposition of race with religion. As non-European ‘races’ subordinated to the British, those from Muslim lands were evaluated disparagingly. Negative images were reinforced by the collective memory acquired over the centuries since the Crusades.”\textsuperscript{190}

What this account by Ansari brings into sharp relief is, perhaps, Muslims were not only viewed as ‘coloured’ and ‘subjects’ but also treated as the ‘other’ projected by negative images, as contended by Ansari himself, gained ground in European soil including Britain through centuries old religious rivalries took place between Muslims and Christian during medieval time popularly known as Crusades as noted before. This arguably shows that Muslims were discriminated not only on the basis of colour and race but also on religious ground as well. Hence there seems to be a valid case in presenting the religious factor in this

\textsuperscript{188} Ibid. p. 36; In Islam the consumption of pork is forbidden to Muslims: “He hath only forbidden you dead meat, and blood, and the flesh of swine and that on which any other name hath been invoked besides that of God” Qur’ān, chapter 2, verse 168.

\textsuperscript{189} Ibid.

\textsuperscript{190} Ibid. p. 55
argument and it makes sense if someone suggests that the raison d'être as to why they were subjected to these appalling social conditions could have been because they were viewed, to a large extent, as equally ‘Muslims’ as ‘coloured’ or ‘subjects’ and they had been identified more with their religion, culture, and customs than their outward appearances reflected in their colour. The way they were treated on ships, particularly them being forced to eat pork, as seen before, shows the rationalisation of this suggestion and the attitude shown towards them by the 19th C British public and the Christian missionaries, which will be discussed in the latter part of this chapter, evidently prove the veracity of these comments.

Although Ansari’s assessment of their existence in Britain has been one of a social and historical one and his reasoning for their fateful destruction is largely based on socio-economic factors within the realms of colour and class, it is not unreasonable to argue that there was also a religious factor that had largely contributed to their unfortunate predicament. Otherwise, it is pointless to suggest that they had disappeared from the landscape of the British society by being diluted culturally with no trace of identity as a religious minority. Ideally, as the main sources of Islam conform, for Muslims it is their religion and religiosity that provide them a sense of identity than any other ethnic, regional and geographical considerations. Their cultural expression is mostly shaped by their religion and its teachings more than any other local or regional affiliations in terms of language, ethnicity, and geographical location, although it is undeniable that each one of these affiliations or more have their fair share and imprint in flavouring each and every one’s culture. Generally speaking, for a Muslim it is Islam that gives him or
her sense of belonging and identity irrespective of his or her ethnicity, region, colour, and language.

While this had largely been the general attitude of the British society towards these seamen on one hand, their conduct and behaviour in their day-to-day life too were mostly deplorable on the other. While they were supposed to be Muslims who practice the religion, their daily life style was little of an average Muslim who adheres at least to the basic tenets and daily practices of Islam. In more than one occasion, as Salter describes, they had ended up in prisons for being found gambling, ‘smoking the insidious opium’, street fights, and petty thieving. According to Salter, “The records of Horse-monger Lane Jail and the city prison, Holloway give evidence of repeated visits from the worshippers of Mohammed…” Their appalling living condition in poorly accommodated boarding houses might have led them to live such an unsatisfactory life or perhaps the landlords and boarding house-keepers who were accused of indulging in unfair and corrupt practices, as noted by Salter, might have led them to end up in such a misery or even poor understanding of their religion and less commitment in it might have led them to act as such. Yet, it would not be untenable to speculate that the lack of religious guidance either through a religious guide or an institution also might have contributed to a large extent to their vulnerability to

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191 Rev. Joseph Salter was an Anglican clergyman in the East End of London and a missionary in the London City Mission in 1853 who initiated the creation of a home for seamen called Strangers’ Home in which he was able to have a first hand experience about Muslims as seamen and their life style: Ally, M.M., *History of Muslims in Britain: 1850-1980*, unpubl. M.A. Thesis, University of Birmingham, 1981, pp. 10-26
193 Ibid. p. 25; Calling Muslims as “worshippers of Muhammad” is incorrect according to main sources of Islam: Qur'an and Hadith. Muslims do not worship except Allah. For them, Muhammad (peace and blessings of Allah upon him) is His messenger and their guide appointed by Allah to guide them worshipping Him through following the messenger sent by Him.
194 Ibid. pp. 8-9
the uneven social condition which led them ultimately to their moral decadence. Whatever the reason might be, it is unfair to point the finger solely at the social setting they chose to live in while ignoring their fair share of the contribution to the problem, as noted before, either by being complacent about the situation or by being overpowered by the situation.

Although this has been the overwhelming social condition during this period, it is undeniable that there were some seamen who had managed to cling to their daily rituals and religious practices. Yet, it is questionable whether their daily religious practices had made any impact on their mundane affairs as far as the effectiveness of the spirituality is concerned. Salter remarks that, on one occasion, he questioned, for example, a performer of the night prayer which is ‘ishā’ who had concluded it in no time in order to prepare himself for the Drury Lane Theatre and he asked him: “You repeat your prayers five times a day and then go to the theatre and dance; what honour do such prayers bring to God?”. The Muslim’s reply was: “The first was a duty, the second was a pleasure” on which Salter remarks: “A tacit acknowledgment that prayer was no pleasure, and that the heart was in Drury Lane while he performed the onerous duty of prayer.”

This incident may be manifested as a striking example of the cross section of such Muslims as those who had little understanding and knowledge of their religion, thereby having only a shallow attachment to their religion and religious practices and had no impact, as a result, on the behavioural pattern of their daily personal life. There is little wonder that 18th C Britain, being a prosperous

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195 The fifth and last obligatory daily prayer (salat) a Muslim should offer at night.
196 Ibid. 255-56
wonderland with all sorts of pleasure in abundance, was an eye-catching place for such Muslims with that poor level of understanding of their religion and was the right place to enjoy life in whatever manner they wished to experience it.

It does not mean, however, that Islam forbids its adherents from seeking material enjoyment and worldly pleasure. The seclusion from the worldly things and its affairs has never been celebrated in Islam. Yet, the enjoyment of worldly pleasure should not overtake the main purpose of this life which is attaining the eternal bliss in the Hereafter as commanded by God in the Qur‘ān and practiced by the Prophet during his life time rather it should be the means to achieve the said purpose of life.

Striking balance between these two aspirations of life: seeking worldly pleasure while aspiring to attain eternal bliss in the Hereafter entails Muslims, firstly, the dire need to endeavour to ensure maintaining the sheer balance between religious as well as secular needs. One sphere should not be neglected at the expense of the other. Both spheres should be given their equal share of the right consideration and fair treatment, which is one of the unique characteristics of Islam that runs through the fabric of its teachings as a norm as well as an established principle.

Secondly, the boundaries and the limits stipulated by God need to be maintained and should not be crossed. In other words, there are set of principles and values which Muslims are required to follow in order for them to acquire the true meaning of being Muslims. As Islam is not only a faith but also a code of conduct and a way of life, a Muslim is always reminded to make sure that this fundamental link between the faith and the practice is thoroughly interconnected.
Lastly, in order for Islam to be followed in daily life it requires, according to main sources of Islam, a proper social environment under a competent leadership who is capable enough to lead Muslims towards a model Islamic life not only as a belief system but also as a practice and a code of conduct for Islam comprises all spheres of life as elaborated in detail in the Qurān and the Sunnah of the Prophet: the Prophet’s way of life.

When looking at the life style and the living condition some of the early Muslim settlers had chosen to live in Britain, as seen before, one can extract certain important points in the light of the explanation discussed above, which are relevant to the main theme of the current study: what should be the mechanism a Muslim should seek to live an Islamic life in a non-Muslim society. Also, the lessons which can be learnt from the experience of 18th C Muslims are equally helpful to understand the scholarly discourse of classical as well as modern scholars of Islamic law on plethora of issues and concerns related to a Muslim’s life in a non-Muslim society, which will be dealt in detail in the sixth chapter.

Primarily, it seems that early Muslim settlers had been under immense pressure in safeguarding their identity as Muslims with many of them had been diluted in the wider society with no trace of them as separate community. As contended by Ansari, “the sheer imbalance of the numbers and power relationship involved meant that their struggles to sustain distinct identities proved largely unsuccessful.”\textsuperscript{197} This implies, therefore, that if Muslims are weak either because they are few in number or they are fragile economically, socially, and politically and they end up, as a result, in such a condemning situation as 18th C Muslims had ill-fated as described by Ansari, the consequences are serious and dreadful for

\textsuperscript{197} Ansari, Humayun, Op. Cit. p. 52
they are strongly condemned as sinful by God in the Qurān and by the Prophet in hadith, a detail of which will be discussed in the following chapter.

For those of whom this is their social condition, the alternative recommended by Islamic jurisprudence is perhaps not something other than migration to a place where they feel secure to follow their religion with the sense of security and freedom for their religion and to live a peaceful life maintaining their identity as a separate community. Mostly, this was the case vis-à-vis the early migration undertaken by the Prophet and his companions from Makkah to Medina in 620 CE, whereby the Prophet and his companions were able to live an Islamic life and created a society which was a model to be emulated by generations to come. It is worth noting that this migration was preceded by the first and foremost migration undertaken by some of the Prophet’s companions to Abyssinia in 616 CE, which is another striking precedence for Muslims who live as minorities.

A small group of Muslims who were persecuted by Makkan Arabs who also happened to be their fellow tribesmen had to flee Arabia to escape the torturous social environment hoping they may practice their newly adopted religion: Islam in an un-hostile social environment. Although one may argue that the comparison between the two situations is disproportionate which is partly true as far as the form as well as material structure and formation of the two social settings are concerned as the social, political, and economic condition of 7th C Abyssinia was in no way similar to the 18th C Britain, yet in essence the disparity

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198 When Islam was introduced in Makkah by the Prophet Muhammad in 610 he was subjected to hostilities by the Makkan non-Muslim society. Having searched for an appropriate place to practice Islam, he asked some of his followers to migrate to Abyssinia in 616 and then again to Medina in 620 where he himself migrated with most of his followers and established a Muslim society with the divine guidance from God which was the ever first divinely guided model Muslim society on the earth.
between the two scenarios is arguably slim in terms of challenges and problems they faced; In both situations Muslims faced more or less similar problems and challenges in a non-Muslim social environment in terms of religion, culture, norms, and ethos; they were few in number and they had very little power as far as their social status is concerned. Yet, strikingly, unlike the Muslims of 18\textsuperscript{th} C Britain, these migrated Muslims to the Abyssinian land were largely able to withstand the challenges of the new environment without losing their identity. Particularly, they were able to hold fast to their religion despite all sorts of propaganda campaign unleashed by Makkan rivals in the court of the Ethiopian king Negus. Despite their imbalance of power in contesting the social spheres of the wider society, they as a community, never thought of giving up Islam in the face of socio-economic pressures which came in their way except for one individual incident of conversions to Christianity.

Similarly, it might be appropriate to note, for instance, that the spread of Islam outside the Arabian Peninsula, particularly in East Africa, South Indian costal areas, Sri Lanka, and South East Asia was largely due to the fact that early Muslims who sojourned to these lands as traders and merchants were largely successful in establishing embryonic communities in an effort to safeguard their religious identity, as contended by Arnold. The matter was, therefore, nothing to do with either their number or economic or political power, rather it was their firm conviction as well as steadfastness in the path of their religion coupled with strong commitment towards safeguarding their identity as a religious community.

Hence, firstly, migration for the sake of security either for his religion or his life has been actively at play throughout the Muslim history and it is still actively in practice driven by modern day’s unwholesome social and political
climate prevailing in some parts of the Muslim world which is an evidence manifested by the modern day political migration made by a sizeable number of Muslims from the traditional Muslim lands to Europe including Britain. Those who lost their identity in the 18th C Britain were thus resorted to migration as an alternative measure in the face of cultural dilution, as noted by Ansari, without forsaking their religion. Their fate would have been different and their commitment and sacrifice in safeguarding their identity would have been remembered even today as a model to be followed by many generations to come.

Secondly, the destiny these Muslims had faced, has again reinforced the validity of the sheer warning given by the Qurān and Sunnah and proclaimed by Muslim jurists (fuqahā) of both classical as well as modern time regarding supposedly outcome of such condemning situation, which will be dealt with in detail in the sixth chapter. In brief, their opinion on the issue in question has been that whosoever finds himself or herself in a similar situation described above has the duty of migration to a place where it is secure for him or her to practice the religion. Failing to do so, he or she will have to risk the loss of his or her religious identity resulting in abandoning the religion itself, a situation the Qurān and the hadīth have categorically warned Muslims of its fatal result, an issue which will be thrown light in the following chapter.

Although their scholarly opinion on migration was largely based on classification of the world into two as dār al-Islam and dār al-harb,\(^{199}\) the option of migration, according to some arguments which will be discussed in the

\(^{199}\) An opinion needs to be proven of its validity in the face of modern geo-political realities and challenges existed with the collapse of Muslim Political power aftermath of the First World War prior to which the said classification was in use by Muslim jurists in their legal deliberations. The debate around this classification, however, has still been alive with the emergence of new socio-political circumstances trigged by the presence of millions of Muslims as minority communities in the West despite its context in which it was originated and gained ground no longer exists.
following chapter, is thought to be still valid and not outdated according to main sources of Islamic law: Qurān and hadīth and legal opinions of Muslim jurists throughout the Islamic history. Irrespective of long debates and arguments Muslim jurists have engaged in defining what is dār al-harb and dār al-Islam and how does migration operate, the common thread which runs through the fabric of their scholarly discourse on the issue in question is their concern about the fate a Muslim could end up in a non-Muslim society in the event of his or her inability to withstand challenges posed to his or her religious identity by a particular non-Muslim society, which is what had taken place in the case of ill-fated 18th C Muslims in Britain as seen before.

Lastly, Islam, as stipulated by the Qurān and Sunnah as a way of life, is more of a religion of society than of individuals. It is better placed and implemented in a society than in one’s individual life for most of its teachings and obligations are to a large extent social oriented than individual based. Even for the proper fulfilment of the five pillars of Islam200 including haj, which is the annual pilgrimage to Makkah, which are expected to benefit individuals as well society with good conduct and morality in this world and rewards in the Hereafter, there needs an appropriate Islamic social setting. There is little to be expected, therefore, if Islam cannot be accommodated in an apt social setting as a way of life with its full strength and dynamism without which it will be more nominal than real. It appears that the pathetic failure from the part of 18th C Muslim seamen in bringing about this salient feature of Islam, which is to create a dynamic society vibrant with Islamic teachings, in their ports settlements was

200 Proclamation of shahada which means testifying that there is no god but Allah, establishing the prayer, fasting in the month of Ramadan, giving annual due from wealth, and pilgrimage to Makkah.
what made them facing the reprehensible outcome: disappearance from the social landscape as separate communities with distinct identity.

As this was the situation at work in the social setting in general, to what extent Muslims managed to uphold their religion and its teachings as the first and foremost component of their identity as Muslims is questionable. Although Ansari speaks about issues and challenges Muslims faced in consolidating their social, political, and economical position as individuals and groups in the British society during the period in question, there is hardly any mentioning of evidence which can prove any sort of measures taken by them in an effort to preserve their religious and cultural identity through teachings of Islam, particularly through guidance from Islamic jurisprudence.

Apparently, the reason behind the decline of those 18th C Muslims as a separate community might be, it seems, because Muslims were lacking a much needed source of guidance in the face of challenges threatening their religious identity. Either they were not concerned enough to reflect upon such an important need because they were preoccupied with their struggle to raise their socio-economic condition or they were not bothering at all about the fate which was due to befall on them as Muslims because they were weak in their adherence to their religion or there was no such a reference body to which they could approach to seek guidance to resolve the problems posing a threat to their religious identity. This should inform the necessity to make such guidance available for Muslims who live in the contemporary British society. There is enough evidence to show that the lack of this guidance is what it forms the background for problems faced by the contemporary British Muslims in terms of social, economic, educational, and political crisis.
The case of Salman Rushdi, for example, and its aftermath echoed through riots and communal disharmony in Bradford; the 1st Gulf War and its implications on the British society contributed enormously to widen the social gap between Muslims and the wider society; the 9/11 tragedy and its implications and adverse effects on Muslims in Britain, the war in Iraq and its socio-political consequences, and the 7/7 bomb attack in London and its colossal impact on the British society with far reaching affects in social relationships between Muslims and the wider society, stress the vital need for such guidance. However, it is not an exaggeration to say that it is the lacking of this direction that tends to widen the social gap between Muslims and non-Muslims of the contemporary British society.

Generally speaking, at the root of all these crisis, lies the lack of awareness and understanding from the part of Muslims as to how they should resolve these crisis and conflicts in a situation like this as a religious minority in a non-Muslim society and what should be the behaviour and approach they should apply in tackling similar circumstances in the future. Their far-reaching repercussions on the British society, particularly on Muslim-non-Muslim relationship is still to be felt and there is also a legitimate fear that it can widen the gap between both parties if the situation is left un-attended without taking appropriate measures, particularly, among other viable means, through guiding Muslim communities by teaching Islam. Failure to do so with little delay is what one may predict as a disaster waiting to befall not only on their social, economical, political, and religious life of Muslims but also on their very existence in the British society as it happened to the 18th C Muslims of Britain.
Despite this horrendous experience some Muslims had to go through with the "widespread hostility to Islam in Britain in the eighteenth century," as contended by Ansari, not all of them did surrender to the challenges prevailing during this time. Indeed, some of them were brave enough to face the situation and remained steadfast in the face of these hostilities. Although they were such handful of people as Muslim slaves enslaved from Africa, their exemplary endeavour in overcoming difficulties of being Muslim in a non-Muslim social setting has been somewhat worth noting. Captured in Gambia as a slave, for instance, in 1731 and arrived in England in 1733, Ayuba Suleiman Diallo (b. 1701) had impressed his benefactor by displaying a great deal of devotion to his religion resulted subsequently in his freedom. This was same with another Muslim slave called Mohammad who was enslaved in Africa and brought to England towards the end of the 18th C. Having impressed his owner by displaying a great deal of knowledge of the Qurān, like Diallo, and mastery in Arabic literature, he managed to earn his freedom and returned to Africa after a short stay in Liverpool in 1811.202

The stance taken up by both Diallo and Mohammed while they were staying in Britain has been an extraordinary example which amply demonstrates the ability a Muslim can display in the face of challenges he or she faces in a non-Muslim society. Given the hard-hitting socio-political environment prevailed during the time in question and the attitude shown by the British public, as a result, towards non-Europeans, particularly Muslims, the standpoint both of them had persistently upheld was not something to be overlooked. It makes them

201 Ansari, Humayun, Op. Cit. p 54
202 Ibid.
exceptional as their effort was extremely ambitious and hard-earned as it was not easy being Muslim practising Islam at that time. This instance shows, as a matter of fact, that if Muslims either as individuals or groups are better equipped with strong belief in and unwavering commitment to their religion, it appears that they are largely capable of withstanding the challenges coming in their way. The more they are aware of their religion the more they are protected from going astray. Hence, living in a non-Muslim society has neither been condemnable nor unconditional as long as Muslims are capable enough either as a community or individuals to retain a measure of control over their lives, particularly their identity as Muslims.

It can be said, therefore, that taking residence in a non-Muslim social milieu by Muslims has never been undesirable merely because they choose to reside in such a social setting though it is always advisable for Muslims to give preference to take residence in a Muslim society as encouraged by the Qurān and the Sunnah. It is also not unconditional for them, at the same time, to take residence in a non-Muslim social setting regardless of the way they choose to lead their life in it whether it affects their identity as Muslims or not. Hence, it is neither the case. It all depends, therefore, how far a chosen social setting is accommodative enough for a Muslim to live an Islamic life, at least by observing the basic tenets and rituals of the religion and, at best, by practicing it as much as possible in all spheres of his or her life. It can be said, therefore, that the migration might have been the right option Muslim settlers of the early 18th C Britain could have opted for. The issue of migration in such circumstances highlighted above, thus, opens up another window of interesting discourse among Muslim jurists of both classical and modern time, which will be discussed in the following chapter.
Drawing on the above discussion, we may conclude that the socio-economic and religio-political circumstances of the 18th C Britain together with negative images reinforced by collective memory gained ground in the British society through the Crusades over the centuries, might have played a major role undoubtedly in influencing British public’s perception of Muslims as ‘subject people’ and it might have led them to evaluate Muslims negatively “with discriminatory effects for individual Muslims in their key spheres of their lives.” This is not to deny, however, that Muslims were not responsible for forming the part of the problem they had to encounter in the 18th c British society. With the poor knowledge and understanding of the British society and culture, the language barrier, and, above all, the inadequate level of religious knowledge have led them to the situation where they had to end up. It is not far from truth if it is said that the fair share of the responsibility, apart from hostile attitude shown towards them by the British society, should be borne by those vulnerable Muslims too who had to undergo those bitter experiences and turbulences in their religion as explained by Salter and Ansari in the examples highlighted above.

It appears, therefore, that the vulnerability of these Muslims had been largely caused, in the first place - on top of economic and social crisis they had to go through as individuals and groups because of their colour, class, and race - by lack of proper leadership equipped with religious guidance capable enough to lead them in the right direction, which is one of the core issues this study will handle in the following chapters.

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203 Ibid. p. 52
204 Ibid.
Secondly, it seems that them being unorganised either as one single community or a group under an able leadership could be another reason why they had to undergo such trials and turbulences in the 18th C British society. It may be their preoccupation with socio-economic problems and challenges which might have led them to be more scattered and disorganised to the point that they even could not win their basic rights as human beings in terms of their livelihood, food, and lodging as described by Ansari in detail. Yet, it is inexcusable that, as Muslims who were supposed to be retaining a measure of control over their religious needs as individuals and a society, they had forsaken their religious identity for gaining material bounty. In similar situations the priority entails Muslims making an effort to seek migration as recommended by the majority of scholars of Islamic law, an issue, which will be, have some light thrown on in the following chapter.

4.1.3 Muslims in Britain – From Being Settlers to Institutions

What follows is somewhat viewed as the main efforts of organised Islam in Britain in the 19th C comparing this to the social situation Muslims went through in 18th C Britain as seen before. Muslims in the 19th C were relatively organised and structured in terms of their social and religious experience, particularly towards the end of it, where they managed to initiate institutionalised activities centred on Islam and its teachings. From being mere individuals and groups with no such rallying point as centres or organisations, Muslims were able, to a large extent to form a sort of social base for them so that they could act as a
community wherever they happened to be, in such places as Manchester, Liverpool, London, and Working.\textsuperscript{205}

Did they manage to see a difference in their life style in 19\textsuperscript{th} C Britain as a religious minority compared to what they faced in the previous century? What was their experience in leading an Islamic life during that period? Were they successful in forming a community with an able leadership? What sort of problems and challenges they faced in navigating their life as a religious community or group in the trouble waters of 19\textsuperscript{th} C Britain? The following section will deal with some of the main events of 19\textsuperscript{th} C Britain in order to find answers to these and similar questions.

Before delving into the strenuous efforts taken up by 19\textsuperscript{th} C Muslims for consolidating their presence as communities mainly centered on institutions, the mentioning of the socio-religious condition prevailed during 19\textsuperscript{th} C British society seeks relevance.

For Muslims, 19\textsuperscript{th} C Britain was more or less not dissimilar to the 18\textsuperscript{th} C as far as the challenges and problems are concerned. It is not an exaggeration to say that Muslims had to encounter more problems during this period than faced in the 18\textsuperscript{th} C. More precisely, at the turn of the century with the expansion and consolidation of British influence over Muslims lands and territories “popular prejudice against non-Europeans and Christian hostility towards ‘heathens’ in Britain had gained currency…”\textsuperscript{206} In addition to this intolerant attitude and aggressive approach shown by the wider society towards Muslims, the evangelising mission was on the rise targeting conversion of non-Christians.

\textsuperscript{205} Lewis, Philip, Op. Cit., p. 11
\textsuperscript{206} Ansari, Humayun, Op. Cit. p 60
including Muslims into Christianity. “By the mid-nineteenth century many Christian evangelists were convinced that their religion was the only path to salvation and that the followers of other faiths were doomed to eternal damnation.”\textsuperscript{207} Backed by high-ranking evangelical Christian officials like William Muir who authored \textit{Life of Mahomet} and concluded that ‘the sword of Mahomet and the Coran are the most fatal enemies of civilization, Liberty and the Truth which the world has yet known’,\textsuperscript{208} missionaries actively embarked upon ‘civilizing Muslims’ through conversion. The Indian mutiny\textsuperscript{209} which took place in 1857 had been a case in point which availed themselves of an opportunity to form a negative image of Muslims as uncivilized and it gave them a good justification to see Muslims as incapable of grasping “moral and intellectual uplift, a more progressive system of administration, and modernisation.”\textsuperscript{210}

Hence, “by 1860s negative images of Islam and Muslims were embraced in the hardening religious and racial prejudices that were beginning to be articulated in the form of pseudo-scientific theories of race in Britain.”\textsuperscript{211} It will not be difficult to imagine, in line with this unhealthy socio-political context, what sort of hardships and turbulences Muslims could have gone through in the British society at this point in history. The vulnerable section of the Muslim population at the time had to face, among other issues and problems, the challenge of conversion. Particularly, a large number of lascars were the prime target of this trial who were not only poor in their understanding of the British society but also

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\textsuperscript{207} Ibid.
\textsuperscript{208} Muir, W., \textit{Life of Mahomet}, London, 1858 – 61, Vol. 4, p. 322
\textsuperscript{209} Indian mutiny is also known as Indian Rebellion of 1857 against British East India Company. The mutiny was carried out by some Muslim soldiers who were called sepoys (soldiers) after whose name the rebellion is called as Sepoy Mutiny. The rebellion had posed a challenge to company power in India and is thought to be India’s first war of independence: accessed at \url{http://en.wikipedia.org/wiki/Indian_Rebellion_of_1857} on 30th November 2008.
\textsuperscript{210} Ansari, Humayun, Op. Cit. p 60-61
\textsuperscript{211} Ibid.
\end{flushleft}
too naïve to realize motives and intentions behind services and help they received from missionaries. These services took various forms such as English lessons “for these ‘depraved’ mendicants to be helped to adapt to their new environment…standing surety for those convicted of petty crime, exercising influence with magistrates on behalf of those needing good character references, or meeting their ‘temporal’ needs in hospitals and prisons.”

Through extending their generous helping hand, as such, by pouring all the resources they had in their possession, what they ambitiously wanted to see from the beneficiaries was the realisation of “civilising and Christianising the lascars, especially ‘Mohammedans’ among them.” More importantly, the missionaries were ambitious enough, in the process, to make sure that “the beneficiaries were always reminded that their rescue from distress was the work of Jesus, to whom they ought to submit.”

But, for many a Muslims the situation was mostly not irresistible although it had been extremely tough for them to tackle. Not drifting away with the tide, many of them were extremely dead set against to the missionary message. Consequently, “all were denounced as infidels and spiritually ignorant.”

Quite a number of Arabs were also denounced as ‘deluded’ for not only being defiant in the face of the missionary but also maintaining persistently that salvation could be achieved through Islam. For some of them it was not easy at all to be on their guard against proselytising endeavour of the missionary. Some of them even had to pretend to be converted to Christianity. Ansari points out that “some of these

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212 Ibid.
213 Ibid.
214 Ibid. 61-62
215 Ibid. p. 62
216 Ibid.
Muslims, unable to meet Islamic obligations and reliant on charity, converted to Christianity out of what may well have been sheer necessity.\textsuperscript{217} After presenting a lengthy example, Ansari maintains that “not all those who claimed to be Christians had really converted. Some gave the impression of having converted to Christianity without actually doing so in order to earn a living.”\textsuperscript{218}

Looking at the issue of fake conversion taken up by some of these Muslims under the circumstances mentioned above, it seems that they might have resorted to this tactic with fare knowledge of their religion and its teachings. The possibility of this speculation for acting in such a manner cannot be underestimated because it might have been clear for them that resorting to such an approach under duress does not harm one’s belief in Islam according to Islamic legal rulings. Despite this it is not clear whether they knew of this religious rulings or not and consulted an Islamic scholar or not with regard to this matter for there is little evidence to prove it. These Muslims it appears must have been well aware of the seriousness of turning away from the religion. Otherwise, there seems to be little justification as to why they turned back to Islam denouncing Christianity either when they felt that they can stand on their own feet without depending any more on charities offered by missionaries or when their Christian wives died and no longer dependant on their help and support under whose compulsion they became Christians.\textsuperscript{219}

It is worth noting that it was against this hostile socio-religious background that 19\textsuperscript{th} C Muslims in Britain had become more conscious about their religion and their religious identity. The more they were aware of the

\textsuperscript{217} Ibid.
\textsuperscript{218} Ibid.
\textsuperscript{219} Ibid. p. 62-3
impending danger to their religion, the stronger they became committed to its teachings in their life. This has been the case with what to be noticed in the contemporary British Muslim experience as confirmed by recent empirical studies, a subject which will be discussed in the following chapters. Because of this religious consciousness coupled with the realisation of imminent danger posed towards their sheer existence as a religious group or a community, Muslims must have started, it seems, mapping strategies and plans hoping to find out how they can respond to this precarious situation. It is not unreasonable to see, therefore, that Muslims in the last quarter of the 19th C started forming embryonic communities, institutions, and centres consolidating communal as well as religious solidarity so that they could face any onslaught of oncoming challenges not just as individuals but as a collective body. If Muslims continued to live in East London localities such as Shadwell and Wapping in their own groups and enclaves representing the ‘Oriental quarter,’ it may be because they wanted to maintain some sort of control over their social as well as religious wellbeing and also “because of religious prohibitions and out of a sense of communal solidarity” as contended by Ansari.

It will not be wrong to assume, therefore, that what went wrong with the 18th C Muslims who lost their religious identity as a separate community as seen before might have served as a reminder for 19th C Muslims in Britain. The fate their predecessors had been destined to might have been still fresh in their mind. Therefore, there is little wonder that the latter must have thought that they should organise themselves in such a fashion that they do not repeat the same mistake

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220 Ibid. p. 68
221 Ibid.
and end up losing their identity. In order to safeguard themselves from the hostile environment, it must have appeared to them that the appropriate way to do this is to live as a group holding fast to their religious values and customs with a sense of communal cohesion. Although there is a sizable number of Muslims living at present in Wapping and Shadwell, it is unclear whether they are the offspring of those who lived in 19th C Britain, another area of study worth researching. Parallel to the existence of these 19th C Muslims, another group of Muslims settled away from London. They settled in Manchester, and did well to a large degree as a religious community.

Arab merchants, who had made a permanent presence in Manchester life in the second half of 19th C, had “created a separate enclave in which they successfully retained some of the key features of their culture, language, customs, dress, diet and religion.” Moreover, in their daily rituals and religious observances they had always ensured that they did the right things as far as their religious life was concerned and for that matter, they did not even bother going out of their way to seek religious guidance from a right person even if that religious scholar was to be found living abroad. Illustrating an incident, Ansari mentions that “these Moroccans seemed to adhere strictly to their Muslim religious practices: for example, before arrangements could be made for halāl meat, a ruling was requested regarding eating of meat slaughtered by non-Muslims from the Islamic reformer Muhammad Abduh, and this allowed for kosher meat to be purchased from a Jewish butcher.”

222 Ibid. p. 70
223 Kosher meat is that confirms to the regulations of Jewish religion which is similar to the ritually slaughtered meat in Islam which is called halal but different systems are followed in both religions
What it appears from the behaviour these Muslim displayed in conducting their day to day life in conformity to religious guidance is that, firstly they were careful to ensure that their daily rituals and religious observances were rightly guided by Islam and its teachings so that they may be prosperous in this world and in the Hereafter according to what they might have understood from Islamic teachings as elaborated in the Qurān and the Sunnah. Secondly, it shows the central role they had given to religion in their life style and the sense of priority and preference they had offered to religious guidance over any other considerations in their life. Lastly, it appears that, due to their affluent position as merchants, they were able to safeguard themselves and had managed to be on their guard against any impending dangers threatened their religiosity. Gleaning through the available writings with regard to their social life reported by Ansari and Little, one cannot easily notice whether there was any sort of challenges they had to encounter as faced by the lascars such as poor economic condition resulted in their being dependent on charities offered by missionaries and consequently, the repercussion of proselytising manoeuvre as cited before.

Yet, the non-Muslim social surrounding they encountered in Manchester and challenges it posed were little less strong to keep them out of danger although they managed to retain some sort of distinctions in their religious personality as noted before. Particularly, with the coming of their second generation who adapted English as their first language, their control over their younger generation in slaughtering animals. Muslim jurists are generally of the opinion that kosher is permissible for Muslims provided it meets the regulations of Jewish religion.

Ibid: “One of the gentlemen undertook to see that the meat was provided in accordance with the Mohammedan rites. A butcher had the monopoly of supplying Welsh lamb, having in his yard a small abattoir, and each morning this gentleman proceeded with the killing of the required number of sheep. This same gentleman also led them to prayer every Friday, the service of which was held in a house in Parkfield Street”.
began to lose and had no option but to allow them, as a result, to have “some outward adjustments to mainstream English life.”225 Their appearance in terms of dress and hair had thus changed to the point that they were viewed back in Morocco as Christians and some of them who settled permanently even anglicised their names.226 However, their adaptation to the new social environment was kept to the minimum as their engagement with the British society was selective “with little social mixing involved.”227

The life pattern of 19th C Muslims in Manchester as seen before contains an important lesson to be learned by any future Muslim minorities to come in the British history. That is to say, by opting for a non-participatory approach when living in Manchester they might have thought, it appears that they would be able to retain a certain degree of security for their religious identity and exercise a measure of control over their spiritual wellbeing. But, it is not unreasonable to argue that, by displaying this non-engaging attitude thereby contributing less to the wider society, they had more or less contributed indirectly to give Islam a negative image as an inactive, unproductive, and reactionary system which has nothing to offer to the society at large on one hand and had given the wider society, on the other, an ample opportunity to view Islam as another religion which falls under the category of faiths typically defined by secularism as systems that have no say in the affairs of practical life.

It is undeniable, of course, that they were caught up in the middle of a stormy social setting as noted before. Indeed, they were on the horns of a dilemma which left them with no option but either to surrender to the prevailing social

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225 Ibid. p. 71
226 Ibid.
227 Ibid.
setting by fully submitting to the social, economic, and political forces through assimilating into the wider society disregarding religion, culture, and identity or to stay behind without integrating into the society opting for a defensive strategy so that they can be on their guard against everything which was considered by them un-Islamic which is what they had really done in the process of their settlement in 19th C Britain. By going for the second option, it might have appeared for them that it was the lesser of the two evils with regard to their spiritual betterment.

Moreover, it might have also appeared for them that the best possible safest way to attain salvation in the Hereafter was to isolate themselves from the non-Muslim society as far as possible: an approach still at play in most of the contemporary Muslim minority communities throughout the Western world including Britain, which would be discussed in detail in the following chapters with reference to issues and challenges involved in their contemporary experience.

However, the question arises as to what extent their approach was compatible with Islamic teachings as a whole which, particularly, revolve around the responsibility of Muslims as individuals and communities towards humanity as bearers of final divine guidance which emphasises the importance of their being a role model towards and witness to humankind. But, it is unclear, due to lack of evidence, as to how far they were aware of this responsibility and to what extent they had made effort to play their expected role even if they were aware of it. Yes, one should not forget, of course, that their minority situation with all its negative impacts and far-reaching implications on their living condition as a community might have put them off their duty. It is not unreasonable to imagine, one can argue, that the sheer impracticability of realising Islam as a way of life in
a non-Muslim social setting had been beyond their capacity and was not something under their control even if they were fully aware of their expected responsibility.

Hence, it is unacceptable to blame them for what they were not responsible for. Although this argument has its own validity and sounds reasonable given the exact social, political, and economic situation of the 19th C Muslim community of Manchester, the image created in the hearts and minds of the British public about Islam and its teachings by remaining aloof from the wider society must have been exceptionally distorted in addition to what British public had already perceived about Islam and Muslims through prejudices and negative images as contended by Ansari. Had they approached the situation more positively with a farsighted future vision – safeguarding the religious identity without cocooning from the real world and interacting positively with the wider society without assimilating in it – they could have set a pioneering example to be emulated by future Muslim generations to come in a secular non-Muslim social setting.

Therefore, it appears, had they been rightly guided through a clear vision, as noted above, with a long term strategy without confining themselves only to seek temporary Islamic legal solutions as they really did with the Egyptian reformer Muhammad Abduhu regarding their dietary issues as mentioned above, they would have rightly accomplished their expected role as required by their religion. In order to realise this vision, it seems, it requires a sound sophisticated Islamic approach based on a meticulously studied method which was what they had been devoid of and is what this study seeks to suggest for the betterment of
contemporary as well as future Muslim minorities living in non-Muslim societies, particularly in Britain.

The way forward for Muslim minorities for realising this mission in their real life is to represent Islam with an appropriate approach and a presentable method relevant to the context they live in, as explained before, through engaging positively with the wider society while safeguarding their religious identity which is undoubtedly not without issues and challenges, a subject which will be discussed in detail in the following chapter.

4.1.3.1 Abdullah Quilliam (1856-1932) – as Sheikh Al- Islam and the Founder of Liverpool Mosque and Institute

Apart from embryonic communities which sprang up in 19th C Britain like the ones mentioned above, community centres, institutes, and mosques also put down roots in some of the major cities like London, Liverpool, and Woking. In this sense, 19th C Britain has seen another landmark turning point in its interaction with Islam and Muslims with the conversion of William Henry Quilliam to Islam in 1887 CE.228 His coming into Islam has resulted in what is called institutionalization of Islam in Britain. From mere visitors and sojourns to the British Isles and transient settlers at some point as noted before, Muslims under the leadership of Quilliam were able to establish themselves as a community and Islam had thus become institutionalized in Britain for the first time. The striking feature of Quilliam’s Muslim community is the indigenousness of its nature unlike the settlers who were migrants. In this sense, Quilliam’s conversion had been a remarkable initiative in introducing Islam as an institution.

228 Ibid. p. 82; Nielsen, J., Op. Cit. p. 5
Sojourning to Southern France as a holiday maker and crossing over to Morocco and Algeria as a visitor, Quilliam became a Muslim through learning Islam and interacting with Muslims.\textsuperscript{229} Having become Abdullah Quilliam and returned to his hometown: Liverpool in 1889 CE, he championed the cause of Islam by converting hundreds into his religion.\textsuperscript{230} He was honoured by the Sultan of Turkey: Sultan Abdul Hamid II as ‘Shaykh-ul-Islam’\textsuperscript{231} (Grand Scholar of Islam) of the United Kingdom in 1894. Moreover, the Sultan of Afghanistan sent him a gift of £2,500, honouring him for his services to Islam.\textsuperscript{232}

Pioneering the institutionalisation of Islam in Britain, he had succeeded in establishing a mosque and an institute. Fighting a long battle for nearly two decades to establish Islam and a community which holds fast to it in Liverpool, his mission came to an end with his departure from Britain in 1908.\textsuperscript{233} After going into self-exile in a country outside Britain for some time in order to keep himself away from bitter politics and hostilities of the early 20\textsuperscript{th} C British society, he returned to Britain and died in London in 1932.

\textbf{4.1.3.2 Abdullah Quilliam as “Sheikh al-Islam”}

Quilliam’s multifaceted struggle which longed for more than two decades since 1887 to 1908 as described before has been unique in its kind and unprecedented ever since the presence of Islam in Britain since the 8\textsuperscript{th} century. He might be the only personality who has been exceptionally strong in his faith and practiced as a Muslim since Islam’s introduction in Britain for nearly a

\textsuperscript{229} Nielsen, J., Op. Cit. p. 5
\textsuperscript{231} Nielsen, J., Op. Cit. p. 5
\textsuperscript{232} Ansari, Humayun, Op. Cit. p. 123
\textsuperscript{233} Nielsen, J., Op. Cit. p. 5
millennium comparing to early Muslim settlers of 18th C Britain, who lost their identity and disappeared from the landscape of the British society. As a revert to Islam he was not only endeavouring to be a role model for Islam in his individual level but also making effort to guide his fellow Muslims towards Islam and its teachings. What attracts us, in this respect, to study his contribution to Islam and Muslims in Britain during his life time is his title as ‘Sheikh ul-Islam of the British Isles’, a subject matter deserves to be studied and scrutinised within the scope of the current study.

Does this title inform us that Quilliam was appointed by the Ottoman Sultan as a religious scholar or a ‘mufti’ who is capable enough to guide Muslims in their religious matters? Did he see himself as a competent authority in issuing religious verdict (fatwa) on issues that matter Muslims in their day today life? More precisely, did he consider himself as a ālim (religious scholar of Islam) whose scholarly guidance was sought after quite often by Muslim masses at times of their need for such assistance so that they can be guided through Islamic teachings?

What is apparent from Quilliam’s role as a champion of Islam in 19th C Britain is, as contended by Birt,234 that he had considered himself as a Mufti who is capable enough to issue religious verdicts on issues concerned Islam and Muslims. He had presented himself as a competent authority in Islam and manifested him as someone who can give fatwas.235 In one of his rulings (fatwa), precisely on the issue of British invasion of Sudan in 1896,236 the terms like

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235 Ibid.
236 He was a vocal critic of British interference in Sudan.
‘fetva’, ‘proclamation’, and ‘declaration’ were used by him. Undoubtedly, it was his capacity as a ālim\textsuperscript{237} that might have convinced him to be capable enough to give religious verdict on such issues. Moreover, it can be said that it was his sense of religious conviction, rather than any thing else, that could have prompted him to act as an alim who is responsible for dealing with such issues so that people who seek his guidance can be educated according to their religion.

It seems that the role he had played as a Mufti was not conditional on receiving such title as Sheikh-ul-Islam from the Ottoman Sultan or a designation which brings material gaining, rather it was his own initiative and commitment to his religion. His own description of the mission he had undertaken under this title underlies what was his real motivation to embark upon such a task. When he wrote to the Lord Mayor of Liverpool in 1903 he emphasised that: “I do not officially represent Turkey in Liverpool, but I do represent the Muslim faith, and am the Sheikh of the Mussulmans in the British Isles. I do not receive one penny from the Turkish government.”\textsuperscript{238}

It is true, of course, that in Friday sermons he never failed to mention Sultan Abdul Hamid’s name and his institute held services according to the Hanafi school which is an indication that he was following the Ottoman method of running the affairs of other Muslim communities elsewhere in the Empire, including religious functions. Yet, it does not indicate anything other than what it appears to be his own approach and initiative in conducting his own affairs by following a certain system in leading his community in Liverpool. Although this

\textsuperscript{237}He had studied Islam in Morocco for two years and in 1893 the Sultan of Morocco “had conferred on him an honorary alimiyya (of fez). The title came accompanied by a robe and a turban” Yaqub Zaki, The Shadow of the Crescent: Islam in Britain, 1770-1918, Ch. 23, forthcoming, as quoted by Yahya Birt, Ibid.

\textsuperscript{238}The Crescent, XXII, No. 565, 11\textsuperscript{th} November, 1903, 309
would show his support and allegiance to Ottoman caliph as he had shown his
loyalty to him by being in his side in time of political crisis as mentioned before,
particularly being critical of the British position in political matters concerned
with Muslims under the caliphate, which will be highlighted under the following
title, yet it can not be interpreted as a politically motivated strategy used by both
in order to achieve certain political gains, rather it was a matter of principle for
him, which he exercised unashamedly out of conviction and loyalty to his religion
as well as to his fellow Muslims, which can be described as his worldview: pan
Islamism. This attitude of him is quite phenomenal in his way of seeing matters
related to Islam and Muslims across the world during his time.

What is obvious from the above discussion is “that Quilliam”, as
contended by Birt, “did see the honorary title of Sheikh-ul-Islam as a serious
means by which to found Islam in Britain and to create a permanent office. This
non-stipendiary office, as Quilliam saw it, included the duties of legal guidance,
preaching and the mobilisation of the Muslim Diasporas in support of the
Ottoman caliph. In that sense the Ottomans not only bestowed Quilliam with
symbolic legitimacy but with a model of religious institutionalisation in Britain
and a pan-Islamism...”\textsuperscript{239} What is quite unclear in this connection, though, is the
decline and the discontinuation of Quilliam’s effort. As noted by Birt, although
Quilliam ‘groomed’ one of his sons, Ahmad, as his successor,\textsuperscript{240} the time proved
the opposite bringing all his efforts to an end. With Quilliam’s departure overseas
in 1908, as mentioned before, “the thriving Muslim community of Liverpool,
lacking the direction and determination of its founder, declined sharply.

\begin{footnotes}
\item[239] Birt, Yahya, Op.Cit.
\item[240] Ibid.
\end{footnotes}
Nevertheless, there is evidence that a community of about 200 survived for some years and continued to conduct its business quietly and unostentatiously with the Liverpool Mosque and Institute (LMI) as its institutional focus.241

4.1.3.3 Abdullah Quilliam as the Founder of Liverpool Mosque and Institute

Being a solicitor by profession and using the inborn talents he was bestowed with, he began holding lectures on Islam and its teachings and soon found himself in a position of setting up the Liverpool Mosque and Institute (LMI) in Brougham Terrace in West Derby Road in 1889.242 “Within a few years these…premises were enlarged, and by the mid-1890s the LMI consisted of a mosque, a madrassa, a library and reading room, a printing press, a museum, a boys’ boarding- and day-school, a girls’ day-school, a hostel for Muslims and an office for a literary society.”243 Widening the circle of interaction with his locality and taking the message of Islam further to the wider society, he set up a weekly Debating and Literary Society which attracted many non-Muslims and brought, as a result, a hundred and fifty non-Muslims into Islam by 1896.244

He also published two journals: The Crescent245 and The Islamic World,246 which covered unfailingly wide range of political and social issues concerning Islam and Muslims, and were circulated locally, nationally, and even internationally, and attracted, as a result, a wide range of readership through

245 A journal of eight pages was first published in 1893 and continued to appear weekly till 1908: Ansari, Humayun, Op. Cit. p. 122
246 A thirty two page monthly journal: Ibid.
subscriptions from all over the world “including India, Turkey, China, the United States, Egypt, Morocco, Switzerland, West Africa, New Zealand, Germany, Afghanistan, Iran, Syria, Australia and Canada.”  

Furthermore, he wrote two books: a book of Muslim hymns in English and ‘the faith of Islam’. The latter was published in 1899 and was translated into 13 languages.

Having pioneered the example of institutionalising Islam in Britain as noted above, Quilliam’s timing of this endeavour was largely untimely, as contended by Ansari, as the political mood in Britain at the time was extremely tense because of the ongoing political crisis with Sudan. He had to face, therefore, severe opposition throughout his mission and was subjected to harsh criticism from both public as well as press because of his stance on the British invasion of Sudan as mentioned above. Generally speaking, the overall socio-political situation during this time was very much inappropriate for an initiative like the one Quilliam wanted to take for the wellbeing of his community. Even “the very mention of Islam in Britain was like a red rag to a bull” Exacerbating the already fractured relationship between him and the public, his landlord of the property which he was using as a mosque forced him to vacate the premises and made it clear that he “would not have any person occupying his premises who did not believe and preach the saving efficacy of Christ Jesus’ blood” This is another example of re-emergence of religious factor in the socio-political spectrum of 19th C Britain. This makes clear that not only the class and colour that

247 Ibid. p. 123  
250 Ibid. p. 122  
251 Ibid.
were more strongly at play in perceiving Muslims by the 19th C British public, but also the religious factor too was as strong as the other ones.

4.1.4 Dr. G.W. Leitner – Woking Mosque

With the fall of Quilliam’s Muslim Institute in Liverpool, another mission came into being under the patronage of Dr. G.W. Leitner: Hungarian orientalist and the ex-registrar of the University of Punjab 252 “who had already established in 1889 the first purpose built-mosque”253 in Woking254. The purpose of the mosque was very much personal and limited as it was not equally accessible by all Muslims.255 Only those who had accepted the restrictions stipulated by him were allowed to enter his mosque. Whom these conditions were targeted at is not clear. Nevertheless, his attitude, according to Ansari, towards South Asian Muslims, for instance, “was patronising.”256 Although no reason has been given by Ansari as to why Leitner had seen those Muslims as such, Leitners’s purpose, as contended by Ansari, for building the mosque was somewhat discriminative and it was, therefore, intended “to provide a place where Muslims of ‘good family’ could practice their faith.”257

While it is again not clear as to why someone should be a member of a ‘good family’ in order for him or her to be permitted to enter this mosque since there is no such categorisation has been celebrated in Islam neither in the society nor in the mosque, it is also equally unclear whether any particular group of

256 Ibid
257 Ibid.
Muslims, precisely South Asian Muslims towards whom his attitude ‘was patronising’, were targeted by this self-classified grouping as ‘good family’.

Was that perceived qualification coined by Leitner with regard to ‘good family’, based on class factor or social status or wealth and fame or political influence and power is not known, an aspect beyond the scope of the current study. Nevertheless, what becomes clear though in this regard, as contended by Ansari, is a number of limitations put in place by him when he established this mosque as to how the worshipping premise should be utilised. Hence, the worshipping place, while should be a space where Muslims of ‘good family’ could practice their faith, should not be used at the same time, according to Leitner, “for the purposes of converting Englishmen to Islam, or to introduce new doctrines into that faith, or to promote religious and political propaganda, or to celebrate the generally unhappy marriages between Mohommedans and English women.”

Whether there can be any link between his classification of Muslims as ‘good family’ including the conditions stipulated by him and his reservation about South Asian Muslims is yet to be uncovered. Moreover, it is equally unclear whether these functional conditions of the mosque had been just a pretence hatched by him for the exclusion of the South Asian Muslims from the mosque under the category of ‘good family’. It is because, there is little evidence to prove, in the event of their access to the mosque, that they would exploit it for the ‘allegedly purposes’ which were deemed by Leitner as inappropriate. The matter is still thickly clouded and the missing link looms largely unidentified as there is hardly any evidence to prove to this effect.

258 The Crescent, 9 December, 1893.
It appears that Leitner might have thought that he should be more selective in his approach towards the usage of the mosque: whom he should allow to use it and how it should be used. It seems perhaps he might have been more cautious about not to face what Quilliam had encountered in Liverpool and not to endanger his mission while witnessing all the negative consequences resulted in Quilliam’s approach as mentioned before or may be he was rather pre-cautious about the way the mosque should be utilised by the users if it was to function according to his wishes and plans. He did not want to leave the options open as far as the function of the mosque is concerned, particularly with the arrival of Muslim immigrants in London, especially from South Asia who had just become the subjects of the British Empire after the 1857 mutiny, whom he might have considered to be rather politicised in their movements and activities. It might be the reason why he had laid down that the place should not be used ‘to promote religious and political propaganda’. If it is the case, one should not be surprised why, as contended by Ansari, “his conditions for the use of the Mosque did not go unchallenged by London-based Muslim societies, mainly of students from Indian subcontinent.”

In fact, a group of South Asian Muslims took to the fore challenging the status quo - with regard to the purpose as well as the function of the mosque - under the leadership of Khwaja Kamaluddin, a barrister from Lahore, who established the Woking Muslim Mission on the same site in 1912 after it remained deserted for many years after the death of Leitner in 1899. From then on, the place had become the “active centre” for many South Asian Muslims who arrived in Britain at the turn of the 20th century.

259 Ansari, Humayun, Op. Cit. p. 126
260 Ibid
Among the leading lights of the Mission, besides Khwaja Kamaluddin, were Abdullah Yūsuf Ali and Syed Ameer Ali. As the founder of the Mission, Khwaja Kamaluddin, unlike Leitner, had opened the doors of his centre for all Muslims from all backgrounds and affiliations although he was affiliated to the Ahmadiyah movement. One of the main objectives they intended to initiate through the Mission, according to Ansari, “was to build a viable Muslim community in Britain, partly at least through conversion…” In order to achieve this aim, they worked out a number of plans and strategies, and to disseminate their ideas and vision, they started a monthly journal called Muslim India and Islamic Review in 1913.

One of the plans they persistently believed to carry out was to convert non-Muslims to Islam, an idea calculatingly put aside by Leitner when he founded the Woking Mosque and thus, one of his conditions for the function of the Mosque was thrown out of the window by his successors. This initiation by the new custodians of the centre unfailingly reinforces the speculations made earlier on the supposed reason why Leitner was so cautious about whom he should allow to access his Mosque or whom he saw as fit to enter the premises of his Mosque or more precisely, whom he considered to be members of ‘good family’. It will

262 Ahmadiyah is derived from its founder’s name Mirza Ghulam Ahmad (d. 1908). The movement which begun in 1889 in Qadiyan is also called “Qadriyani” after its birth place in Punjab. The followers of this sect are called Ahmadis or Qadiyanees. The main doctrine of this sect is to claim the finality of the prophethood to Mirza Ghulam Ahmad negating the finality of the Prophet Muhammad, which is considered by the mainstream Islamic thought based on the Qur’ān and the Sunnah as rejection of one of the fundamentals of Islamic belief system and thus, a person who believes so is considered to be a heretic. Following Mirza’s death in 1908, the movement split into two segments: the Sadr-Anjuman-i-Ahmadiya (Chief Ahmadiya Society) and the Anjuman Isha’at-i-Islam (Society of the Spread of Islam) under the leadership of Muhammad Ali (one of the most important scholars of Ahmadiya and the translator of the Qur’ān) and Khwaja Kamaluddin; see M.M. Ally, History of Muslims in Britain 1850 – 1980, Unpubl. M.A. dissertation, University of Birmingham, 1981, pp. 67-69
263 Ansari, Humayun, Op. Cit. p. 129

As its organ, Woking Muslim Mission started its journal with this name. In the following year the title was changed to Islamic Review and Muslim India and from 1921 it was shortened to Islamic Review. Accessed at http://www.wokingmuslim.org/work/islamic-review/index.htm on 17th August 2008
not be incorrect to speculate that Leitner, when he laid down the rules and conditions for the function of his mosque, might have had South Asian Muslims in his mind and was quite right to a large extent in his selective approach towards his worshipping place in terms of whom he should let in and what it should be used for.

Being the hub of Muslim activities in London during and after the First World War, Woking Mosque attracted more and more Muslims who arrived in the capital from all parts of the Muslim world. With the increase in the number of London’s Muslim population, the need for an Islamic centre was strongly felt by the leading members of the Mosque: Lord Headley, Kamaluddin, and syed Ameer Ali who in turn set up a trust fund to finance construction of the proposed centre. In 1926, as a first step, “three houses in Stepney were converted into a mosque, then in 1928 the Nizamiah Mosque Trust was set up and a site in Kensington was bought with the help of a large donation—some £60,000—from the Nizam of Hyderabad. In 1930 plans for a complex were announced, and the foundation-stone was laid in 1937.”

But the implementation of the proposed plans had suffered a setback and did not go according to the expectations of the trustees as the leading lights: “Headley and Kamaluddin had died in the early 1930s.” The project, therefore, had to be shouldered by a new committee who “severed its ties with the Ahmadiyyas” as its “status as an Islamic movement was increasingly contested.” From then on, the Mosque with a new face had managed to remain as a centre for Muslims from diverse background as ever before until well after

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266 Ansari, Humayun, Op. Cit. p. 134
268 Ibid.
the Second World War. Its influence and significance, however, dropped considerably after the war despite its organ *The Islamic Review* had been on the run fulfilling its job: disseminating information about Islam.\(^{269}\)

The question arises as to what extent that Leitner’s perceived restrictions on the way his Mosque should be run including his idea of ‘good family’ can be accommodated within the precepts of Islam? How did his successors manage to put forward their plans and strategies to the British society? What kind of activities and approaches did they put into practice in order to implement their plans? These and similar questions would be addressed in the following section to see how far they are relevant in today’s British socio-political context and whether there are lessons to be learned in the making of the Muslim community in the contemporary British context.

### 4.1.5 Central London Mosque

While the Woking Mission and its activities were declining and its influence was fading away, “The East London Mosque was inaugurated in August 1941.”\(^{270}\) Paralleled to this project, an idea for an Islamic Cultural Centre in the capital, which later became known as the Central London Mosque in Regent’s Park took shape and established in 1944\(^{271}\) with the help and “support from several Muslim countries.”\(^{272}\) Ever since its establishment, which over a half a century now, it has largely succeeded in gaining reputation and recognition as the “central religious institution of the diverse Muslim communities in Britain.”\(^{273}\)

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\(^{269}\) Ansari, Humayun, Op. Cit. p. 134
\(^{270}\) Ibid. p. 134
\(^{272}\) Ansari, Humayun, Op. Cit. p. 134
\(^{273}\) Ibid
Between the interwar periods a number of delegations came to visit Britain and a few such as the Saudi Arabian and Egyptian formed the diplomatic corps of the Muslim states to the courts of St. James. There were also an increased number of Muslim students, businessmen, and workers travelled to London during this period. As many of these Muslims found it was inconvenient to travel to Woking mosque for their congregational prayers and, therefore, in want of a place of their own for the congregation, the need for a Central Mosque in London thus became inevitable and thus Central London Mosque in Regent’s Park found its way to the existence in 1944.

Being named as London Islamic Cultural Centre in 1944, the mosque took its fullest shape only in 1977 at a cost of £6.5 million and it was privileged by having an administrative wing in 1994 in its 50th anniversary since its inception.

The main purposes of the Mosque and the Cultural Centre were to organise Islamic cultural activities in the United Kingdom, to establish an institution which would guide the Muslim community in its religious and cultural requirement, to provide information to non-Muslims on Islamic history, culture, and literature.

According to its website, The Islamic Cultural Centre’s central role is to provide facilities for daily prayers, to provide education to children in Central London and surrounding areas, and to extend helping hand to other mosques and Islamic organisations to establish themselves in order to serve their respective communities. Its overall activities are, as the website states, providing library

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274 Islamic Review, Vol. 35, n. 6, p. 19

facilities to its users, facilitating religious services, educational, social, and health services for the Muslim community.

As for its religious services, it mainly provides guidance through a committee of religious scholars whose primary responsibility is to resolve religious issues put forward to them by issuing *fatwas*. There is little information about what kind of issues presented to the fatwa committee and how they have been resolved. Yet, from its media section which contains some information regarding its press release one can gauge its standpoint on issues related to day-to-day issues of the wider society as well as the Muslim community. Particularly, its press release condemning 7 July 2005 bomb attack in London, for instance, can be seen as its official position regarding the tragic incident and as a positive step forward in rejecting terrorism in its all forms.

The Centre also runs a supplementary weekend school called al-Qalam which teaches Arabic and Islamic courses to children as well as adults. Its social services section provides matrimonial services through facilitating and conducting Islamic marriage ceremonies by its appointed imams. Its academic contribution to Islamic studies can be gauged by its quarterly journal: Islamic Quarterly which has been publishing since 1954 to date.

It appears that the Centre has been largely successful in its neutrality as “the representative of the entire British Muslim community in all its diversity…” In so doing, as contended by Ansari, the Centre has been maintaining a non-partisan low-key approach to Muslim issues. “It has been able do this by offering its resources and its facilities to all Muslim groups as well as

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277 Islamic legal solutions provided by a competent Islamic scholar or a jurist on a given issue.
278 Ansari, Humayun, Op. Cit. p. 341
giving space to people engaged in dynamic debates right across the theological spectrum.  

While the Centre and the Central Mosque have both together been serving many expatriate Muslim communities living in the capital, the local Arab communities concentrated around Edgware Road have been the direct beneficiaries of the services and facilities provided by the Centre and the Mosque. According to the Centre’s website the weekly attendees of the Mosque and the centre fluctuate between 8,000 and 10,000 and they number 20,000 for two *Eid* festivals prayers.

It appears that the overall picture of the London Central Mosque and the Islamic Cultural Centre as seen above largely demonstrates its suitability to be emulated by other mosques and centres in Britain at a time when sectarianism and sectarian influences tend to tear the British Muslim community apart. Comparing to mosques and centres discussed in this chapter, although they are few, and their continuity in servicing Muslim communities in Britain, the London Central Mosque together with its sister wing has managed to survive the challenges which came in its way and to stand continuously with strength and vigour as it is today. The underlining reason behind this apparent success may be it appears because of the persistent adherence to the principle of ‘unity in diversity’ held by the Mosque administration, which lacks in many of the mosques, institutions, and centres around the country.

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279 Ibid;
280 *Eid* is Annual Muslim festival. One falls after fasting the month of Ramadan and the other one is celebrated in the 10th day of the 12th month of Islamic calendar which is called *dhul hijjah*: month of pilgrimage to Makkah.
4.1.6 Sheikh Abdullah Ali al-Hakimi and the Alawi Tarīqā

With the arrival of Sheikh Abdullah al–Hakimi in Britain in 1936, Islam has seen another development in the form of Muslim organisation in England and Wales. Representing Alawi Tarīqā al-Hakimi endeavoured to organise the Muslim community in South Shields and Cardiff on the basis of spiritual order with an orientation to Alawi Tariqā. The timing of his arrival in Britain has coincided with a rising tendency towards formation of embryonic Muslim communities in both of these port cities. Having married to local English women, Yemeni Muslim sailors have begun to consolidate their social status with a better position of economic stability after the First World War. Yet, it was not without colour, racial, and employment issues as usually found during interwar period as contended by Little and Ansari. The need for a formation of a community was immensely felt by the community. Fulfilling this timely need al-Hakimi was appointed by Sheikh al-Alawi: the founder of the order “founded the Alawi order in that year (1936) and called it the Zaouia Islamia Allawouia Religious Society of the United Kingdom.”

The organisation’s main concern was how to put a stop to the ongoing problem of moving away of many Muslim communities of Britain’s sea ports.

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286 According to Little, national strike of seamen that took place in 1911 brought some benefit to Muslim seamen in the form of economic security, although their number reduced to 9.000 by 1912 as a result of the government’s acceptance of the trade union demand calling for a halt to cheap labour provisions: Little, K., Op. Cit. pp. 57-58; Ansari, Humayun, Op. Cit. p. 136
from their religious and cultural roots. Due to mixed marriages which were not conducted according to Muslim law\(^{288}\) as they mostly married British women\(^{289}\) and the concerns related to the education of young children in a non-Muslim environment while most of the seamen’s wives remained in their own religion,\(^{290}\) a proper religious guidance to safeguard the Muslim personality of the community was inevitably a timely need. It is not to deny, however, that some of these British women did in due course become Muslims. Nielsen maintains that they “had usually become Muslims.”\(^{291}\) This emerging social situation gave al-Hakimi the impetus to organise the religious life of the Muslim communities of the sea ports of Cardiff and South Shields where Yemeni and Somali communities lived with their English wives and children.\(^{292}\)

As a result of al-Hakimi’s strenuous effort, his Zaouia, as noted by Ansari, “was notably successful in institutionalising the religious activities of the Yemeni and Somali Muslim communities in England and Wales.”\(^{293}\) The Zaouia mainly focused on community building activities such as educating young Muslims; publishing Islamic literature; “initiating social reform among the Muslims in Britain, strengthening cultural and social bonds between Muslims and non-Muslims; strengthening communications between Muslims in Britain outside;

\(^{288}\) In South Shields, no marriages appear to have been conducted according to Muslim law till the 1930s and the marriage procedures were held in local register offices. Also marriage ceremonies and celebrations were held in both local Anglican and Roman Catholic Churches: Ansari, Humayun, Op. Cit. p. 135

\(^{289}\) Nielsen, J., Op. Cit. p. 4

\(^{290}\) Collins, S.F., Coloured Minorities in Britain: Studies in Britain Race Relations Based on African, West Indian and Asiatic Immigrants, Lutterworth Press, London, 1957, pp. 160-64; For both Muslim male and female, the Qur’ān always prefers marriage to a Muslim, particularly for woman. However as for man, it has allowed to marry to Christian and Jew women as they are from among the People of Book (ahl al-Kitab). The Qur’ān says, “Lawful onto you in marriage are not only chaste women who are believers, but chaste women from among the People of the Book” (Maida, verse 6). This subject will be given some detail in the following chapter.

\(^{291}\) Nielsen, J., Op. Cit. p. 4

\(^{292}\) Ansari, Humayun, Op. Cit. p. 138

\(^{293}\) Ibid.
exchanging Islamic knowledge and sending groups of students abroad to study in Islamic universities...”

Little has observed that behind all its activities, the Zaouia’s stimulus was “essentially religious and social rather than political in its interest.”

According to Collins, some Muslims in Tyneside dissociated themselves from the Sufi order criticising the “Alawaians as being more a political than a religious group”. Although Collins did little note why the group was criticised as such and who were behind this criticism, it appears, nevertheless, that the sectarian influences might have been the source of such disparagement. Apparently, there was some sectarianism in the community as contended by Little who has given a vivid account of this damaging social phenomenon: “There is an Arab club, and a Somali club. When a general meeting of the community as a whole is called, each club sends its own representatives. The Somalis are said to be particularly “independent”, and do not seem to have affiliated completely with any other section.”

However, it is difficult to ascertain, despite this report with regard to social gap between Arabs who were predominantly Yemenis: Alawaians and Somalis who were said to be “independent”, that Somalis were behind this dissatisfaction towards the order as there is hardly any evidence to suggest to this effect. However, the chances for the emergence of such accusations in similar social circumstances where sectarianism is the predominant feature is not something unpredictable and therefore, can not be completely ruled out from its occurrence. But, whether the criticism came from Somalis is still to be proved. Despite this ambiguity as regards to the exact source of such dissatisfaction, it seems that the

294 Ibid.
296 Ibid. footnote, p. 133
socio-political situation that arose in the community in 1930s with the arrival of Sheikh al-Hakimi in Cardiff, had given some space for such divisions to put down roots in the community.

Having successfully represented the Muslim community in Tyneside in the local authorities winning a number of social benefits for the community in early thirties, al-Hakimi, while representing it in the local government in Cardiff as its religious leader via mediating in matters of social and economic concerns, also became involved in political issues after he moved to Cardiff. More precisely, he was actively involved in political discussions by organising conferences on “happenings in Muslim countries, some of them colonial territories.” His involvement in politics, although it was initially seen by the community as serving their interests, gradually became disenchanted by an increasing number of community members, not necessarily Somalis, thereby creating conflicts among rival groups. Especially his “active anti-Yemenite attitude” had been considered by some community members as “detrimental to the well-being of the Muslim community in Britain.” It is not difficult, therefore, to assume that this unhealthy situation might have given rise to the emergence of such divisions in the community. The underlying cause behind this dissatisfaction expressed by some part of the community, it seems, was their disagreement in finding an

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297 Through negotiations with the Municipal Council he managed to acquire a section of the cemetery for Muslims in Tyneside: Collins, S.F., Coloured Minorities in Britain: Studies in Britain Race Relations Based on African, West Indian and Asiatic Immigrants, Op. Cit. p. 178
298 Ibid. pp. 222-23
299 Ibid. p. 223
300 According to Collins, “the British government and Yemenite government happened to be on friendly terms at the time”: Ibid.
appropriate way to reconcile between religious and political interests of the community.\textsuperscript{301}

Given this socio-political phenomenon, it is not unreasonable to assume that the discontent within the community might have arisen from within the Yemeni community itself for disputes over political issues rather than sectarian divisions gained ground in the community between Somalis and Yemenis as mentioned before. Hence, it is not inappropriate to suggest that the chances for the materialization of such dissatisfaction within some section of the community including Somalis is due to the community’s failure in finding a balance approach between religious and political interests were far greater than the sectarianism itself although the role which can be played by sectarianism in creating such divisions in the community can not be underestimated. As contended by Collins, this division in the community had far reaching consequences and had eventually led it to its fateful split. Consequently, “the sheikh was forced to give up his position and he left the country”\textsuperscript{302} as a result of the failed attempt by some members of the Cardiff Muslim community in persuading him to confine himself only to religious leadership in exclusion of political activities, but he “was too deeply involved in his political commitments to relinquish his political activities.”\textsuperscript{303}

Drawing on the above discussion, one may extract some lessons in relevance to the scope of the current study which can throw some light on how the contemporary British Muslim minority can benefit from the experience lived by their ancestors as minorities in a non-Muslim social setting.

\begin{footnotes}
\item[301] Ibid. p. 222
\item[302] Ibid. p. 223
\item[303] Ibid.
\end{footnotes}
Firstly, there seems to be certain similarities between the experience of Quilliam and al-Hakimi; both were largely successful in institutionalising Islam in Britain; aims and objectives of both and the means to achieve them were more or less matching although it is not clear whether Quilliam’s revert to Islam was caused by al-Alawi sufi order when he was travelling in Algeria as al-Hakimi himself was attracted towards Alawiyya tarīqā. Like Quilliam’s LMI and *Islamic Review*, al-Hakimi also established Nur al-Islam mosque in 1947 including *zāwiyās*[^304] and a printing press which published an Arabic fortnightly paper called *al-Salām*[^305]; the range of activities in reaching out to people were to a large extent similar although in the case of al-Hakimi the scope of initiatives were broader than Quilliam, particularly with his efforts to achieve a solid base for Muslim community in the wider society via cultivating connections with “local officials such as the mayor, town councillors and the Chief Constable”,[^306] although both were engaged in politics and met with lot of opposition, the causes for opposition were drastically different: While Quilliam faced opposition from the wider British society including press, whereas al-Hakimi had to face resistance from within the Muslim community itself which led eventually to the division of the community. In a similar fashion, both had been forced to leave their respective communities because of the pressure both had to encounter thereby paving the way to the decline of the very communities they had constructed painstakingly; yet in the case of Quilliam it was the external pressure that forced him to live in exile which

[^304]: Nielsen, J., Op. Cit. p. 4; Zawiya denotes a small mosque or prayer room in contrast to generally identified mosque known as masjid, yet in the sufi tradition the term zawiya has been designated to the building complex which has grown up around the shrine of a Muslim saint. Varied in size and structure, zawiya would include a place for prayer (salat and dhikr), a Qur’ān school (maktab), and a room for guests who might come as pilgrims, travellers or students: *Encyclopaedia of Islam*,[^305]: Ansari, Humayun, Op. Cit. p. 139[^306]: Ibid. p. 141
led to the fading away of his efforts, whereas al-Hakimi had been forced to leave his people for good in 1952 because of the internal pressure he had to encounter from within his own community.

However, what the short-lived contribution of both personalities to their respective communities indicates, despite its sound origin and growth in both locations, is that some of the approaches devised by both as means to achieve their goals were largely questionable and even in some cases appear to be inappropriate as they both seemed to fail to figure out their respective contexts through lenses of two types of fiqh: fiqh al-awlawiyyāt and fiqh al-tawāzun, particularly in dealing with political issues. Although Quilliam’s da’wah method based on one-to-one approach as well as personal acquaintances was largely a success story as contended by Ansari, the tone he used to address the political issues of his time, as seen before, was a nuisance to the ears of his audience which resulted in a damaging effect on his mission, an indication of failure in approaching the situation through both fiqh al-awlawiyyāt in terms of priorities as well as fiqh al-tawāzun in terms of balanced approach which can help evaluate the whole situation on the basis of Islamic legal maxims. In the case of al-Hakimi, on the other hand, the underlying cause for the immature outcome of his efforts was again paying little attention, as identified with Quilliam, to guiding methods

307 Ibid. p. 142
308 It means the fiqh (profound understanding) of priorities. This term was initially coined and introduced by Sheikh Yusuf al-Qaradawi with launching his book under this title in 1999.
309 It means the fiqh (profound understanding) of balanced approach.
310 The word da’wah is an Arabic word used in the Islamic terminology to denote inviting people to Islam. It takes this meaning from the following Quranic verse: “Invite (all) to the way of thy Lord with wisdom and beautiful preaching” (16:125) It also means, as used in the Qur’an translated by Yusuf Ali, prayer or supplication to God (2:186 & 13:14) and call or calling God (30:25 & 40:43).
311 Quilliam was strategic in propagating Islam. He adopted a method which was more attractive to whom “he already knew and whose concerns he had shared and championed for years, such as his ‘old temperance friends’” : Ibid. p. 125
312 ‘Choosing the lesser of two evils’, ‘realizing benefits is preceded over avoiding harms’ …etc.
of Islamic jurisprudence namely *fiqh al-awlawiyyāt* and *fiqh al-tawāzun*, a subject which will be treated in detail in the sixth chapter.

Understanding the whole experience of both Quilliam and al-Hakimi in the manner discussed above can largely help guide the contemporary Muslim minority in Britain in handling their affairs which determine not only their well-being but also their very existence in Britain in the long run. It is worth noting that there arose already similar socio-political situations in Britain: the Salman Rushdi affair, Gulf War, 9/11 tragedy, war in Iraq, and 7/7 bomb attack in London. Muslims disappointingly failed to act along the lines of the guiding methods mentioned above, a detail account of which will be discussed in the fifth chapter.

Unlike the Moroccans in Manchester who had to rely on Muhammad Abduhu for religious guidance on issues of their day today life as mentioned before, Muslims in South Shields and Cardiff, on the contrary, had their own imam and the religious scholar who was responsible not only for their guidance in matters of their religion but also for giving them a proper leadership in their social, political, and economical affairs. As contended by Little, the community was more or less “Islamised” under the leadership of al-Hakimi. It is not unreasonable to suggest that if al-Hakimi were a little more patient and perseverant throughout his career, the outcome of his multifaceted contribution to improve the life of Muslims in South Shields and Cardiff would have been entirely different and it would have yielded some benefits in the form of good examples and models not only to contemporary Muslims of the area where he represented but also to Muslims of other parts of Britain. So much so, even the contemporary Muslims in Britain could have reaped the fruits of his endeavour by

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313. Little, K., Op. Cit. p. 132
emulating him as a role model. This should serve as a reminder for the contemporary Muslims of Britain that they may not repeat the same mistake when handling the affairs of their day-to-day life, particularly when they face such problems as the ones mentioned above where they missed to act with wisdom and far-sightedness.

4.2 Muslims in Britain – Since the Second World War to Present Time

This section of the chapter seeks to focus on Muslims’ arrival in Britain after the Second World War, their demographical locations with particular reference to main areas where they were concentrated in large numbers, their main efforts to establish themselves as religious communities, and historically important issues and challenges they faced as Muslim minorities in a non-Muslim social setting. It also attempts to concentrate mainly on particular events and incidents which have taken place in the recent past which tend to shape Muslim, non-Muslim relationships in Britain.

In doing so, it also aims to highlight the migration pattern they made to Britain in different time spans and how it affected the sustainability of their presence in Britain as a community and their contribution to the wider society depending on their wish to stay or not to stay permanently. It also aims to appreciate their community building efforts and how far they have been successful in that endeavour. If they were not successful it aims to analyse how and where it went wrong. It also intends to identify currents which run beneath the social, political, and religious problems Muslims are facing in modern-day Britain which tends to affect the community relationship between Muslims and the wider
society. The overall aim of this section of the chapter is to shed light on how contemporary Muslim minorities in Britain are apparently vulnerable to loose their religious identity if their current situation which is full of crises and problems goes unchallenged without being guided through their religion, which this study aims to illustrate.

Muslims’ arrival in Britain after the Second World War can be considered as a watershed in the history of British Muslims. It has drawn a clear line between the pre and post war period in terms of Muslims’ migration and their settlement in Britain, and also their relationship and interaction with the British society. There are certain important characteristics which distinguish between the two periods: pre and post war. The striking feature of this distinction is conspicuous not only in terms of contributing factors which led to the migration into Britain but also in terms of the nature and size of the migration. Moreover, the noticeable characteristic of this migratory pattern can be gauged from the locations these Muslims have come from and the religious backgrounds they have represented.

Unlike early Muslim settlements which put down roots in Britain since 18th to early 20th C as seen above, the settlement pattern Muslims initiated after the Second World War has taken a different shape in size, nature, and location. Especially, when Muslims arrived in Britain after 1950s, their arrival was in large numbers at a time. Their coming as migrants has been another striking feature which was little to be found in the previous settlement pattern. Their settlement in inner cities, particularly in industrial areas, rather than in dockland areas of British seaports as sought by previous settlers, has been the distinctive feature of post Second World War Muslim settlements in Britain which has laid the foundation.
for the formation of the modern-day British Muslim communities in major cities of Britain.

Moreover, contrasting the pre-war settlements which were mostly moulded by sufi-oriented religious initiatives, the post-war Muslim settlers who have been mostly from New Commonwealth countries and Indo-Pakistan subcontinent are much influenced by the 20th C Islamic movements of Arab-Islamic countries and Indo-Pakistan subcontinent. The sheer reflection of this influence is amply manifest in the religio-cultural initiatives contemporary Muslim communities have taken in consolidating their religiosity in the modern-day Britain in the form of mosques, organisations, institutions…etc. This has partly caused to emerge an array of religious and cultural manifestations displayed by bulk of these migrants in the contemporary British society while holding to fundamental teachings and practices of Islam with varying degree of attachment to Islamic teachings in their day-to-day life.

According to 2001 census, Muslims accounted for 3.1 per cent or 1.5 million of the UK population and are measured to be “the second largest group considered in terms of religion…compared with 35 million or 72 per cent of the population for Christians.”314 Since 1851, as contended by Peach, the 2001 UK census was the first to pose a question on religious identity. According to him, Muslims’ population in Britain has risen from 21,000 in 1951 to 1.6 million in 2001.315 The number has ascended due to Muslims’ migration in large numbers since the Second World War. As contended by Ansari, Muslims have migrated “in

much larger numbers than before 1945, with the majority still coming from South Asia, parts of the Middle East, Africa and Cyprus.” Muslims’ migration to Britain remained thus low in 1950s and then it was rapidly on the increase in the consecutive decades because of the migratory flow triggered by the demand for migrant labour in the post Second World War Britain. This was further increased by the population growth of Muslim communities in Britain with having their younger generations born in the host country to reach the current figure thus estimated by 2001 census which is an indicative of the way the demographic landscape of contemporary Muslim minorities have been taking shape in the modern-day Britain.

Vertorec observes that, “in the early 1950s, when labour migration from the South Asian subcontinent was in its early phases, the Muslim population of Britain was around 23,000.” Peach observes, “by 1961, there were about 82,000 Muslims in the country, rising to about 369,000 by 1971, some 553,000 by 1981, and about one million by 1991.” By extrapolating the trend of the population growth of Muslims in Britain for the last 50 years, as seen above, it may not be unreasonable to predict that the current figure for Muslim minorities in Britain might have approximately risen to not less than 2 million.

This flow of migrants was largely originated from South Asia, particularly from Indo-Pakistan subcontinent. According to the consecutive census from 1951 to 1991, as contended by Lewis, the combined number for Pakistani and Bangladeshi Muslims who have formed the biggest source of migration to Britain since 1950s to late 20th C, rose from 5,000 in 1951 to 24,900 in 1961 with 1.2 per cent of British born; between 1961 and 1971 the number increased by seven fold to over 170,000 with 23.5 per cent of British born; then it ascended to make it more than doubled in the next ten years to 360,000 with 37.5 per cent of British born and then to 640,000 with 47 per cent of British born by 1991.319

Gleaning from the 40 years of data from 1951 to 1991, as seen before, one can notice an unprecedented and steady population growth of migrants within a short period of time from 1961 to 1971. This was caused precisely by the rapid rise of migration from Indo-Pakistan subcontinent aftermath of the British government’s decision to bring the migratory flow under control for the “migration from the former colonies was already causing anxiety to the British government as relations between sections of the indigenous population and migrant groups showed signs of strain.”320 By the 1960s, the British government, hence, brought in various acts to stem the flow of migrants from abroad despite “women and dependant children were generally allowed to join the men,”321 as contended by Veterec. Ansari observes that as a result of these immigration legislations and the voluntary controls introduced by India and Pakistan up to

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319 Lewis, Philip, Op. Cit., p. 15
1959 the migration, instead of being contained, has increased dramatically in 1961, “and stayed relatively high in 1960s and early 1970s.”

Nielsen contends that “almost half of the more than 130,000 Pakistanis who had arrived in Britain by the end of 1967 had arrived after the introduction of controls on 1 July 1962…” Having come in large numbers from West as well as East Pakistan which later became Bangladesh since 1971, the subcontinent Muslims had their own reasons to migrate to Britain from particular areas of their homeland. As noted by Ansari, the migrants mainly came from poorer areas of Pakistan, particularly from Mirpur district in Southern Kashmir and the Cambellpur district of the north-eastern Punjab. Some smaller groups also came from the areas of the North West Frontier Province next to the Afghani border. He further maintains that in the case of Mirpur the particular factor was the displacement caused by the Mangala Dam Project which started in 1960 and had drastically affected 100,000 Mirpuris by submerging 250 of their villages. The other two key areas were, as contended by Nielsen, the Sylhet district and the port town of Chittagong which later became two main regions of Bangladesh since 1971.

The other notable group of people who had played their part in the migration process during 60s and early 70s were Indians. In contrast to the factors contributed to the migration from Pakistan, as seen above, the underlying reasons for people of Indian origin to undertake migration to Britain were varied compared to migratory pattern from Pakistan in terms of number and location.

323 Nielsen, Jorgen, Op Cit., p. 40
325 Nielsen, Jorgen, Op Cit., p. 40
Nielson contends that the number of Indian Migrants was small and they were largely “Gujaratis who have come from the well-educated trading and professional families of the adjoining districts of Baroda, Surat and Broach…”\textsuperscript{326} In a similar fashion, a sizable number of Indian Muslims had to find their way to Britain from certain East African countries: Uganda, Kenya, Tanzania, Zambia, and Malawi as migrants in the 1970s. This was largely due to the fact that they “were experiencing pressure from Africanisation policies of especially Kenya and Uganda.”\textsuperscript{327} Having alarmed by impending danger and insecurity under the nationalistic policies of these African governments, Muslims along with other Asian communities who had British passports decided to migrate to Britain adding the number of Muslim population in Britain by another few thousands. Lewis maintains that “in 1981, 155,000 South Asians of East African origin were living in Britain, of which possibly 15 per cent were Muslims.”\textsuperscript{328}

The circle of Muslim migration into Britain was further expanded by coming of Turkish Cypriots as migrants. Their arrival mostly coincided with the timing of the migration of Pakistanis and Bangladeshis into Britain and was largely triggered by the civil strife in Cyprus in the mid-1950s. Then it “speeded up in the aftermath of the 1957 troubles”\textsuperscript{329} occurred between two main ethnic groups: the Greeks and Turks. Hence by 1958, it was estimated that there were 8,500 Turkish Cypriots in Britain, as contended by Ansari.\textsuperscript{330} Nielson maintains that their number peaked just in two years before the implementation of 1962

\textsuperscript{326} Ibid.
\textsuperscript{327} Nielsen, Jorgen, Op Cit., p. 40
\textsuperscript{328} Lewis, Philip, Op. Cit., p. 18
\textsuperscript{329} Nielsen, Jorgen, Op Cit., p. 40
\textsuperscript{330} Ansari, Humayun, Op. Cit. p. 154
immigration act.\textsuperscript{331} Hence, “an immediate influx of 25,000 Cypriots took place in 1960-1.”\textsuperscript{332} The partition of Cyprus in 1974 triggered another wave of Turkish Cypriots migration into Britain and this time it was estimated as about 3,000.\textsuperscript{333} As for Arabs, the largest community in Britain, according to Ansari, by the 1970s consisted of Egyptians. “They had arrived in significant numbers since 1950s, and by 1991 were estimated to number between 23,000 and 90,000.”\textsuperscript{334} Other Arabs who came to Britain in 1970s were Iraqis, Algerians, Libyans, and Palestinians. While Palestinians started to arrive in Britain after the creation of Israel as the life under the Israeli occupation was intolerable the rest moved away from their homes in order to escape persecutions perpetrated by their respective regimes because of political differences.

Similarly, it was the feeling of insecurity and loss of life for religious or political persecutions committed by their opponents whether they were individuals or ruling elites that had driven off Turkish Kurds and Iranians from their homeland to Britain.\textsuperscript{335} As refugees some 20,000 Iranians were estimated to seek sanctuary in Britain from the late 1970s. This amount includes the bulk of people representing different ideas and opinions but taking the same action to live in exile; while supporters of Shah wanted to escape the social isolation and the political marginalisation under the new revolutionary regime, the “moderate as well as revolutionary Muslims opposed to the clerical political system brought into existence by 1979 Iranian revolution.”\textsuperscript{336} As a nation without a country, Kurds also entered Britain during 1980s and 1990s seeking refuge for being

\textsuperscript{331} Nielsen, Jorgen, Op Cit., p. 40
\textsuperscript{332} Ansari, Humayun, Op. Cit. p. 158
\textsuperscript{333} Ibid. p. 154
\textsuperscript{334} Ibid. p. 160
\textsuperscript{335} Ibid. 160-61
\textsuperscript{336} Ibid. p. 161
subjected to human right abuses in Iran, Iraq, and Turkey. In a similar fashion, the Somalis arrived in Britain in large numbers from mid-1980s as refugees numbering over 15,000.

Apart from Muslims who had migrated to Britain in relatively large numbers after the Second World War as seen above, there were other such groups who had moved to Britain in smaller numbers as Malaysians, West Africans, Moroccans, and Yemenis. As for Moroccans the size of their community in London had grown to between 5,000 and 10,000 by the early 1990s. As a distinct community, Yemenis emerged in Liverpool as a small community with no more than about 100 by the mid-1970s and then flourished into a community of 3,500 by 1992. Ansari contends that in the early 1960s there were estimated to be 12,000 Yemenis in Britain and by the mid-1970s there were around 2,000 of the first generation in Birmingham alone.

It is worth noting that this migration trend was further enhanced, as contended by Ansari, by “the reuniting of the families and movement of refugees and asylum-seekers” causing further increase in the population growth of the Britain’s Muslim migrants in the 1980s and 1990s. The ‘reuniting of families’ can be considered as a general social phenomenon shared by almost all migrant communities entered Britain in groups in post Second World War. Yet, for the majority of Muslims of Indo-Pakistan subcontinent it was a slow process phased over several years depicted by Lewis as ‘four phase pattern of migration’ which is

337 Nielsen, Jorgen, Op Cit., p. 40
338 Ansari, Humayun, Op. Cit. p. 156
339 Ibid. pp. 156-57
340 Ibid. p. 148
known to be as ‘chain migration’ as phrased by Ansari. In the case of majority Turkish Cypriots as well as East African Asians on the other hand the process took only a few months as the socio-political circumstances forced them to migrate were different to the once experienced by South Asian Muslims as seen above.

However, the distinct feature in the case of most of the Turkish Cypriots migrants as opposed to the majority of South Asian Muslims is, Ansari maintains, that the migration for many of them was more of a personal choice rather than a collective decision as they did not have to support their relatives or families back home as the majority of South Asian Muslims did. Secondly, the personal and family calculations had also come to play in the case of South Asian Muslims whose migration, as contended by Ansari, was counted to be “an indicator of affluence and status, so that individuals and families competed to outdo each other in their capacity to emigrate.” What this background for migration apparently reveals, it seems, that it became, “a system, a style, an established pattern, an example of collective behaviour” as contended by Anwar.

In this respect, none of these migrant communities had intended to stay permanently in Britain. For many of both communities the prime aim was to accumulate enough savings and then “to return home with enhanced status, to retire in dignity and in comfort. For a significant number this ‘home orientation’ or ‘myth of return’ was an enduring aspiration, but for others it was neither the sole nor the most important objective. Some wanted to access better education for

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342 Ansari, Humayun, Op. Cit. p. 155  
343 Ibid. 148  
their children, and a few had political and personal motives to live in a more stimulating ‘modern’ environment, to strive for self-improvement, and to break away from communal and family obligations.”

This stimulus for the migration, however, was largely not to be found in the case of Turkish Cypriots although the similarities of both communities’ migration was “the aim of profiting from opportunities in Britain” and returning home with having their objectives fulfilled as contended by Ansari.

Different approaches in deciding matters such as this had the tendency of having long term “implications for the way South Asian and Cypriot Muslims were to engage with British society.” This is to say that each of these Muslim communities had to face the difficult challenge of deciding their future direction in Britain; how they were going to engage with the British society and what sort of a mechanism was to be applied in interacting with an extremely alien social environment that was entirely unfamiliar to them. It appears that this dilemma was what largely to be reflected in the way both communities, on moving to Britain, had endeavoured to interact with the British society, while still having in the back of their mind the idea of returning home. In fact, forming of a clear future action plan with this uncertain mindset as to what their future holds in the host country was a daunting task for both South Asian and Cypriot Muslim communities when they migrated to Britain. Generally speaking, they were at a crossroads as to which way to take and to make their presence meaningful in the British society at this crucial time of their presence in Britain.

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345 Ansari, Humayun, Op. Cit. p. 154
346 Ibid. p. 154
347 Ibid. p. 155
In reality, evidence shows that directions taken by them at this critical moment of their presence in Britain had been remarkably central to what their future had turned to be in 1990s and onwards. The empirical studies and surveys conducted by social scientists on evolution and development of these communities in later part of the 20th C Britain amply reveal, as contended by Ansari, the impact of approaches taken by these communities at the initial stage of their presence in 1940s and 1950s. Not surprisingly, the implications of initiatives undertaken by them at this early stage is still to be felt by the contemporary Muslim communities in Britain in general and their own communities in particular in terms of their interaction with the British society, maintaining as well as preserving their religious identity, forming themselves into communities as well as initiation of their own institutions.

In this sense, for most of these Muslim migrants, their interaction with the British society was only to a minimum level. Barton observes that there were little more contacts with the general public in the social sphere than what their work necessitated. Ansari maintains that “their social life revolved around a few local cafés, with traditional food, music and other pastimes.”

Hence, the social mingling with the society at large became minimal and limited; in other words, they preferred, it seems, not to engage with the wider society, particularly in its social realm; it may be because they were cautious enough not to endanger their own culture and identity; or they might have wanted to maintain their own life style which they used to enjoy in their own country of

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348 Ibid. pp. 208-219
349 Barton, S., The Bengali Muslims of Bradford, Monograph Series, Community Religions Project, Department of Theology and Religious Studies, University of Leeds, 1986, p. 177
origin; or perhaps they might have sought to avoid any unnecessary social problems which could be generated by interacting with the indigenous society because of colour, race, and religion\textsuperscript{351} as experienced by 18\textsuperscript{th} C and 19\textsuperscript{th} C Muslim settlers of Britain as mentioned in the previous section.

Whatever reason it may be, as there is some evidence presented by case studies, as contended by Ansari,\textsuperscript{352} to suggest the plausibility of these assumptions, the consequences of this negativity reflected in the non-participatory approach adopted by them in their relationship with the wider society had had a lasting effect not only on the image of these communities but also on the image of the religion which they were representing as it happened in the case of Moroccans in Manchester in 19\textsuperscript{th} C Britain as seen above.\textsuperscript{353} Moreover, their ghetto-like lifestyle had tended to undermine their ability to compete with the wider society in social, economic, educational, and political spheres.

Therefore, the selective approach upheld by them in interacting with the society at large, as contended by Halliday,\textsuperscript{354} though for obvious reasons as highlighted above, had largely tended to relegate them into a seemingly social exclusion, thereby depriving them much of social, political, and economical benefits and advancements enjoyed by the wider society. This apparent failure from the part of the post Second World War Muslim communities which was never to be felt so seriously until after some serious social problems tended to emerge in these communities as a result of their children’s active engagement

\textsuperscript{351} Ibid. pp. 201-08
\textsuperscript{352} Ibid. p. 209
\textsuperscript{353} See pages 36-37
\textsuperscript{354} Halliday, F., Arabs in Exile: Yemeni Migrants in Urban Britain, London, 1992, p. x
with the wider society can be described as a sheer consequence of persistent
desire of parent generation “to remain detached from the wider British society.”

It is to suggest that challenges they had to face as communities in 1990s
have been an indication of this unsuccessful method of passive engagement with
the British society which can be described as non-engaging approach adopted by
them in 1940s hoping to be on their guard from the dangers of contacts with
Western culture and to maintain enough security for their religious identity in the
initial stage of their migration to Britain. Before highlighting what sort of
challenges they had indeed faced under the circumstances described above, it is
appropriate to raise certain questions which are relevant to the scope of this study.
Do Islam and its teachings call Muslims to adopt this non-participatory and
isolationist approach if they really feel their religious identity is in stark danger
whence they interact with a non-Muslim society? How far this non-participatory
approach is effectively compatible with basic teachings of Islam? Does Islamic
jurisprudence have provision or precedence to directly or indirectly indicate to
this effect? If there is any, does it simply make binding on contemporary Muslim
minorities in Britain even if it is more to do with a particular culture or a context
than religion, its values, its principles, and its teachings? These and similar
questions which lie at the roots of this study will be dealt with in detail in the
following chapter.

One of the pressing challenges, as such, they had to encounter, with the
reuniting of their families in 1960s, was how to effectively pass on their Islamic
traditions and cultural ethos to their children and younger generation. It is
undeniable of course that they had managed to found religious and cultural

\[\text{Ansari, Humayun, Op. Cit. p. 209}\]
institutions in no time in order to cater for this immediate and timely need. Yet, whether they have been able to achieve their aspirations by making such space in an effort to raise their children along the same line which they themselves had been raised in their homeland is largely questionable because, Ansari maintains, many of the second generation of these migrant communities assimilated more in the British society than their parents. This assimilation although it was informal, as contended by Ansari, the impact it made upon the younger generation of these communities were deplorable.  

Statistical as well as anecdotal evidence show, as contended by Ansari, Lewis, and Nielson, that a considerable proportion of second and third generations of Muslim migrants have largely been challenging, if not rebellious, towards not only the culturally nurtured life style of their parents but also their way of thinking on matters largely pertaining to the life pattern these younger generations aspired to live in Britain.

This social situation was born out of a situation where for many of the South Asian Muslims their purpose of migration was largely economic and therefore, they did not bother about how far they were religious. Both Ansari and Lewis maintain that in the beginning of their arrival in Britain in 1940s many of the South Asian Muslims, particularly Bangladeshis in Bradford, were generally satisfied with their daily life routine preoccupied with the idea of ‘survival’, in which they were more concerned about their livelihood than any thing else even their commitment to religion which they saw as marginal to their daily lives. It was not their priority at this time of their presence, they argue, to concentrate

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356 Ibid. pp. 207-08
more about their religiosity than their economic wellbeing for which they had migrated for in the first place.\footnote{Ibid. p. 342; Lewis, Philip, Op. Cit., p. 56}

They believed it appears, that it was enough for them to be deputed on their behalf by their kith and kin back home in following religion. Barton observes that most Bengalis, on arriving in Britain, ‘suffered an almost total lapse of religious observance’. Their primary concern was to live and work in Britain on behalf of their families who, in turn, prayed on their behalf.\footnote{Barton, S., Op. Cit., p. 177} Praying on someone behalf is only acceptable by God if it means supplication: \(du`\ā\) which is generally a known practice among Muslims who perform it quite often. But, if the praying in this example means five times daily prayer which is strictly an individual obligation, then it is undoubtedly an innovation which is not permissible in Islam and has no value in the site of God.

However, it is not clear which type of these prayers mentioned above was meant in this example. Despite this ambiguity, what this amply explains is many of the first Muslim Bengali generations, it appears, were overwhelmingly preoccupied with their primary goal of sojourning to Britain which was to become affluent and return home as quick as possible to join their families and relatives. Although the idea of ‘returning home’ has been their lasting ambition since the beginning of their arrival, it has turned out, at the end, to be a mere wish as most of them preferred Britain to their countries of origin and formed themselves into communities established around their religion, places of origins, and kin networks.
Concluding this chapter, it can be said that Muslims’ presence in Britain goes as back as to the early centuries of Islam. Since then Muslims have arrived sporadically as visitors, adventurers, and sojourners until relatively the 18th C. Onwards from the 18th C, Muslims arrived in Britain as a result of interaction which occurred between Britain as a colonial power and Muslim countries. Between the 18th C to the Second World War Muslims came as lascars and seafarers and established dockyard settlements and Islam started to institutionalise itself on British soil in the forms of institutions and worshiping places. With the labour requirement of the post Second World War era many Muslims were attracted to Britain in search of economic fortunes. The first generations who were mainly economic migrants had no intention of staying back in Britain. Their sole intention was to acumilate some money and return home but as Muhammad Anwer noted, it was only a myth. As a result they were joined by their families and they had to stay back and establish themselves as permanent settlers. Having their first generation born in Britain, they faced various problems in their social life as highlighted in our discussion. The main issue Muslims encountered in their presence in Britain was how to be a Muslim in a non-Muslim society. The serious question is how the Muslim minority in Britain, particularly the youth are going to keep their Muslim identity intact and at the same time to integrate in the wider society? Moreover, what kind of a mechanism are they going to adopt in responding this crucial question? The following chapters will critically analyse this issue in the light of problems and issues Muslims in Britain are facing in the contemporary social context.
Chapter 5: The Problems of contemporary Muslims in Britain

Contemporary Muslims living in Britain face number of issues and problems in their day-to-day life. As any other minority community living in the contemporary Britain, Muslims with their minority status as explained in the third chapter of this study encounter many challenges. The problematic situation they face in Britain is not only because of their vulnerability as a minority but also of their presence as a ‘religious minority’. Despite sharing many of the social, cultural, religious, and political problems with other groups and communities in Britain, the way Muslims seem to look at these issues is quite distinct. It may be because they tend to address them from a religious perspective. It may be also due to the fact that they tend to see all aspects of life within the purview of Islamic teachings as a way of life. It may be said, generally speaking, that a Muslim as defined in the third chapter does not seem to look at life compartmentalised; mostly he does not adhere to religion in his private life while following another lifestyle in his public life; he or she may tend to practice religion as perceived by him or her in this way wherever he or she lives either in a Muslim society or in a non-Muslim society. Consequently, he or she may be seen as someone resisting to be assimilated in the society and someone who does not stubbornly want to integrate in it, a fundamental problem the contemporary nation states face today, particularly the western nations. It can be said that this underlying cause of the dilemma: Muslims are not ready to integrated into the society, which is widely debated in the West, particularly in Europe including Britain may be considered vital if issues and problems related to Muslims’ presence in the West needs to be understood in its proper perspective.
One may ask are there real or perceived problems for a Muslim living in
Britain in relation to his or her religion? If so, who does consider them as
‘problems’? Who does want to see them as ‘problems’? Are they community
leaders or religious leaders or parents or people themselves? Do Muslims in
Britain really care that they have ‘religious problems’ or ‘problems related to
religion’? It is important to find answer to these questions before discussing so
called ‘problems’ if any. Upon finding an answer to these questions, the study will
seek to discuss the core issues and problems that confront contemporary Muslims
in Britain. Apparently, the whole discussion will revolve around more or less the
following dilemma: can ‘a British Muslim who is a citizen of a secular liberal
society’ still relate to what is popularly perceived in the West to be ‘a pre-modern
religion which is Islam’ as a way of life while enjoying all sorts of freedom and
human rights in a modern day nation state?

This chapter, therefore, seeks to deal with these and similar issues
confronting contemporary Muslims in Britain. In doing so, it mainly focuses on
major issues and problems faced by them in contemporary Britain. As a literature
based research, the current study seeks to employ surveys, statistics, reports, and
literature based studies as well as empirical studies in order to find out what are
the problems and challenges faced by contemporary Muslims in Britain. Having
established that there exist reasonable grounds to justify that contemporary
Muslims in Britain face real challenges, this chapter primarily intends to set a
plausible and solid premise within which the problems and issues confronting
them can be analysed in a systematic way. It concludes that contemporary
Muslims in Britain face many a pressing problems in their day-to-day life and
they need concrete remedies. Hoping to find solutions to these problems, legislative measures and various other attempts may have been taken by consecutive governments, institutions, and Muslim community itself at local and national levels. Yet problems persistently exist and the impact they have on the society at large and Muslims in particular is enormous. The survey shows that the reasons for this unhealthy situation are two folds.

It seems on the one hand that the wider society, particularly consecutive governments and institutions have been very slow in addressing concerns and grievances of Muslims as a ‘religious minority’. On the other, Muslims are also far behind in doing their homework or putting their house in order. It seems that it mainly owes to inadequate or lack of legal protection and legislative recognition that should be provided to Muslims by governments as it has been the case with some of the minorities, namely Jews and Sikhs. Yet there seems to be another reason, which many of the literature surveyed does not seem to suggest and this study would seek to propose, that the contemporary Muslims in Britain not only need material facilities as an underachieved community as many studies tend to suggest and legal provisions to protect them from various forms of discriminations done to them only because they are a ‘religious minority’, but also they need religious guidance to enable them to do their homework: to understand who they are in terms of their religious identity and how they interpret what their identity is, where they are in terms of space they live in, which is the contemporary British context, and what is expected from Muslims as a community towards the wider society in terms of contribution to uplift the society.

as a whole. Therefore, the proposed religious guidance: jurisprudence for Muslim minorities (fiqh al-aqalliyyāt), which will be discussed in the following chapter, may serve two purposes: On the one hand it may serve as a comprehensive pedagogy for Muslims to do their homework and on the other it may be used by governments and institutions as a reference point to look for how they can deal with concerns of contemporary Muslims in Britain.

5.1 Are There Problems for Contemporary Muslims in Britain?

The proliferation of literature on Muslims in Britain since the second half of the last century, particularly on issues and challenges faced by them is ample evidence that they have been facing problems in their day-to-day life. Muslims, with the arrival of their families and children in Britain to join them in 1960s and 1970s as noted in the previous chapter, had to face many problems. The explosion of literature on Muslims during this period covering many areas of their life experience in the new environment sheds light on the severity of the situation they have been going through. As contended by Steven Vertovec, who has compiled an ‘annotated bibliography of academic publications regarding Islam and Muslims in the United Kingdom, 1985-1992,’ the bibliographical survey undertaken by Daniele Joly and Jorgen Nielsen covering the period of 1960-1984 amply indicates that Muslims in Britain had faced issues and problems of their own. Yet by scrutinising these studies, however, one may come to understand that they

were more or less more concerned with their ethnicity and race rather than ‘religious identity, institutionalization, or practice’.\textsuperscript{361}

As many a studies suggest that it may be due to the fact that Muslims were viewed by the wider society not as a religious minority, rather they were looked at as a race, colour, or ethnicity. Muslims were for example studied as ‘Indians’, ‘Bangladeshis’, and ‘Pakistanis’ on the basis of race and ethnicity. Hence, the writings were mainly focused on issues revolved around ethnic and racial exclusion as contended by Kepel: “the notion of ‘race’ and ‘race relations’ has thus acquired importance, both in the research of British sociologists and in juridical practice. Michael Banton and John Rex, who both played a pioneering role in conceptualising the notion of race, have recognised race as a principal marker in terms of which individuals tend to be classified and suffer discrimination.”\textsuperscript{362}

These remarks by Kepel need to be understood in the context of Muslims arrival in Britain in 1960s and 1970s. The identity markers at the time were more to do with race and colour than religion. Hence, racism was one of the major problems that the British society was engulfed with at the time and Muslims, among other minorities, suffered the most as a result. It may not be wrong to assume that the speeches as well as election campaigns, for instance, made by certain politicians at the time has been a clear indication of this social problem.

\textsuperscript{361} Ibid. p. 1
\textsuperscript{362} Kepel, Gilles, ‘Foreword: Between Society and Community: Muslims in Britain and France today’ in Joly, Daniele, Britannia’s Crescent: Making a Place for Muslims in British Society, Ashgate Publishing Ltd., Hants, 1995, p. xi
Enoch Powell\textsuperscript{363} for example in his (in) famous speech of 1968 said: “We must be mad, literally mad, as a nation to be permitting the annual inflow of some 50,000 dependants, who are for the most part the material of the future growth of the immigrant-descended population. It is like watching a nation busily engaged in heaping its own funeral pyre.”\textsuperscript{364} Powell further said: ‘As I look ahead, I am filled with foreboding; like the Roman, I seem to see ‘the River Tiber foaming with much blood’.’\textsuperscript{365} Analysing Powell’s ‘river of blood speech’ Dilwar Hussain argues that it “may sound unacceptable to us now, but it seemed to have articulated the sentiments of the nation. Opinion polls showed that 75\% of people supported Powell. Just prior to this, 1964, a Conservative local candidate in Smethwick won using the slogan ‘if you want a nigger for your neighbour, vote labour.’\textsuperscript{366}

This antipathy towards immigration had been mirrored in other parts of the country as well. Leicester, for instance, had been one of the places where racial tension was on the rise. In the wake of sudden influx of Asians into Britain from Uganda, particularly to Leicester, in 1972 as a result of Idi Amin’s forced evacuation, “the (British-supported) dictator” as described by Richard Bonney,\textsuperscript{367} sentiments against migrants had rapidly increased in the city. Consequently, “at

\footnotesize{\textsuperscript{363} John Enoch Powell (1912-1998) was a conservative member of parliament for Wolverhampton South-West in 1950. He continued to hold this seat for 24 years; accessed on 10th April 2012 at http://www3.shropshire-cc.gov.uk/powell.htm
\textsuperscript{364} Hussain, Dilwar, ‘British Muslim Identity’ in Seddon, M Siddique et al., British Muslims between Assimilation and Segregation: Historical, Legal and Social Realities, The Islamic Foundation, 2004, p. 90
\textsuperscript{365} Hansard, 23rd April 1968
\textsuperscript{366} Hussain, Dilwar, Op. Cit., pp. 90-91
the height of the forced Ugandan Asian exodus,“ an advertisement was placed in the Ugandan Argus by the Resettlement Board discouraging migration to Leicester and the advertisement went on to say ‘Don’t go to Leicester.’

Moreover, Bonney maintains that “National Front agitation and demonstrations and counter-demonstrations had gathered pace and the City Corporation showed its nervousness on 15 September 1972.” The formation of National Front’s Leicester branch in 1969 had been coincided with the inauguration of the first Hindu temple in Leicester. One of the aims of the party, Bonney maintains, was ‘the protection of British jobs from alien intrusion’. He further notes that “the NF gave active support to a strike by White workers (in retaliation to a dispute led by Asians protesting over the refusal of management and members of the Hosiery Workers Union to allow Asians promotion to skilled grades) at the Imperial Typewriters factory in Leicester in 1972.”

Roger Ballard, in his preface to the book Desh Pardesh, a collection of papers presented by a group of researchers most of whom were anthropologists as introduced by Ballard examining the presence of South Asian communities in Britain, notes that it is not far from truth that “racism is a deeply entrenched feature of the British social order…every single contributor to this volume makes

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368 Ibid. p. 13
369 Leicester Mercury, 2 Sept, 1972, p. 1
370 An active far-right party in British politics in the 1930s and it continued to hold a significant place among people until its formal formation in 1967 which culminated in grabbing thousands of active membership between 1967 and 1979 as contended by Richard Bonney: Ibid. p. 8 (footnote)
371 Ibid. p. 13
it clear that this indeed so.” It seems that this situation took hold in the British society not because they were viewed by majority society as people who were different in culture and religion rather they were looked at as a ‘coloured minority’. Kepel notes that “alongside the English or Welsh, then, there existed a dark-skinned population, a nation by default within the body of British citizens. In the public perception these undifferentiated people with dark skin including both people from Indian sub-continent and from the Caribbean were all referred to as Black.”

Although Muslims have become British citizens by virtue of Commonwealth citizens, that citizenship could not provide them with a right place in the society and place them on an equal footing provided to citizens of the majority community. It was not meant to be a full citizenship; rather it was a minimal one as noted by Gilles Kepel: “British citizenship has created for the immigrants of the Commonwealth resident on its soil a symbolic and political space, but only indirectly.” Consequently, the type of challenges Muslims had to face at the time, therefore, were of social nature ranging from housing shortages, inadequate social services, high level of unemployment, and poor educational facilities.

A question arises as to what Muslims did to overcome these problems and what government did to find solutions to them. As for Muslims they did not seem

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376 Kepel, Gilles, Op. Cit. p. x
to bother much about concerns and grievances confronted which them during this time, 1960s and 1970s, as they were preoccupied with the ‘myth of return’ as termed by Muhammad Anwar.\textsuperscript{378} It was not their intention to stay here permanently. Their sole purpose was to earn as much as possible and go back home: India, Pakistan…etc. Their only concern was, therefore, as noted by Sophie Gilliat-Ray, how to maintain their name and fame among their fellow migrants and their relatives back home. As a result, they were not concerned about their status or recognition in their host society. She further maintains that: “consequently, experiences of racial or religious discrimination in Britain were generally suffered rather than challenged, because there was perceived to be no long-term benefit to be derived from the distracting process of seeking redress.”\textsuperscript{379}

In other words, they paid little attention to seek solutions to their problems. There was little attempt taken by them to channel their grievances through government offices or public institutions. This may explain why there was minimal involvement from their part in trade union activities, as contended by Badr ud-Din Dahya. Their failure to act to find a way-out largely depended on their assumption that, as Dahya notes, “this is not our country, we are here to work and then return home and do not have time to get involved in such organisations.”\textsuperscript{380}

From the part of governments and official bodies, several legislative measures were taken to combat racism which took root in the British society in 1960s and 1970s. To promote ‘racial equality’ between minority and majority communities as Kepel notes, political and juridical measures were taken at a local

\textsuperscript{378} Anwar, M., The Myth of Return, Heinemann Educational Books, 1979
\textsuperscript{379} Gilliat-Ray, Sophie, Muslims in Britain: an Introduction, Cambridge University Press, 2010, p. 49
as well as a national level. He maintains that, in the form of ‘positive action’ the local and national institutional actors had invested their energy to provide “corrective measures to racism in job opportunities, housing etc….This entails the attribution of quotas to ‘minorities’ defined as such by the colour of their skin”.\textsuperscript{381} The Race Relations Act which was enacted in 1976 has been another step forward taken by the government to combat inequality and discrimination. As Nadeem Malik observes that this was the time when legislative measures were revolutionarily taking root in Britain. For instance, “the Sex Discrimination Act 1975, the Equal Pay Act 1970 (which came into force in 1975) and the Race Relations Act 1976 transformed the way in which women and people from minority groups were perceived by the law.”\textsuperscript{382} As a matter of fact that discrimination on racial grounds, Malik notes, “was actually made unlawful by the Race Relations Act 1965.”\textsuperscript{383} Similarly, it should be noted that there were more recent legal initiatives in English law as well such as “the European Convention of Human Rights\textsuperscript{384} and its domestic application via the Human Rights act 1998\textsuperscript{385}.”\textsuperscript{386}

One may imagine that this amount of legislative measures would have been more than enough to fight against racism, discrimination, and unfair treatment, and minorities in general and Muslims in particular would have been safeguarded enough from all sorts of discriminations. The studies on the subject

\textsuperscript{381} Kepel, Gilles, Op. Cit. p. xi
\textsuperscript{382} Malik, Nadeem, ‘Equality? The Treatment of Muslims under the English Legal System’ in Seddon, M. Siddique et al., British Muslims between Assimilation and Segregation: Historical, Legal and Social Realities, The Islamic Foundation, Leicestershire, 2004 p. 45
\textsuperscript{383} Ibid. pp. 45-46
\textsuperscript{384} The Convention was signed and ratified by the United Kingdom in 1951 and came into force in 1953
\textsuperscript{385} The Human Rights Act 1998 came into force on 2 October 2000
\textsuperscript{386} Malik, Nadeem, Op. Cit., p. 43
reveal the opposite. Although some sort of redress has been found in cases related to other minority communities, particularly Jews and Sikhs, Muslims have continued to suffer. Discrimination and unfair treatment against them have taken different shape and form, namely in the form of Islamophobia. The sheer manifestation of this pathetic situation have reflected in initiation of commissions and projects by government and private bodies probing into problems related to minority communities in general and Muslims in particular. Apparently, government reports and voluntary sector case studies are undeniably ample evidences to indicate the level of the problem as well as the failure of the legal system.

Many of these studies and researches have come to conclude that minority communities in general and Muslims in particular continue to suffer discriminations despite legal mechanisms in place. Introducing their chapter: Muslims and Religious Discrimination in England and Wales, Paul Weller, Alice Feldman, and Kingsley Purdam contend that in recent years in the United Kingdom there has been a genuine concern expressed by individuals and

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388 In literal terms Islamophobia means fear of Islam and Muslims. A thorough discussion of this will follow later in this chapter.
organisations from a variety of religious traditions that “discrimination exists on
grounds of religion and that such discrimination deserves to be taken as seriously
as discrimination on the grounds of ethnicity, gender, disability and sexual
orientation. Muslims – who constitute the largest religious minority in the United
Kingdom – have been at the forefront in arguing for such recognition. Many
Muslims in the UK have also claimed a specificity of experience of unfair and
discriminatory treatment that has been identified by the concept of
“Islamophobia”. In addition, Muslims have been the main group arguing for the
necessity of legislative measures to tackle religious discrimination.”

Weller and other authors further note that the report published by
Runnymede Trust probing into Islamophobia “underlined both the particularity of
the Muslim experience of discrimination, and the fact that at present in Britain
there is no legislative means of protection or redress in respect of discrimination
on the grounds of religion.”

The significance of this observation by the authors
lies in the fact that it has been based on a wide range of research tools as well as
covering almost all religious groups in England and Wales. In their concluding
remarks, the authors seem to be in an agreement in the findings of their research
that “there was a considerable consensus among individuals, organisations and
groups from within the religious traditions that a more inclusive policy approach
is needed. This would be an approach that at all levels and sectors of society
promotes a recognition of the distinctiveness of religious identity and in respect of

392 Ibid
393 Ibid
394 The religions covered in the research include Baha’I, Buddhist, Christian, Hindu, Jain, Jewish,
Muslim, Sikh, Zoroastrian, New Religious Movements and Pagans, and “others”. The research
involved wide variety of research methods such as postal questionnaire survey, interviews, and
its relationship with other key dimensions of personal and social life. The findings of the research indicate that Muslims in England and Wales experience a significant and disproportionate degree of unfair treatment on the basis of religion. At the time of writing, the Government has not yet brought forward comprehensive or integrated policy initiatives to tackle religious discrimination.”

The core subject of this conclusion has been echoed in other studies as well. Nadeem Malik identifies one of the major obstacles for active Muslim participation in the British society has been due the deeply seated racism. As “vast majority of British Muslims belong to minority groups, they are potentially subject to racism.” According to Malik, Bikhu Parekh, Herman Ouseley, David Ritchie, Ted Cantle, Ray Singh, and John Denham, they have all arrived at a conclusion in their respective studies that “there is absolutely no doubt that racism is rife in British society and that it manifests itself at all levels. The studies also conform that Muslims, mainly Pakistani and Bengali males suffer the worst, especially in employment.” Malik further notes that it is not the inadequacy of legislation that is responsible for the status quo as legislative measures have been in place well over a quarter of a century, rather they are unsatisfactory and therefore, “the incredulous anomalies that exist with regard to religious discrimination and discrimination against Muslims in particular, are inexplicable

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from a legal, moral or ethical perspective and can be the result of an unsympathetic political regime.”

Moreover, there are several other studies and reports that have come to similar conclusion. The Runnymede Trust report on Islamophobia\(^{401}\), for example, which was published in 1997, looked at Muslim communities in British society from various angles: nature of anti-Muslim prejudice, media coverage of Muslims, employment, housing and public bodies, violence towards Muslims, inclusive education, inter-community projects and dialogue, and recourse to law. As an in-depth study into concerns of Muslim communities in various social spheres, the report found under each of these chapters that Muslims are subject to discrimination on the basis of their faith. In order to find remedies, it made sixty recommendations under three broad headings; central and national government, regional and local authorities and private and voluntary bodies.\(^{402}\) There is little doubt that “the shear depth and comprehensive nature of these recommendations highlights the fact that Islamophobia was found to exist across all spheres and spectrums of life in Britain.”

The Singh report\(^{404}\), which has studied racism in Birmingham City Council in year 2000 has found, as contended by Nadeem Malik, that the Council is “alarmingly guilty of institutional racism.”\(^{405}\) Therefore, it is not out of place to


argue that all the surveys, reports, researches, and projects that have examined Muslims’ presence in Britain since 1960s to date in terms of their arrival and experience, and how they have been looked at and treated by the wider society unfailingly indicates that Muslims in Britain have experienced not only ‘perceived problems’ but also ‘real issues’ for well over a half a century as found by Derby Report.\footnote{This report refers to the Home Office Research Study 220 as it was conducted through the University of Derby} This report concluded that there was discrimination and unfair treatment on religious grounds in a number of public spheres. Specially the report discussed extensively on issues in education\footnote{Ibid. Chapter 3, pp. 23-36}, employment\footnote{Ibid. Chapter 4, pp. 37-49}, criminal justice and immigration\footnote{Ibid. Chapter 5, pp. 51-61}, housing and planning\footnote{Ibid. Chapter 6, pp. 63-70}, health care and social services\footnote{Ibid. Chapter 7, pp. 71-77}, public transport\footnote{Ibid. Chapter 8, pp. 79-80}, shops and leisure\footnote{Ibid. Chapter 9, pp. 81-85}, obtaining funding and benefit\footnote{Ibid. Chapter 10, pp. 87-92}, the media\footnote{Ibid. Chapter 11, pp. 93-99}, other religious traditions and political and pressure groups\footnote{Ibid. Chapter 12, pp. 101-102}. Scrutinising these issues quite vigorously, the authors of this report\footnote{Weller, Paul, Feldman, Alice, and Purdam, Kingsley, Religious Discrimination in England and Wales, Home Office Research Study 220, Research Development Statistic Directorate, The Home Office, London, Crown Copyright, 2001} seem to unanimously agree that “the findings of the research reported here show that, alongside their experience of more overt forms of hostility and violence, Muslims in England and Wales also have a less dramatic, but nevertheless wide-ranging and no less significant, experience of unfair treatment on the basis of religion...If not tackled in a comprehensive, strategic, and vigorous way, there is evidence to suggest that such discrimination will continue to constrain the full participation of...
Muslims and other religious minorities in the social, political, economic and cultural life of the country. It is at least arguable that there is evidence that the cumulative effects of unfair treatment are likely, if they are not vigorously addressed, to result in the storing up of resentments among those experiencing discrimination, and also to deprive the wider society of the full potential of the contribution that religious communities, organisations and individuals can make to its stability and well-being.\(^{418}\)

The carefully crafted wordings of this quotation and the extent of its comprehensiveness amply imply that the issue of discrimination and unfair treatment is not just a minority-majority tug of war, but rather it is a give-and-take strategy: the minority should feel welcomed by the majority and then there is no reason why the minority should not integrate in and contribute to the wider society. Yet, when racism and Islamophobia are thriving in the society and communities are becoming polarised, community cohesion which is the foundational stone of a society to stand together is in grave danger. Consequently, the adverse effect can be felt in communities being disengaged and non-participated as full citizens. In the context of Muslims being a part and parcel of the British society, they have a duty to share their thoughts, principles, and values with the wider society, especially in finding solutions to such problems as mentioned above so that a viable and just society can be established “where all people are respected, enabled and welcomed to become citizens in the true sense of the word. Not only must British Muslims be seen as ‘friends and countrymen’ but they too must see all others in society as their ‘friends and countrymen’ also.

The time to move the debate on is long overdue. The questions to be asked should no longer be: “Is Islam compatible with the West? Can Muslims be British citizens? Do Muslims want to engage with society? Rather, the questions that need to be asked are: “What are the challenges of multiculturalism? Is the playing field level? Does British society cater for the legal and political recognition of minority groups?”

The last question may sound, for religious minorities, particularly Muslims that there is no recourse against discrimination at all. It is not right to assume so if justice is to be done to the subject discussed here. Although Muslims in Britain have not been recognised yet as a religious minority and as a result they have been subject to miscarriage of justice as studies mentioned above evidently show, “the majority of the Judiciary have at least attempted to give a wide reading to legislation so as to be as inclusive of minority groups as possible. This interpretation has assisted Muslims on a number of occasions and that cannot be ignored. However, such reasoning is often relegated to the realms of ‘obiter dictum’ (non-binding principles) and fails to register in the essential ‘ratio decidendi’ (binding judgement).”

Perhaps, it was this type of anomalies and discrepancies in the legal System as far as Muslims are concerned that has made the Commission on British Muslims and Islamophobia expresses its concern in its consultation paper: “It has been established through case law that members of two world faiths, Judaism and

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420 Malik, Nadeem, ‘Equality? The Treatment of Muslims under the English Legal System’ Op. Cit., pp. 46-47. This chapter by Malik is useful for a good understanding of how English Legal System can be improved in the light of robust interpretations and statements of Lord Justice Waite, Lord Justice Templeman, Justice Kilner-Brown, Robin Allen QC, and Lord Lester of Herne Hill.
Sikhism, are fully protected under the Race Relations Act 1976, since they are considered to belong to distinct ethnic groups. It is a serious anomaly that no such protection exists for members of other religions, even though Muslims would emphatically not wish to be seen as all belonging to a single ethnic group. A further anomaly is that direct discrimination in employment on religious grounds is unlawful in one part of the UK, Northern Ireland, but not in Great Britain. Officialdom’s slowness to recognize these anomalies in anti-discrimination legislation may well be affected by Islamophobia, or by insensitivity to Muslim concerns. If new legislation were to be introduced specifically to outlaw religious discrimination, however, the clear public message would be that Islamophobia is unacceptable and that British Muslims have the same rights as all other citizens.”

Similar concern has been expressed by Lord Lester of Herne Hill who stated as quoted by Malik: “…surely has to be an effective legal remedy for the wrong of religious discrimination as well as the wrong of racial discrimination. I suggest that those who raise technical objections to the framing of legislation should concentrate on the need for a legal remedy for British Muslims that is as effective as that which exists for other minorities in this country. That is the pressing social need that must be addressed. When I hear technical objections being raised I wonder whether we ever look at the laws of other countries. Almost every other Commonwealth and continental European country, as well as Ireland,

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have in their written constitutions guarantees of equal protection of the law without discrimination on any ground, including religion. It is only because we do not have such constitutional guarantees that we have the incoherent patchwork of laws that act in their place. Surely, it is absurd that my rights as a British citizen should depend on whether I happen to live in Great Britain or Northern Ireland. How can it make sense that religious discrimination is forbidden in Northern Ireland and not in Great Britain? I know of no other country like that.”

In view of the above, it would not be wrong to assume that the concerns expressed by such influential individuals in the British legal system as Lords and Judges might have influenced certain legislations to be brought in recent years. It seems there is some optimism and a ray of hope in certain legal mechanisms taken up by British Judiciary System aiming to address at least some of these concerns. Malik notes “although Muslims have, in the past, been largely unprotected from religious discrimination, some hope now exists in the form of Council Directive 2000/78/EC of 27th November 2000 (on the implementation of the principle of equal treatment in employment and occupation – but not in any other spheres of life – without discrimination “on grounds of religion or belief, disability, age or sexual orientation”). It has been adopted under Article 13 of the EC Treaty as introduced by the Treaty of Amsterdam. This Directive was implemented by the United Kingdom on 2nd December 2003 in respect of religion or belief, so as to be compatible with the rights set out in the ECHR. Despite its obvious limitations, it is a step in the right direction. Furthermore, in July 2004 the Home Secretary


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again proposed a law against incitement to religious hatred. This was welcomed by the Muslim community as well as the Commission for Racial Equality which argued that any potential law should have wider application and also cover the delivery of goods and services. While these positive developments are acknowledged, British Muslims are concerned about the way in which they have generally been, and still are, treated under the English Legal System. Ranging from lack of legal recognition to specifically being targeted under the Terrorism Act and by being excluded even when the opportunities to offer them limited protection arise, such as under the Anti-Terrorism, Crime and Security Act, British Muslims feel disadvantaged. This situation needs to be addressed urgently; if it is not, British Muslims will never feel that they are truly equal citizens."\(^{424}\)

Drawing on the discussion so far made one may come to a conclusion that Muslims in Britain face perceived as well as actual problems as Derby Report suggested, that Muslims are subject to discrimination and unfair treatment not only on the grounds of race and ethnicity but also on the basis of religion as suggested by Runnymede Trust Report on Islamophobia as well as the Singh Report. Therefore, it is not inappropriate to argue that not only Muslim community assert that it genuinely faces problems that are very central to their religion in the contemporary British society as individuals and a community as acknowledged by Home Office Research Study 220 but also researchers, commissioners, and legislators agree and acknowledge that contemporary Muslims in Britain face problems and challenges related to not only their ethnicity but also their religiosity and religious identity. Therefore, what sort of problems

and issues Muslims encounter in the contemporary Britain with regards to their religion would be discussed in detail in the following pages.

5.2 Problems of Contemporary Muslims in Britain

This section of the chapter would mainly deal with major problems and challenges contemporary Muslims in Britain face in their day-to-day life which are religious in nature. It will also mainly cover the challenges they have been facing since their settlement in Britain after the Second World War, particularly when they were joined by their children, families, and kith and kin, precisely after 1960s. As this chapter will endeavour to explore them in the following pages, there are major and minor problems. For the purpose of this study and to confine it within its limitation, it will restrict itself to deal with some of the burning issues contemporary Muslims face in Britain at four levels: Individual, Family, community, and the society at large.

As individuals and families, whatever issues they encounter, that will mostly revolve around the notion of who they are in terms of their religious identity and how they interpret what their identity is. One of the popular issues here is that, for example, a young Muslim may prefer to identify him or her with religion and its teachings while parents would prefer for him or her a particular cultural tradition of the country of origin, or he or she may be expected by the wider society to strip off his or her cultural identity let alone religious one in order to align with itself in terms of norms, culture, and values, in other words to assimilate fully in the British society. As a community, the issues Muslims may encounter would be the notion of context, which is where they are in terms of the
space they live in, which is the contemporary British context. What is their relationship, for instance, vis-a-vis the wider society and how they perceive them? As far as the wider society is concerned, mostly the issues would revolve around how Muslims would be treated by them and how to handle them on the one hand and on the other what is expected from Muslims as a community towards the wider society in terms of contribution to uplift the society as a whole. Islamophobia, for example, could be cited as one of the major issues Muslims can encounter in this fourth level.

It should be noted that such issues as racism, xenophobia, and Islamophobia which were brought into sharp relief in the previous section were highlighted to indicate that Muslims encounter perceived and real problems in the form of discrimination and unfair treatment because of racism and Islamophobia, how the issues were looked at from the legal point of view, and what was the outcome. In this section, on the contrary, some of these issues will be dealt with from the perspective of Islamic jurisprudence. However, in this fourth level, the dilemma that the wider society would encounter would be how can a Muslim who is a ‘citizen of a secular liberal society which is Britain’ still relate to what is popularly perceived in Western societies to be ‘a pre-modern religion which is Islam’ as a way of life while enjoying all sorts of freedom and human rights in a modern day nation state? The other side of this dilemma that Muslims may encounter would be why they are not being given due recognition and place in the society as a religious minority as other minorities are recognised and accommodated, and why the wider society cannot be more true to its hard-won secular values: rights and freedoms which should allow every community “to live
with mutual respect according to their beliefs and to contribute positively to the public sphere in an open and tolerant atmosphere.\textsuperscript{425}

This section of the chapter, therefore, will use surveys, reports, and literature based studies to examine such questions, issues, and problems. Having scrutinised them in the light of studies and reports, this section would conclude that contemporary Muslims in Britain need both legal as well as religious solution to the problems they face in their day-to-day life and both should go together if they are expected to play a vital role in the contemporary British society as full citizens.

5.3 Contemporary Muslims in Britain and Problems Related to Identity

One of the main problems contemporary Muslims in Britain face seems to be related to ‘identity’. Most of the time, issues and problems he or she may encounter in the wider society are more or less related to sense of identity and belonging. The issues of \textit{hijāb, jilbāb, niqāb}, beard, faith school, halal meat…etc. for instance, are just few examples of this burning issue. Although Muslims have been living in Britain well over half a century as a permanently settled community establishing institutions and organisations, and celebrating

\textsuperscript{425} Cerić, Mustafa, ‘Forward’, in Suleiman, Yasir, Contextualising Islam in Britain: Exploratory Perspectives, Centre of Islamic Studies, Cambridge, 2009, p. 5
\textsuperscript{426} Literally \textit{Hijāb} is the Arabic word for curtain or cover. Islamically it is a piece of cloth worn by observant Muslim women to cover the hair, ears, and neck, leaving the face uncovered: Open Society Foundations, Why 32 Muslim Women Wear the Full-Face Veil in France: Unveiling the Truth, New York, 2011, p. 3
\textsuperscript{427} \textit{Jilbāb} has the appearance of a long loose-fitting coat that covers the whole body except the face. It is also known as abaya: Ibid.
\textsuperscript{428} It is a full-face veil that covers a woman’s hair and face, leaving only the eyes clearly visible and sometimes not visible: Ibid.
their culture and tradition as a visible social group manifesting all their symbols and identity markers, the wider society has not yet come to grips with this cultural and religious diversity and as a result, Muslims face problems in areas mentioned above on a daily basis as acknowledged and confirmed by evidences presented in the previous section, particularly the Home Office Research Study 220. In the following pages, issues such as those mentioned above will be discussed.

5.3.1 Muslims Being Seen as ‘Other’

Historically speaking, the notion of Muslims being seen as ‘other’ can be traced back in the socio-political encounter Europe had with Muslims when Europeans were a colonial power as highlighted in the previous chapter. It is beyond the scope of this study to explore the historical evolution of the notion of Muslims being seen as ‘other’ in the European context. Nevertheless, a brief account of it is important as it seems to be one of the main factors that tend to influence western understanding of Muslims and who they are. If contemporary Muslims encounter problems and issues vis-à-vis their presence in Britain, either at an individual or collective level, whether it may be headscarf or veil problems, for example, it is only a symptom of a deep-rooted problem, which is embedded in seeing Muslims negatively as ‘other’. Indeed it is a deep-seated issue which has long occupied the western mind as contended by Mohammad Siddique.

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430 Seddon, in his paper mentioned above p. 132, maintains that English Renaissance writings are littered with a fascination and an obsession with the ‘other’ and this otherness has been highlighted in the studies by Chew, Samuel C., The Crescent and The Rose: Islam and England during the Renaissance, New York, Oxford University Press, 1937; Matar, Nabil, ‘Sodom and the Conquest’ in Matar, Nabil, Turks, Moors and Englishmen in the Age of Discovery, New York, Columbia University Press, 1999; Said, Edward, Orientalism: Western Concepts of the Orient, London,
Seddon. It raises it head mostly at times of social unrest and political upheavals. Seddon notes that the former Home Secretary for the Labour Party, David Blunkett, made the following comment ‘immigrants should try to feel British’ and “This comments comes in the light of the summer race riots of 2001 in the North of England and the 11th September 2001 US terrorist attacks.”

It is worth noting that this type of comments, particularly by people in power can fuel the fire which has been already set in motion and tear communities apart. Particularly, such comments can create suspicion towards Muslims in the West. It is within this backdrop that an important question arises in relation to identity and belonging for Britain’s contemporary Muslims, as Seddon asks, “are they British Muslims or simply Muslims in Britain?”. By asking this question, Seddon seeks to shed light on some of the root causes of Muslims being marginalised and relegated to exclusion in the contemporary British society. This exploration might help us to understand some of the unanswered questions raised by Lords and Judges in the previous section as for deprivation of legal protections for Muslims as a religious minority.

In order to identify some of these root causes, Seddon traces the “politics of racism and the development of ‘national identity’, ‘Britishness’, myths and realities, etymological and geographical definitions, the making of England and the development of so-called ‘Anglo-Saxon Britishness’.” In the process of examining these notions through such concepts as ‘Reformation’, ‘Nationalism’,


Ibid. p. 120

Ibid.
‘Anglo-Saxon Britishness’, and under subtitles: ‘the politics of racism’, ‘Orientalism and the perpetuation of otherness’, and ‘ethnicity, race and national identity’, Seddon notes that “many observers have alluded to Muslims being isolated and disadvantaged by what they express as anti-Muslim sentiments, xenophobia and Islamophobia.”

It is against this background that the Runnymede Trust Report gains its currency as well as importance. The report has evidently identified this underlying cause when scrutinising the roots of the problem of the socio-political phenomenon called ‘Islamophobia’. The report went onto say that “in recent years a new word has gained currency… ‘Islamophobia’. It was coined in the late 1980s, its first known use in print being in February 1991, in a periodical in the United States. The word is not ideal, but is recognisably similar to ‘xenophobia’ and ‘Europhobia’, and is a useful shorthand way of referring to dread or hatred of Islam – and therefore to fear or dislike of all or most Muslims. Such dread and dislike have existed in western countries and cultures for several centuries. In the last twenty years, however, the dislike has become more explicit, more extreme and more dangerous.”

Drawing on the discussion made above, one may come to a conclusion that most of the problems and challenges Muslims faced in the beginning of their settlement with their families in 1960s and 1970s and ensuing exclusion and disadvantage they had to suffer and still continue to suffer to large extent as evidently seen in the previous section of this chapter have been the result of they

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434 Ibid. p. 140
being seen as ‘exotic other’. Seddon contends that “the social and political inclusion of this large Muslim population as full, equal and participating British citizens is primarily hindered by external perceptions and projections rather than internal conflicts that may occur as a result of shifting identities experienced through the migration process.”

It is against this background that one may rightly locate most of the negative media coverage about Muslims: printed as well as electronic. The portrayal of Muslims in the media has been mostly unfair and biased. The phenomenon of Muslims being portrayed negatively in the media, particularly in the printed one may be traced in the British history as far back as 16th century as Matar contended. Therefore, this has been the case for centuries as it was established with evidence in the previous chapter when discussing the historical context of problems faced by William H. Quilliam and his nascent Muslim community in Liverpool. This negativity has intensified in the aftermath of the Satanic Verses affair 1989, and it reached more or less its peak in post 2001 September 11 attack in US and 7th July 2005 bomb attacks in the London underground.

However, it is not to deny the fact that a tiny minority of Muslim communities whose method of resolving problems is not other than resort to violence should also be held responsible for constructing such image. Yet, as an influential source of information, media’s responsibility is greater in creating such

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a negative picture. The biggest concern for Muslims as far as media coverage of events related to Muslims is concerned, its tendency to generalise such incidents and portraying it as if the whole Muslim community is doing so or Islam and its teachings are inherently inspiring people to act so. Mostly, this has been the case with almost all the events and incidents that took place locally, nationally, and at a global scale, particularly such incidents such as 9/11, 7/7, and Mumbai attacks in 2008. Malik observes that “over the past decade, Muslims in Britain have been the focus of increasing public attention. One widespread form of such attention has been highly negative: Muslims have been portrayed in all kinds of media in very derogatory and vilifying ways. Among the effects of depiction, which has contributed to what is now widely referred to as ‘Islamophobia’, Muslims in Britain have been subject to considerable discrimination and even violence. The media portrayal of Muslims that Steven Vertovec is referring to is just one component of a pernicious form of xenophobia that has seen alarming levels of growth over the past decade.”

In view of the above, it would not be wrong to assume, as confirmed by Weller, Feldman, and Purdam, that surveys and reports explored Muslims’ concerns in the contemporary Britain in various strata of the society which exemplify assertions made in the previous paragraph that Muslims have been seen as ‘other’ and treated as such. Under the heading: Muslims and media in their report commissioned by the Home Office, Weller and other authors points out a quotation of an interviewee, which shows how Muslims feel they have been

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439 Suleiman, Yasir, Contextualising Islam in Britain: Exploratory Perspectives, Centre of Islamic Studies, Cambridge, 2009, p. 19
demonised by media: “ever since the Gulf War, Chechnya – people have been portrayed as terrorists. No one ever asks why they became terrorists”. In their survey findings, the authors highlight the severity of the issue: “the proportion of Muslim organisations reporting unfair treatment from the media exceeded the proportion of Muslim organisations saying their members experienced unfair treatment in other areas of life. The number of Muslim organisations reporting ‘frequent’ unfair treatment from national newspaper journalists and national newspaper coverage greatly exceeded the number saying that unfairness was ‘occasional’ or non-existent. 80 per cent (44 out of 55) Muslim organisations answering the question said that unfair treatment in the way that national newspapers cover their religion was frequent.”

The following summarised account given by the authors as examples of unfair treatment by the media amply indicates how prevalent the media bias is: “lack of coverage of specific religion, or religion in general; misrepresentation and bias; emphasis on the negative aspects of religion; ignorance and indifference; racial and religious stereotyping; offensive material and coverage; and lack of access to broadcasting licences.”

The other section of their survey has covered local interviews. An interviewee noted, the authors maintain, that “the media creates a particular obstacle for the Muslim community” in achieving the levels of trust and interaction needed to move toward positive change. It was pointed out that the manner in which newspaper articles are written may also help perpetuate inaccurate perceptions about different communities. One young person asked: “…why do news headlines have to say ‘Black/Asian/Muslim male did x’ in the headline and never say

443 Ibid. p. 134
anything like ‘white Christian male did x’?" Against this background, a plethora of questions arise: whether Muslims also have a fair share of responsibility in constructing such negative image about them directly or indirectly? If so, is it because they live in clusters in inner cities and as a result, they do not interact with or ‘integrate’ in the wider society and this give others a chance to construct images out of it? Or is it because they also perceive non-Muslims as ‘other’ and as a counterproductive, they are also seen as ‘other’ by them? It is not to deny the fact that Muslims also do have negative perceptions about others like others have about them and this notion has been brought into sharp relief by many a historians, sociologists, and anthropologists. A fair discussion of this has been made in the previous chapter under the subtitle of ‘Muslims in Britain since 18th C to Second World War as Migrants and Settlers’.

It is true that Muslims live in places of their own choice as communities mostly in inner cities and it was how they moved in during their migration process as highlighted in the previous chapter when discussing the demographic landscape of Muslims’ settlement in Britain. In fact it is not to deny that this settlement approach might have given others a chance to imagine them so. Yet, is it admissible for the host society to treat them the way they have been treated, only because they see them as ‘other’ despite there being in place a number of legislative tools and measures to protect them as seen before? At the same time, it

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444 Ibid. p. 135
is undeniable that Muslims also have a vital role to play in order for them to remove prejudice, stereotype, myth, and negative images from the hearts and minds of people in the society. Muslims, even after being in this country for more than half a century and having third generations who proudly claim to be British, have no justification to cocoon themselves from integrating in the wider society and live in isolation from the mainstream society. If they have a duty to serve and contribute to the wellbeing of the society they live in, then this is the way forward. Yet it will never be possible unless they feel they are welcome in the same society they are willing to participate and contribute to. In other words, it should be a give and take process by both parties concerned. However, this is a test not only for the wider society but also for Muslims as they have to find a way out for some of the pertinent theological issues they confront with when they live in a society which is not Muslim. One of the main issues as such, which will be discussed in the following subtitle, is whether permissible or not for a Muslim to live in a non-Muslim society.

5.3.2 Permissibility for the Presence of Muslims in Non-Muslim Society

This has been a crucial question for a Muslim as far as his choice to live in a non-Muslim secular society is concerned. The magnitude of this problem lies in

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446 Home Secretary Roy Jenkins made it clear what ‘integration’ is in a speech he made to the National Committee for Commonwealth Immigrants in 1966: “Integration is perhaps a loose word. I do not regard it as meaning the loss, by immigrants, of their own characteristics and culture. I do not think that we need in this country a ‘melting pot’, which will turn everybody out in a common mould, as one of a series of carbon copies of someone’s misplaced version of the stereotyped Englishman. I define integration, therefore, not as a flattering process of assimilation but as equal opportunity, accompanied by cultural diversity, in an atmosphere of mutual tolerance.” Quoted in Parekh, Bhikhu, ‘National Culture and Multiculturalism’ in Thompson K., ed., Media and Cultural Regulation, Sage, London, 1997, p. 176
how he or she maintains relationship as well as interaction with the society at large at times of war as well as peace. This is a situation, which has no reference in existing fiqh, particularly Muslim minority context. In fact, there are references in Islamic jurisprudence as to whether it is permissible for a Muslim to take residence in a non-Muslim territory putting his identity as a Muslim at risk while upholding allegiance to global Muslim community where he originally belongs to. In approaching this major issue, the classical jurists held two different views. Upon classifying the territories as abode of Islam and abode of war or hostility (dār al-Islam and dār al-harb), some of the jurists oppose to take residence in dār al-harb or dār al-kufr, while some others are in favour of it with certain conditions.

This problem had received a wide range of discussion among jurists when Spanish Muslims, overrun by the Christian forces, chose to stay in Spain. Their residence in dār al-harb (abode of war) became the subject of divided legal discourse among Maliki jurists. The focal point of this discourse was on the Muslims’ obligation to migrate to Islamic lands (dār al-Islam). There are legal rulings issued by jurists in Granada, the Magrib, and Ifriqiya in this connection. Some of them supported their residence, while some others opposed it. In her lengthy article ‘Muslim minorities and the obligation to migrate to Islamic territory: Two fatwās from fifteenth century Granada’ Kathryn A. Miller undertook an enormous effort to analyse the juristic discourse on Muslim minorities living in non-Muslim lands. In his article ‘Islamic law and Muslim minorities: The juristic Discourse on Muslim minorities from the Second/Eighth

\[447\] Miller, Kathryn A., ‘Muslim minorities and the obligation to migrate to Islamic territory: Two fatwās from fifteenth century Granada’ in Islamic Law and Society, 7:2, 2000, pp. 256-87
to the Eleventh/Seventeenth Centuries’, Khaled Abou El Fadl discussed in detail
the juristic discourse on Muslim minorities living in non-Muslim lands.\textsuperscript{448}

He has presented the jurists’ debate on the ethical and legal principles that should
guide the behaviour of these Muslims and demonstrates how the positions of legal
scholars gradually became more entrenched. Abū Hanīfā and Mālikī jurists, in
particular, rigidly disapproved of Muslim residence in non-Muslim territory on
the ground that Muslims subject to non-Muslim laws could not “manifest their
religion.”\textsuperscript{449} As Abou El Fadl points out, jurists did not explain what they meant
by ‘able to manifest their religion’. Whether they had referred to acts of worship
or the capacity to govern their minority community by the Sharī‘ah and the laws
of Islam in their totality is unclear. Shāfi‘ī, on the other hand, believed that
Muslims could stay behind in former Muslim lands, provided they could practice
Islam and were not subject to conversion efforts by non-Muslims.\textsuperscript{450}

In the 8th century, by contrast, Ja‘ufar al-Sādiq underlined that Muslims might
perhaps serve Islam better when living among non-Muslims away from home. Al-
Māwardi agreed on this opinion in the 11th century. The Hanafi school of thought
later on became even more flexible. They accepted the idea that there might be a
pocket of \textit{dār al-Islam} even inside non-Muslim territories. And they have gone

\textsuperscript{448} El Fadl, Khalid Abou, ‘Islamic law and Muslim minorities: The Juristic Discourse on Muslim
minorities from the Second/Eighth to the Eleventh/Seventeenth Centuries’, in Islamic Law and
Society, 1:2, 1994, pp. 141-87

\textsuperscript{449} Ibid. p. 157

\textsuperscript{450} This Shafi` stand may be the reason why Shafi school of thought is being followed in most of
the East African countries and countries like India (South Indian coasts), Indonesia, Malaysia, and
Sri Lanka, which are called ‘Shafi’ belt’ by historians who deal with the spread of Islam in these
regions. This historical reality may explain why Maliki school of thought may have not reach these
distant costal shores of the world. The exploration of this historical phenomenon could be an
interesting area of study that may be undertaken by researches who study fiqh al-Aqalliyyāt from a
historical perspective with special reference to influence of juristic views on taking residence in
non-Muslim territories.

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further to exempt emigrant Muslim from observing certain areas of the Sharī’ah if this seemed necessary because of *ikrāh* (duress) or *darūrah* (necessity) or for reason of *maslahah* (public welfare).\(^{451}\) Having examined the relationship between Muslim minorities and the Islamic polity, Abou El Fadl concludes that that “all schools claimed that a bond unites Muslims wherever they may be and all schools affirm a Muslim’s moral inviolability.”\(^{452}\)

The question arises here is how can this bond between Muslim minorities and the Islamic polity can be approached, let alone its preservation, in today’s modern political climate with all its complexities and realities within the context of international relations on the basis of which Muslim and non-Muslim states are committed to be bound by certain treaties? On the other hand, another question arises as to how these minorities can get themselves to formalise their relationship between them and Islam? To what extents are these Muslims bound by Islamic law? How should they conduct themselves in non-Muslim land? If Islamic law applies to them does it apply as a moral imperative or does it have jurisdictional force? On such questions Abou El Fadl points out that “the extent to which Islamic law is applicable to Muslims in non-Muslim states and the permissibility of residing in such states are interrelated issues. Many jurists made the permissibility on such residence contingent on the ability to practice Islam, without specifying the extent to which Islam must be manifested or practised.”\(^{453}\)


\(^{453}\) Ibid. p. 172
The question in this regard is: does the phrase ‘the ability to practice Islam’ mean to implement Islamic law: the Sharī‘ah in its totality or partially? If so, who is expected to be responsible to apply it to these Muslims in today’s political realities? If an Islamic polity exists, does it have coercive power over Muslims outside its territory as it is under obligation to abide by the treaties entered with states in which these minorities reside? If not, what is the position of these Muslims when accepting and acting upon laws of non-Muslim state? To what extent are minorities obliged to abide by laws of their host state and what defines the terms of their conduct? This is an area where, undoubtedly, fresh fiqh approaches are needed.

This discussion brings into focus two practical questions. First, what are the obligations and duties of Muslim minorities towards their place of residence and what defines the terms of the de facto compromise? Second, what happens if corruption is so widespread that an ideal Islamic life is not possible anywhere? In other words, to what extent Islamic obligations are subject to be altered by widespread corruption? Abou El Fadl argues that “Muslim jurists do not explain what Muslims are to do in case of a conflict between the laws of non-Muslim territory and Islamic law.”

The other issue in relation to the residence of Muslim minorities in non-Muslim territory is migration to Muslim territory, if an Islamic life is impossible in non-Muslim social context. Based on formal classifications of territories as dār al-Islam and dār al-harb or dār al-kufr, jurists were engaged in dealing with this issue from different perspectives. Bringing their arguments and justifications into

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454 Ibid. p. 178
focus, Abou El Fadl observes that “although scholars often have claimed that Islamic law divide the world into two basic categories: dār al-Islam and dār al-harb (alternatively, dār al-kufr or dār al-shirk), these categories do not reflect the complexity of Islamic thought on the issue. Muslim jurists did attempt to find a way to distinguish between the jurisdiction of Muslims and non-Muslims, but they could not agree on a definition of dār al-Islam or on the number of categories into which the world is divided. Consequently, the classification of territories in Islamic law is laden with ambiguity.”

The question is how far these classifications are relevant today? On what basis an identification of a dār al-Islam is possible, if migration is the case? Is it rational to argue that a larger Muslim minority community should migrate to dār al-Islam in case of its inability to live up to the teaching of Islam? These questions are needed a thorough investigation and underline the need for a scrutinised review of existing fiqh system, which will be made in the following chapter. However, the picture that emerges from the jurists’ stand on the issue in question, as contented by Abou El Fadl, “does not lend itself to essentialist position. The response of most jurists in the early centuries of Islam was cryptic and ambivalent. Early jurists recommended that a Muslim should reside among Muslims in a place in which religion could be learned and practised.”

Despite the intense debate on hijrah and despite the fact that about one-third of Muslim communities live in non-Muslim territories, few modern Muslims endeavoured to deal with ethical or

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455 Ibid. p. 161
456 Ibid. p. 163
legal principles that should guide the behaviour of Muslims residing in non-Muslim territory.

Despite these legal deliberations, there is a persistent presence of a considerable proportion of Muslim minority population in non-Muslim territories in the modern-day world. This is not so vividly manifest than in North America and Europe, particularly in contemporary Britain where Muslims are grappling with such problems and issues which have become a centre point to social, political, and legal discourses and deliberations. As a result, they found themselves confronting with many ideologies, doctrines, value systems…etc. that are alien to their social ethos, values, traditions, and cultural norms. The dilemma, Muslim minorities face with at this juncture is how they can contextualise Islam and its teachings in a non-Muslim social context and also, how they can formalise their relationship with the Muslim community, while they have no option but to subscribe to a certain political orientation and goal by virtue of their presence in nation states. It is against this background that some of the major challenges and issues would be discussed in the following pages.
5.3.3 Issue of Headscarf (hijāb) and Muslim Woman in Britain

Among the problems Muslim women face in contemporary Britain, to a lesser degree, is wearing the headscarf (hijāb). While to a greater deal the wearing of its sister associates namely khimār, niqāb, jilbāb, burqā…etc, also rouse problems.

Wearing the headscarf has become quite normal in non-Muslim societies; particularly in Britain (although not completely without controversy) however quite astonishingly it had also been banned in some Muslim countries such as Tunisia and Turkey let alone the banning of wearing the niqāb. Nevertheless, it is worth noting that wearing the niqāb has indeed sparked more controversy in many non-Muslim societies especially in Europe including Britain. As commonly understood the topic of hijāb and more so the concept niqāb is not much of a controversy in Britain than it is in France, Denmark, and Belgium, for

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458 This is similar to hijāb yet ‘can also be a covering that starts from the head and stops at the waist’. The meaning of niqāb and jilbāb has already been given in the footnote before: Open Society Foundations, Op. Cit., p. 3
459 This is called ‘burkha’ as well. ‘It is a loose outer garment that covers the entire body, including the face and eyes. It has a mesh screen covering the eyes and is similar to the seetar/sitar, the purpose of both is to veil a woman’s entire body and face in public’. The ‘burqā’ type of ‘covering’ is being mostly worn by women in Afghanistan, while ‘sitar’ worn by women in the Middle East, particularly Saudi Arabia. Ibid.
460 Turkey, for instance, had lifted the ban on wearing headscarf in universities and for public servants, which was in force since 1980, in September 2010: http://www.bbc.co.uk/news/world-europe-11880622 accessed on 3rd April 2012. The same ban was introduced in Tunisia in 1981 (and whether this situation has changed after the Arab spring revolutions sparked in Tunisia in December 2010 and swept over many countries in the Middle East is not clear): http://news.bbc.co.uk/1/hi/6053380.stm accessed on 3rd April 2012.
462 “…the coalition Conservative Party wants to implement a total ban on the garb in public places. This move comes on the heels of the Danish Parliament’s decision to ban its military personnel from wearing the burka” This news has appeared in the following newspaper on 22nd August 2009 under the headline: ‘Danish Conservatives want to ban the burka in public’ http://www.icenews.is/index.php/2009/08/22/danish-conservatives-want-to-ban-the-burka-in-public/ accessed on 3rd April 2012
463 ‘Belgium moves towards public ban on burka and niqāb’. ‘Home affairs committee of Brussels federal parliament votes unanimously to ban partial or total covering of faces in public places’: http://www.guardian.co.uk/world/2010/mar/31/belgium-public-ban-burqa-niqab
example. However, the controversy of wearing the hijāb or niqāb or jilbāb…etc. whether it is to a lesser degree or to a larger scale in Britain and other countries respectively, it has become potentially problematic enough to create a great deal of social as well as political division in societies as far as it is concerned. The issue has been largely picked up the Western media – namely BBC, CNN, Sky News, and Al-Jazeera, and is becoming a common topic to be discussed during talk shows, interviews, and specifically documentaries.

Hence, the debate on wearing Islamic headscarf and other features, particularly jilbāb and niqāb has entangled Britain, as mentioned above, whether to recognise it as a manifestation of religious freedom and right or just a religious and cultural symbol imposed by traditional patriarchal family system i.e. it is neither required by religion and its teachings nor does it compatible with democratic and secular values cherished in the West. However, the opinions of those who have been involved in this debate are divided. Those who support the right to wear it argue that the ban infringes human right provisions, whereas the opponents argue it is an oppression of Muslim woman and therefore, against freedom of choice. This section of the chapter, therefore, would seek to examine the issue in question by choosing one example, which is wearing jilbāb, from the British experience from both the legal and Islamic perspectives, which is R (on the application of Begum (by her litigation friend, Rahman)) (Respondent) v. Headteacher and Governors of Denbigh High School (Appellants) (hereafter referred to as the Begum case).

Before exploring this sample of the issue in question, it is appropriate to briefly examine the plausibility of the argument against Muslim woman wearing dress
covering her head and body including face⁴⁶⁴: hijāb, jilbāb, niqāb…etc. that it symbolises oppression of Muslim woman, it is against her freedom of choice, “visible indicator of religious extremism and is associated with religious fundamentalism and proselytism.”⁴⁶⁵

In order to examine this argument, this section of the study would use some recent scholarly writings, reports, literature based as well as empirical studies, and websites. One of such scholarly works that this study would make reference to is Dominic McGoldrick’s book entitled Human Rights and Religion: the Islamic Headscarf Debate in Europe.⁴⁶⁶ The book tackles a number of issues related Islamic headscarf: hijāb. The author not only explores related issues ramified by wearing the dress around the globe but also scrutinises thoroughly court cases and puts them into context the arguments that were debated before the judges. Using data quite extensively ranging from statistics on Muslim population concerned, court cases, legal deliberations, to discourses on human rights, assimilation, immigration, extremism, terrorism…etc. the author unfailingly presents an in-depth discussion of various perspectives advocated by legal experts, political stakeholders, and academia on legal, social, and political legitimacy of the Islamic headscarf, and its acceptability for Muslim communities and its implications in the wider society.

However, this section of the study will refer only certain sections of this book where necessary to discuss the issue in question. In this respect, as for the notion of hijāb being a symbol of oppression of Muslim woman, the author points out

⁴⁶⁵ McGoldrick, Dominic, Op. Cit., p. 15
that in the Western eyes the Islamic headscarf, particularly “the veil is commonly seen as an instrument and a symbol of the oppression and inequality of women under Islam.” \(^{467}\) He further notes that “women veil because men in general, and male religious leaders in particular, tell them they have to. Thus ‘the veil has been a key symbol used by patriarchy to mark and identify women’s bodies and identities.” \(^{468}\) Then the author brings a quotation for the French philosopher Bernard-Henry Levy which mentions that ‘the fight against the veil is for the liberty of women and therefore human rights.” \(^{469}\) Commenting on this quotation, although he emphatically mentions that it represents only one concept of human rights among the other “which is necessary to override the autonomy and agency of some women”, he does seem to accept implicitly the notion of Muslim woman being subject to patriarchy.

It is not far from the truth that Muslim women are subject to some kind of patriarchal restrictions as contended by Gilliat-Ray yet, for her, the patriarchy’s role is played out more in “labour market across the generations” \(^{470}\) than in wearing Islamic headscarf, which is also more culturally oriented than religiously motivated. \(^{471}\) Therefore, the previous interpretation given by Levy for the motivation behind wearing the veil is not unqualified and may fall under the category of prejudice and stereotype as argued by Gilliat-Ray: “A discourse of

\(^{467}\) Ibid. p. 13  
\(^{468}\) Ibid  
\(^{469}\) Ibid. pp. 13-14  
\(^{471}\) In Islamic religion, the earning and spending responsibility for spouse, children, and other dependants are obligatorily shouldered by the male. There is no ‘religious obligation’ for female to earn a living hence the money that she earns does not need to be spent meeting the needs of household essentials. It is her right to earn and keep the money purely for herself. It is absolutely optional for her to support her spouse in shouldering family burdens. Therefore, the notion of rights and duties of a male and a female in the Muslim family setting is not a cultural understanding rather prescribed by Islamic teachings, practiced by Muslims throughout the centuries, and agreed upon by almost all the Islamic legal schools of thought across all sects of Islam.
secularism and feminism which assumes that Muslim women require liberation into the supposedly ‘progressive’ ideologies of the West develops from a viewpoint that seems to take it for granted that ‘Western women are secular, liberated and in total control of their lives when this is not the case’.”

Moreover, Levy’s statement is disrupted by the recent findings of empirical data collected by Open Society Foundations probing into “Why 32 Muslim Women Wear the Full-Face Veil in France: Unveiling the Truth.”

In its forward, the report observes that aim of this project was to know the reasons for wearing the full-face veil and their experience in public before and after the debate over the banning the veil in 11 April 2011. The report further says that “it is an attempt to distinguish the real-life experience and perspectives of the women who wear the veil from the popular myths and misperceptions promulgated by the media and national figures.”

As findings of the project, the report presents the views of interviewees: “For most respondents, the decision to wear the full face veil occurred through a gradual evolution from the hijāb or jilbāb to the niqāb...The public debates over wearing the veil attempted to delegitimise its spiritual significance. Yet in most cases, the women interviewed said they adopted the full-face veil as part of a spiritual journey. Many desired to deepen their relationship with God and draw on the actions of the Prophet Muhammad’s wives for guidance. They recalled their feeling of extreme joy and well-being on the first day of wearing a niqāb/seetar.”

Similar kind of motivations may have been the underlying causes

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474 Ibid. p. 1
475 Ibid. p. 6
for many a respondent in the Weller report as well. The same tendency can be
gleaned in other recent surveys that studied Muslim women experience in Britain.
Some Muslim women in Britain, for example, had emphasised that although the
media “dehumanise Muslim women who wear hijāb or headscarves, Muslim
women are not oppressed…But wearing hijāb is part of the identity of some
Muslim women. It is spiritual or personal choice.”

Hence, in the Begum case which was referred to before, is it possible to unearth
the rationale behind the controversy? Was the motivation religious or cultural?
Can the case be taken as an example of infringement of human rights, particularly
violation of the right to education and/or violation of freedom to manifest one’s
religion or belief? Was it to be dealt with wisdom and farsightedness by the
person as well as the related people concern: Muslim community in Luton in
particular and the Muslim leadership if there is any in general? Before endeavour
to answer these questions, it is appropriate to present a brief background of the
case in question in brief.

5.3.3.1 The Begum Case: Background

“Shabina Begum was a Muslim, born in the UK to parents who came from Bangladesh. In September 2000, at the age of nearly 12, she enrolled at the Denbigh High School in Luton, a multi-cultural, multi-faith, secular secondary school for children (from 11 to 16 years of age) of both sexes. About 80% of the pupils at this school were Muslims and most of them were Bangladeshi or Pakistani heritage, but a number of other religion and ethnic groups were also represented. For her first two years at the school, Shabina wore the shalwar kameeze without complaint. At some stage, however, she decided that it did not accord with her religious beliefs, because “she had a genuine belief that the tenets of Islam required her, in her approach to womanhood, to wear a jilbāb [a long coat-like garment] when in public and that the school shalwar kameeze did not suffice.” The school authorities demanded the respondent to wear the correct school uniform before attending school. Shabina (a school girl nearly 14) contended that the decision of the head teacher and school governors not to admit her to the school while wearing the jilbāb (the only garment which met her religious requirements because it concealed the contours of the female body)

478 A brief account of this case is quoted here from a research paper: Ssenyonjo, Manisuli, ‘The Islamic Veil and Freedom of Religion, the Rights to Education and Work: a Survey of Recent International and National Cases’, in Chinese Journal of International Law, Oxford University Press, Vol. 6, No. 3, pp. 653-710. This section of the study is mostly based on this paper and the footnotes and relevant references that are of legal nature quoted from the same.
479 Ibid. para. 6 “The school offered three uniform options. One of these was the shalwar kameeze: a combination of the kameeze, a sleeveless smoke-like dress with a square neckline, revealing the wearer’s collar and tie, with the shalwar, loose trousers, tapering at the ankles. A long-sleeved white shirt is worn beneath the kameeze and, save in hot weather, a uniform long-sleeved school jersey is worn on top. ‘Two mosques in Luton, the London Central Mosque Trust and the Islamic Cultural Centre advised that this uniform did not offend the Islamic dress code in the view of the vast majority of Muslim scholars’” (para. 13)
480 Ibid. para. 80, per Lord Scott.
481 Ibid.
breached two of her rights under the ECHR: the right to “manifest [her] religion…in…practice and observance” (Article 9)\(^{482}\) and the right not to “be denied the right to education” (Article 2 of the Protocol No. 1). Bennett J., ruling on Shabina’s application for judicial review at first instance, dismissed the claim\(^{483}\) but the Court of Appeal made a declaration that her rights under Article 9 had been infringed.\(^{484}\) The school appealed to the House of Lords…\(^{485}\)

### 5.3.3.2 The Begum Case and Freedom of Religion

Exploring the case Ssenyonjo\(^{486}\) observes that the Court has accepted that “the respondent sincerely held the religious belief which he professed to hold…Article 9(1) is engaged or applicable.”\(^{487}\) However, House of Lords’ position was different. Their Lordships’ reasons for their different stand were two fold, according to Ssenyonjo, : “(i) the school’s refusal to allow Shabina Begum to wear a jilbāb at school did not interfere with her Article 9 right to manifest her religion (according to the majority) and, even if it did, (ii) the school’s decision was objectively justified. While there was consensus on the second finding (justification), there were differences in the opinion about the first one (whether there was interference). The majority in the House of Lords found that “there was no interference with the respondent’s right to manifest her belief in practice or

\(^{482}\) Article 9 of the ECHR provides: “(1) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, In worship, teaching, practice and observance. (2) Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interest of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedom of others”.


\(^{484}\) [2005] 1 WLR 3372 (Brooke, Mummery and Scott Bake LJJ)

\(^{485}\) Ssenyonjo, Manisuli, Op. Cit., p. 676

\(^{486}\) Ibid. pp. 677-680

\(^{487}\) [2005] 1 WLR 3372 (Brooke, Mummery and Scott Bake LJJ), Lord Bingham, para. 21
observance, because she had “chosen to attend this school knowing full well what the school uniform was. It was she who had changed her mind about what her religion required of her, rather than the school which had changed its policy. Lord Hoffmann’s statement in this case is as follows: “I accept the wearing a jilbāb to a mixed school was, for her, a manifestation of her religion. The fact that most other Muslims might not have thought it necessary is irrelevant. But her right was not in my opinion infringed because there was nothing to stop her from going to a school where her religion did not require a jilbāb or where she was allowed to wear one. Article 9 does not require that one should be allowed to manifest one’s religion at any time and place of one’s own choosing.”

How far this legal reasoning by Lord Hoffmann has been justifiable in relation to the notion of interference with Shabana’s right to manifest her religious beliefs by a jilbāb is questionable. Ssenyonjo notes that the reasoning has been based on ‘the existence of other school where she could wear a jilbāb’. But, according to him, “this does not appear to be convincing because the existence of other schools can only serve to justify the interference as opposed to the absence of the interference. The reasoning also indicates that the majority were reluctant to protect the rights of more marginalised individuals within the minority religious groups. As Lord Hoffmann stated, “people [minorities like Shabina] sometimes have to suffer some inconvenience for their beliefs” (para. 50).

488 Ssenyonjo, Manisuli, Op. Cit., pp. 677- 680; Lord Bingham, para. 25; Lord Hoffmann, para. 50 and Lord Scott of Foscote, para. 72
489 Ibid; para. 92
490 Ibid; para. 50
Lord Nicholls and Lady Hale of Richmond, the only female member of the Appellate Committee, took a different opinion. Lord Nicholls noted: “I think this [the view that her right to manifest her religion by a jilbāb was not infringed] may over-estimate the case with which Shabina could move to another, more suitable school and under-estimate the disruption this would be likely to cause to her education. I would prefer that in this type of case the school is called upon to explain and justify its decision, as did the Denbigh High School in the present case.”\(^492\) Lady Hale of Richmond also agreed, as contended by Ssenyonjo, with Lord Nicholls that “there was an interference with Shabina Begum’s right to manifest her religion.”\(^493\)

Further elaborating the case, Ssenyonjo\(^494\) notes that the law Lords justified the school’s refusal to allow Shabina Begum to wear a jilbāb at school for a number of reasons: (1) the school’s right to adopt a policy on school uniforms. In this case, “the school had taken immense pains to devise a uniform policy which respected Muslim beliefs…”\(^495\) (2) the existing policy largely conformed with, and acceptable to “mainstream Muslim opinion”\(^496\) (3) girls in the school had “subsequently expressed their concern that if the jilbāb were to be allowed they would face pressure to adopt it even though they do not wish to do so”\(^497\) (4) the school wished to avoid clothes which were perceived by some Muslims (rightly or wrongly) as signifying adherence to what was described as an “extremist version of the Muslim religion”\(^498\) (5) the school relied on a statement

\(^{492}\) Ibid. Lord Nicholls, para. 41  
\(^{493}\) Ibid. Baroness Hale, para. 93  
\(^{494}\) Ssenyonjo, Manisuli, Op. Cit., p. 678-679  
\(^{495}\) Ibid. Lord Bingham, para. 65  
\(^{496}\) Ibid.  
\(^{497}\) Ibid. Baroness Hale, para. 98  
\(^{498}\) Ibid. Lord Hoffmann, para. 65
made by the Muslim Council of Britain on the “Dress code for women in Islam” which stated that in Islam “there was no recommended style; modesty must be observed at all times; trousers with long tops or shirts for school wear ‘absolutely fine’.”  

(6) three schools in the area “whose rules would permit her [the respondent] to wear a jilbab”  

(7) Shabina “had chosen to attend to this school knowing full well what the school uniform was”  

(8) the notion that the shalwar kameeze school uniform would not accord with essential requirements of Islamic modesty for teenage girls seems to me an extraordinary one

Articulating these justifications put forward by Law Lords, Ssenyonjo questions: “whether the reasons mentioned above made it “necessary” to interfere with the applicant’s freedom to manifest her religion by a jilbab at school. In particular, several questions can be raised with respect to some aspects of the Court’s reasoning. First, does the wearing of a jilbab (which was considered to be “extraordinary”) signify adherence to an “extreme version” of the Muslim religion so that it is necessary to limit it in school? Is it for the Courts to determine the ordinary and extraordinary requirements of a particular religion in a given context? Furthermore, is it “irresponsible” of any Court to overrule the judgement of school authorities on a matter involving dress in schools according to one’s religious beliefs?

Ssenyonjo, responding the questions asked, maintains that: “in democratic societies, in which several religions coexist within one and same population, it

499 Ibid. para. 15  
500 Ibid. Lord Scott, para. 89 and Lord Bigham, para. 25  
501 EctHr, Kokkinakis v. Greece (1993) 17 EHRR 397, para. 31  
502 Ibid. Lord Scott, para. 83  
may be necessary to place restrictions on freedom to manifest one’s religion or belief in order to reconcile the interests of the various groups and ensure that everyone’s belief are respected.”

The limitation clauses in article 8-11 of the ECHR demand that interferences must be “necessary in a democratic society”. The term “necessary” has been found to connote a high burden to be discharged by a State (in this case, the school). Necessity is “not synonymous with ‘indispensable’ neither has it the flexibility of such expressions as ‘admissible’, ‘ordinary’, ‘useful’, ‘reasonable’ or ‘desirable’. A measure does not become “necessary” simply because it has the support or approval of a majority of the population – as is appropriate with a human rights instrument, the court must also consider the rights of minorities. The adjective “necessary” requires that any interference must on the particular facts of the case be “proportionate to the legitimate aim pursued” and be designed to meet a “pressing social need” and the reason(s) given for the interference must be relevant and sufficient.”

Finally, evaluating the Begum case, Ssenyonjo stresses that there was no sufficient evidence to justify the “perception” that wearing a jilbāb signified alleged adherence to an “extreme version” (a term that was not defined) of the Muslim religion or to link extremism to Shabina Begum’s conduct. Indeed, there was no evidence to show that Shabina was a “extremist” or supported any extremist group…However, the application of high degree of deference to the school authorities (the head teacher, staff and governors), as the House of Lords did in this case, effectively lessened the court’s role to determine whether the

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504 Kalec v. Turkey (1997) EHRR 552
505 Handyside v. the United Kingdom (1976) 1 EHRR 737, at 754; Silver and Others v. the United Kingdom, Judgment of 25 March 1983, (1983) 5 EHRR 347, para. 97
limitation in question was “necessary” under Article 9. Indeed, according to the majority, there was no interference in the first place. To state that it would be “irresponsible” for the court to overrule the head teacher, staff and governors in a case of a jilbāb at school effectively undermined the court’s “supervision” in terms of intensity of scrutiny with which the margin of appreciation is supposed to work “hand in hand”. It also suggests that experienced school authorities can make no errors of judgment, which does not appear to be always the case.507

“Deferring to the school authorities granted to the school an almost unlimited “margin of discretion” thereby enabling the court to avoid the “difficult” jilbāb question and its failure to recognise the rights of the most marginalised individuals within minority groups- in this case being the rights of a female Muslim pupil wearing a jilbāb at school.”508 This indifference towards marginalised individuals is clearly manifest in the statement of Lord Hoffmann when he stated that “people [minorities like Shabina] sometimes have to suffer some inconvenience for their beliefs”. Implicit in this assertion is the question: why did she choose to wear “extraordinary” religious clothing linked to an “extremist version of the Muslim religion?”509

5.3.3.3 The Begum Case and Right to Education

The right to education is guaranteed by Article 2, Protocol No. 1. as noted by Ssenyonjo.510 The article 2 “confers no right to go to any particular school. It

509 Ibid.
510 Ibid.
is infringed only if the claimant is unable to obtain education from the system as a whole."\(^{511}\) Ssenyonjo argues that in the present case, it was pointed out that, she could choose to attend a school where she could wear her jilbab, and there was nothing to suggest that Shabina could not have found a suitable school if she had notified her requirements in good time to the local education authority. This approach does not consider another dilemma in that if girls are moved from State to private, religious schools, they leave an environment where they can experience tolerance, friendship among all people, ethnic, national and religious groups, persons of indigenous origin, diversity of culture, ethnicity and religion. Lord Scott added that: “if the conclusion that the school was entitled to have a school uniform policy that did not allow Shabina to wear a jilbāb is right, as in my opinion it is, it must follow that the school did not by requiring her to wear the school uniform commit any breach of her convention right to education”\(^{512}\)

Ssenyonjo further observes that “general bans on the Islamic dress in schools might lead to further discrimination against girls and women in education. In States where Muslims are the ethnic, racial and religious minorities, this is likely to lead to the “intersectionality” of racial, sex, and religious discrimination. Freedman observed: “In the case of the headscarf, the exclusion of Muslim women from school and other public spaces, places them further from arenas of debate, discussion and participation, and thus pushes a real resolution of this issue even further beyond reach.”\(^{513}\) Therefore, the hijāb should not be used to deny

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\(^{511}\) Abdul Hakim Ali v. Head Teacher and Governors of Lord Grey School [2006] UKHL. 14

\(^{512}\) Lord Scott, para. 90

Muslim women education. In the words of Kutty: “Hijāb, when understood in the proper Islamic context can never be associated with oppression of women, for women during the time of the Prophet (peace and blessings be upon him) never stayed behind anyone; they were assertive and participated fully in society.”

Hence, this final observation by Ssenyonjo, leads this section of the chapter to consider whether the Islamic headscarf and its sister affiliates: niqāb, khimār, and jilbāb, are cultural expressions or religious obligations. Scrutinising the Qur’ān and the Sunnah of the Prophet, one may discover that it is a religious obligation. The Qur’ān says: “…And say to the believing women that they should lower their gaze and guard their modesty; that they should not display their beauty and ornaments except what (must ordinarily) appear thereof; that they should draw their veils (Khumur) over their bosoms and not display their beauty except to their husbands, their fathers…”

The Qur’ān further says: “O Prophet, tell thy wives and daughters, and the believing women that they should cast their outer garments over their persons (when abroad); that is most convenient, that they should be known (as such) and not molested…” From these two Quranic teachings it becomes clear that Islamic religion makes it obligatory upon women for the age of puberty to veil when in the presence of men who are not closely related to or whom she is allowed to marry.

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515 Practices, sayings, and approvals of the Prophet (peace be upon him) to the actions of his companions during his life time.
516 The Glorious Qur’ān, Chapter 24, Verse No 30-31, Translation by Ali, Abdullah Yūsuf, Amana Corp. 1989
517 Ibid. Chapter 33, Verse No 59
Although there is no fixed way of covering her body in terms of type, colour, and style, the minimum requirement for Muslim woman is to cover the entire body, with the exception of the face and the hands according to vast majority of Muslim jurists as interpreted in the light of the verses mentioned above.\(^{518}\) Therefore, it may not be exaggeration to say that the \textit{hijāb} is not just a religious symbol but rather it is a religious obligation for Muslim women who attained the age prescribed. In this respect, Ali Jumah, Mufti of Egypt, stated in 2004: “a Muslim woman is obliged to wear hijab as soon as she reaches puberty…\textit{Hijāb} is known to be essential and necessary in religion; it is not merely a symbol that distinguishes Muslims from non-Muslims. It is an obligation that forms part and parcel of the Islamic religion.”\(^{519}\)

Drawing on the discussion made above, it can be concluded that the Islamic headscarf inherently religious and it is an obligation on Muslim woman. Therefore, it may be said it is her religious obligation as well as her human right sanctioned by Human Right Conventions. Compared to many western countries, the opportunity to enjoy this freedom and to practice this right by British Muslim Women is enormous despite being subject to many discrimination in practicing it in their daily life as seen in the Begum case. It is undeniable that the issues revolving around \textit{hijāb}, \textit{niqāb}, \textit{jilbāb}…etc. particularly banning them can amount to violation of a number of international human rights. According to McGoldrick, the ban on the Islamic dress and similar prohibitions of any of the above types of


the Islamic dress can involve the intersection of a number of international human rights including the right to freedom of religion, racial and gender discrimination, minority rights and the right to education.\textsuperscript{520}

In this respect, what is apparent form the discussion done so far is that there seems to be some fundamental issues revolving around certain definitions such as ‘religion’, ‘freedom’, ‘right’,’ responsibility’, ‘necessary’…that have been quite extensively used not only in this controversy in particular but also in similar cases as well. Particularly, when an issue occurs within a society where diversity is a persistent reality in terms of culture, religion, ethnicity, race, colour, language…etc. i.e. multi-faith and multicultural society, a question arises as to who has the authority to define these terms, whose interpretation is accurate, under what criterion it can be right…etc.? Is it not true that the definitions of the concepts of ‘human rights’, ‘freedom’, ‘value’, ‘ethics’, are given and interpreted as the West understands them. Can there be other understandings and interpretations as well which can contribute to define these terms? How far is it reasonable to impose a certain understanding of a concept on ‘others’ who are not consulted and not party to it? In order to find answers to these and similar fundamental questions, it is appropriate to quote Wael B.Hallaq: “In studying the role of the Qur’ān in so-called Islamic law, we have imposed - among much else – our distinctly and distinctively modern notions and standards of law and morality, separating the inseparable and joining together that which cannot or never could be joined. Our scholarship has been tainted by conceptual categories, distinctions and binarisms that originated in modern Europe, mainly from the time of Kant, if not that of Hobbes. We have, unconsciously, taken these categories and applied

\textsuperscript{520} McGoldrick, Dominic, Op. Cit. pp. 237-287
them to other nations and communities, to other histories and anthropologies. Our struggle now is to free ourselves of our controlling and hegemonic ideas whose vehicle is our language, our conceptual slave-driver.”

The significance of this quotation lies in the fact that its call for an epistemological revisit to the origins of the western concepts and deconstruction of them aiming to understand other societies and communities in their proper contexts. In that sense, the present multicultural pluralistic social context of contemporary Britain is a blessing for all the communities in Britain, which means that, with getting everyone’s participation and contribution towards deconstructing concepts and terminologies, a true model multicultural society can be built. Hence, it is with this aim in mind, the following chapter will strive to outline some of the strategies of Islamic approach towards achieving this goal within a Muslim minority situation, which is called \textit{fiqh al-Aqalliyyāt}.

Chapter 6: *Fiqh al-Aqalliyyāt* (Jurisprudence for Muslim Minorities)

6.1 Definition, Concepts, and the Status of *Fiqh al-Aqalliyyāt* - Past and Present

Fiqh, literally, means understanding and comprehension, and technically, it means acquiring profound knowledge of legal rulings of the Sharī’ah that are deduced and derived from its detailed sources. Thus, *Fiqh al-Aqalliyyāt* (Jurisprudence for Muslim Minorities) means the profound and comprehensive understanding and knowledge of a Muslim Minority at a given social context at a given time from the perspective of Islamic Jurisprudence.

According to the 12th session of European Council for Fatwa and Research, the following definition for *Fiqh al-Aqalliyyāt* has been unanimously reached by the members of the council headed by Yūsuf al-Qardāwi the president of the Council: “It is a kind of Fiqh which deals with laws or rulings pertaining to Muslims reside in non Muslim societies or countries”.

Further explaining this point, al-Qardāwi stressed that it is a special kind of fiqh especially for Muslims reside in non Muslim countries where a Muslim is surrounded by an un-Islamic social set up in which every sphere of life is totally alien to Islamic norms and ethos. The presence of a Muslim in that social atmosphere is, therefore, not like a situation of his fellow Muslim in an Islamic environment or in an Islamic social set up. As such, there should be a separate approach to address the issues related to this sort

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of a situation and find a way out to seek solutions to the problems aroused out of
this unique context.

_Fiqh al-Aqalliyyāt_ is, thus, a concept, which deals with issues related to Muslim
minorities from the perspective of Islamic jurisprudence. In other words, it seeks
to understand, comprehend, and asses the issues of Muslim minorities in the light
of the Sharī‘ah and to offer guidelines to address the issues through the Qur’ān
and Sunnah taking the objectives and end goals of the Sharī‘ah into account.

_Fiqh al-Aqalliyyāt_ is, however, a new terminology coined by modern Muslim
scholars like al-Qardāwi and al-Alwāni and a subject matter, which is being
discussed and debated in International forums and Research councils like
European Council for Fatwa and Research. As such, this has no reference in early
works of jurists. In his online rulings, al-Qardāwi prefers calling this fiqh
as Fiqh al-Ightirāb, which means the jurisprudence for Muslims who happened to
be living in the West and outside the abode of Islam (_Dār al-Islam_) or in rather
than using the term _Fiqh al-Aqalliyyāt_. When he argues about his preference to
use this term in his articulation of Muslim minority issues in the West, al-Qardāwi
emphasises that “we prefer defining this as _Fiqh al-Ightirāb_ in spite of its
irrelevance to denote Muslims to live in their own homelands like in India and
Philippines as they belong to these lands. Hence, how can we consider them as
_Mughtaribīn_ (people of the West) except for the strangeness of Islam (in their
lands) is the yardstick, as in the Prophet’s tradition: Islam emerged as a stranger
and it will become stranger again. Blessed be those who are felt to be strangers”.
Al-Qardāwi, nevertheless, in his latest writings has little reservation in using the

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524 al-Qardāwi, Yūsuf, _Fiqh al-Aqalliyyāt_, Available at http://www.Qardawi.net/arabic/meetings/shreai&hayaa/prog.1.htm, accessed on 09.07.00, p.3
term al-Aqalliyyāt (minority) against his preference: al-Ightirab. His using of the term al-Aqalliyyāt is not more apparent than in his recent works on fiqh for Muslim minorities. His articulation of this term can be widely seen both in electronic and print media.\textsuperscript{525} Especially, in the third volume of his book: \textit{Fatawa Muasirah}\textsuperscript{526} (Contemporary Legal Rulings), the issues and problems of Muslims living in the West have been dealt with and articulated extensively. Similarly, the term al-Aqalliyyāt has been widely and vividly used by him in his ever first book on Muslim minority issues form the perspective of Islamic jurisprudence: \textit{Fi Fiqh al-Aqalliyyāt al-Muslimāt}\textsuperscript{527}.

As such, \textit{Fiqh al-Aqalliyyāt} is a specific kind of fiqh, which is mostly concerned about dealing with special circumstances and situations of people who happened to be living in non-Muslim lands or societies from the perspective of Islamic jurisprudence.

Tāha Jābir al-Alwāni observes that it is a fiqh of a certain group of people whose context is special and whose situation is peculiar. The person who seeks to come up with this fiqh has to be acquainted with social sciences, economics, political science and international relations. Hence, he stresses that the definition of fiqh al-Aqalliyyāt is an accurate and acceptable definition. There is no restriction in the use of this terminology.\textsuperscript{528}

\textsuperscript{527} al-Qardāwi, \textit{Fi Fiqh al-Aqalliyyāt al-Muslimāt}, Dar al-Shuruq, Cairo, 2001
It does not mean, however, that the benefit of this fiqh is confined only to Muslim minorities, as contented by al-Qardāwi. He argues that the people who live in their homelands\textsuperscript{529} too can benefit from the rukhas (Concessions) of this fiqh.\textsuperscript{530} It is apparent from al-Qardāwi’s stand on this issue that the outcome and benefits of this fiqh can possibly be benefited by the rest of the Muslim community. But for al-Alwāni, this fiqh does not mean only the concessions for minorities. “on the contrary” he argues “we aim at , through forming this fiqh, creating examples and models from within minorities, and efficient Muslim men and representatives of their own home countries. Hence, it is a fiqh of the cream or models, and fiqh of firm obligations (Azaim), not a fiqh of just concessions (Rukhas) and interpretations (Tawilat).\textsuperscript{531}

From the above explanation, it seems there is a contradiction between al-Qardāwi and al-Alwāni in defining \textit{fiqh al-Aqalliyyāt}. But a close scrutiny of their views will show that both of them express their views from different angles and to different people. While al-Qardāwi’s opinions were expressed through his answers to questions posed towards him through the internet by people around the globe especially by Muslim minorities from non-Muslim societies, al-Alwāni put his views through his writings. Furthermore he speaks about the concepts and theories of this \textit{fiqh} aiming at addressing specialised people in this field. While al-Qardāwi, speaks about this \textit{fiqh} focusing on addressing contemporary issues of Muslim minorities, particularly the people of the west in a practical way, al-Alwāni attempts to achieve a comprehensive outlook for this fiqh including its

\textsuperscript{529} It seems that he indicates to majority Muslims, who share some of the problems of Muslim minorities, such as issues pertaining to transactions.

\textsuperscript{530} al-Qardāwi, Yūsuf, \textit{fiqh al-Aqalliyyāt}, Available at http://www.Qardawi.net/arabic/meetings/shreai&hayaa/prog.1.htm, accessed on 09.07.00, p.3

\textsuperscript{531} al-Alwāni, T Jabir, Op. Cit. p.3
concepts, principles, fundamentals (Usul), scope, and the methodological means of implementation of this fiqh on a theoretical basis. As contemporary Muslim minorities face problems in conducting their day to day life, it goes without saying that these problems should be dealt with in no time, in order to achieve amicable solutions, which is what seems to be in al-Qardāwi’s views on fiqh al-Aqalliyyāt whose most scholarly discourses largely focus on seeking priorities in dealing with problems and challenges of contemporary Islamic awakening. As this situation is a new phenomenon which was not identified by early jurists, a new approach, a sound methodology, and a firm foundation should be laid down to deal with it in a creative and constructive manner. Al-Alwāni views fiqh al-Aqalliyyāt as an effort to shed light on this inevitable need. As such, on one hand fiqh al-Aqalliyyāt is concessions and facilitating on the basis of prioritisation. On the other, it is nothing but general rulings, firm provisions, and clear-cut obligations on the basis of conceptualisation. Given the contemporary situation of Muslim minorities, there is an immediate need to address their problems. Hence, there should be scholars who are committed to respond to this unique and unprecedented situation whenever need arises. Similarly, a profound long-term procedure also should be devised so that issues of Muslim minorities could be addressed amicably. As such, although there seems to be a contradictory stand represented by both al-Qardāwi and al-Alwāni on the definition of fiqh al-Aqalliyyāt literally, it is evident from the above analysis that both of them strive, in real, to find a sound and solid methodological fiqhi approach to seek solutions to the problems of contemporary Muslim minorities.

6.2 *Fiqh al-Aqalliyyāt* - Past and Present

In dealing with the unique situation of contemporary Muslim minorities residing in non-Muslim societies in various parts of today’s world from the perspective of Islamic jurisprudence, one can hardly find any concrete methodological approach to do with their diverse and multifaceted issues and problems that have erupted in their current and unprecedented context in the existing classical fiqh. The fiqh which we have inherited from generation to generation, although it has passed through various socio-political and cultural contexts proving its capability to overcome any social set up and to cope with any sort of a situation, has never been put on test like it undergoes today. Of course, it is undeniable that even during the Prophet’s time in the early Makkan period; there came a Muslim minority situation in Habasha. It was the first ever Muslim migration in the history of Islam from Mecca to the now Ethiopia. Nevertheless, no one would dare to argue that the situation at that time was anything like today in terms of social context, issues, and problems. The response to this particular context, therefore, was not needed as comprehensive as we need it today. This explains, why the Quranic or prophetic guidance to deal with a peculiar and unprecedented situation prevailing in today’s Muslim minority social contexts is too general than specific. At the same time, it is undeniable that this divine guidance has been an inseparable source of reference for scholars of fiqh to deal with all such situations that followed the early formative stage of Muslim communities. Hence, this explains why there has been always some sort of effort exerted by Muslim
scholars towards seeking solutions to issues faced by Muslim minorities throughout the centuries.

In fact, there are references, undoubtedly, in Islamic jurisprudence as to whether it is permissible at all for a Muslim minority, for instance, to reside in non-Muslim domain in terms of his obligatory commitment to preserve his identity as a Muslim and to uphold his allegiance to his larger community. If so, what kind of a relationship these Muslims should have towards dār al-Islam whilst existing alongside other faiths and communities outside the Muslim territory? What are the ethical and legal duties that these Muslims owe to their host non-Muslim polity or to the society? These are some of the basic issues, which one might find references in the classical works. Nevertheless, the same or similar issues have been persistently challenging Muslims giving an impetus for an ongoing debate among the scholars of Islamic jurisprudence. Yet, the debate is, undoubtedly, multifaceted and multidimensional, not only because of the diverse nature of the same issues but also the varied contexts and circumstances in which the Muslim minorities reside in terms of territory, society, and polity nationally as well as internationally.

From the second century Hijra, the scholars of fiqh have been constantly concerned about the fate of Muslim minorities as regards to their status of residing in non-Muslim territory or coexisting with non-Muslims. In fact, there were several historical and doctrinal reasons underlining this debate. As mentioned before, there has been an argument from the early period of Islam that a just life is possibly materialised if lived under the guidance of the Sharīʿah, which, in turn, is possible only if there is an Islamic polity dedicated to the application of the Sharīʿah.
The core issue of this debate is that a Muslim cannot possibly live a just life or positively enjoy a true life unless he lives in an Islamic polity that applies the Sharī’ah dutifully.

What makes this situation problematic is the demarcation of the world as an abode of Islam (Dār al-Islam) and the abode of un-Islam or disbelief (Dār al-Kufr, Dār al-Harb, or Dār al-Shirk). The abode of Islam is where it is possible to live an ethical life under the guidance of Sharī’ah, while the abode of un-Islam is where the Sharī’ah is not possible to be applied and Islamic justice therefore, does not prevail. On the other hand this situation becomes more problematic, difficult, and complicated by the fact that there are certain Quranic injunctions, which instructs not only Muslims but also Jews, and Christians to govern themselves by what God had decreed for each of them.

One of them reads as follows “Those who do not judge by God’s revelation are disbelievers indeed” (5:44) and (5:49) for Jews; (5:44-45) for Christians; 5:47-48). In addition to that, the Qur’ān calls upon Muslims not to ally themselves with Christians or Jews “O believers do not hold Jews and Christians as your allies. They are allies of one another and anyone who makes them his allies is surely one of them, and God does not guide the unjust” (5:51).

In another place the Qur’ān calls upon Muslims to escape oppression by migrating in the cause of God: “As for those whose souls are taken by the angles (at death) while in a state of injustice against themselves, they will be asked by the angles: “What state were you in?” they will answer: “We are oppressed in the land”. And the angles will say: “Was not God’s earth large enough for you to migrate?”… But those who are helpless, men women, and children, who can neither contrive a
plan nor do they know the way, may well hope for the mercy of God: and God is full of mercy and grace. Whoever migrates in the cause of God will find many places of refuge and abundance on the earth (4:97-100).

Undoubtedly, these Quranic verses and those that are similar to these Quranic injunctions raise some important and serious questions:

1. What did the Qur’ān mean by those who “Were oppressed”? does oppression synonymous with living in non-Muslim land?

2. What if a Muslim encounters oppression in an Islamic land and the only haven is non-Muslim territory: in that case, what becomes of the injunctions not to take Christians and Jews as allies?

3. How is one to govern by what God is has decreed if one escapes (from wars or any other danger) to non-Muslim territory?

In addition to this, there are certain prophetic traditions that forbade Muslims from living in the lands of disbelief. One such tradition states: “Whosoever associates with disbelievers and lives with them he is like them”. Some other traditions say that hijra (Migration) is an ongoing obligation. For instance, the Prophet is reported to have said: “The hijra will not come to an end as long as the disbelievers are fought”. In contrast, however other traditions assert the duty of hijra to have ended with the conquest of Mecca. Answering these questions necessitates exploring the validity of arguments surrounding the concept of territory in the classical fiqhi discourse and its relevance in today’s socio-political realities.

6.3 Concept of Dār in the Pre Modern Period

This title seeks to throw light on classification of territories perceived by classical scholars. In doing so, the focus is mainly set on major fiqhi (law) schools of thought: Hanafi, Māliki, Shafi'i, and Hanbali. Examining the scholarly discourse of these schools, the title seeks to unearth the causes that led to such dichotomous positions held by these schools of thought on the issue and to find out how their judgments can still withstand to the scrutiny of objective reading of the main Islamic texts and the contemporary context.

6.3.1 Definition of Dār

Linguistically the term dār has array of meanings. According to Lisan al-Arab, dār means the residence (mahal), location (al-mawdi`), the country (al-balad), the homeland (al-watan), and the tribe (al-qabilah). Its plural is diyār, duwar, diyarah, and adyār…

In the terminology of scholars of Islamic law (al-fuqahā), the term dār has been dealt with various definitions, particularly when it is linked with terms such as “Islam”, “harb” (war), or “kufr” (disbelief)…etc.

Primarily, the diversity of definitions articulated by fuqahā in relation to these terms has been, largely, because of their individual fiqhi (law) perspectives regarding the nature, essence, and features of territories (dār). Secondly, the underlying reason for such varied views has been mostly due to the vague implications of primary Islamic texts upon which the whole debate of the issue engaged in by scholars of Islamic law has been embedded.

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534 Lisān al-Arab, Word “dār”, V. 4, p. 298; Mu`jam al-Wasīt, V. 1, pp. 302-03.
Abou El Fadl observes that the “Qur’ān and early Islamic sources do not speak unambiguously about the meanings and relations of such terms as “territory of Islam” (dār al-Islam), “territory of associationism” (dār al-shirk), and other terms used in juridical discourse”. Moreover, the necessity of the contexts faced by fuqahā forced them to exert effort, when they witnessed the Muslim territory continued to expand beyond the boundaries of Arabian Peninsula, to differentiate between territories which belonged to Muslims and non-Muslims. Hence, “reflecting their sense of political realities, jurists expressed an “us” versus “them” mentality, especially with reference to the dichotomous terms mentioned above”.

What follows is, however, the juridical discourse articulated by pre-modern jurists in an attempt to come up with definitions that distinguish territories between Muslims and non-Muslims.

It should be noted, at the outset before highlighting their opinions, that it was not an easy task for them to provide a consensus definition to a term like dār al-Islam due to the reasons mentioned above. Although it has been an illusive issue for them to define it as such, “they have often claimed that Islamic law divides the world into two basic categories dār al-Islam and dār al-harb…” Pondering over this juristic claim and deep rooted debates surrounding it, one might wonder whether the world can be classified like this in a simplistic manner. In contrast, what emerges from probing such claim is that there has been an open-ended

536 Ibid. p.141
537 Ibid. p.141
debate articulated by scholars of law (fuqahā) over the issue since early centuries of Islam till today. Hence, the claim, which has been purely an outcome of law scholars’ understanding of their context based on Islamic texts, has been put into test of the history. Having been confronted with realities as well as challenges of their historical contexts, the fuqahā have been under pressure to find ways and means to seek reconciliation between contexts and the texts. As a result, a wealth of fascinating deductions (istinbātāt) as well as exertion of scholarly efforts (ijtihādāt) made by fuqahā on the subject sprang up throughout the centuries of the history of Islamic law. It is against this background that one might find reasons why some Jurists not only did extra effort to classify territories other than dār al-Islam and dār al-harb but also encountered enormous difficulties to provide content to a term like dār al-Islam itself. \(^{539}\)

### 6.3.2 Dār al-Islam and Dār al-Harb

As observed by Abou El Fadl, many jurists, without discussing the issue at length, just dealt the term dār al-Islam “as though its definition were self-evident”. On the contrary those who engaged themselves articulating the issue in detail, he further explains, provided a wealth of opinion with a great deal of diversity in their approach\(^{540}\). As a prelude to a detail discussion of juridical opinion on the issue, it can be said, generally, that some jurists held the distinguishing feature of dār al-Islam as the application of Islamic law. Others had the opinion of the existence of a Muslim majority to be the decisive factor for a territory to be designated as dār al-Islam. Others argued that dār al-Islam requires a Muslim

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\(^{540}\) Ibid. p. 142
head of state.\textsuperscript{541} Some considered that in particular cases an area might be neither part of 
\textit{dār al-Islam} (Muslim territory) nor of \textit{dār al-harb} (non-Muslim territory), but “something in between”\textsuperscript{542}

Specifically, \textit{dār al-Islam}, as held by majority hanafi scholars, is “a designation to a place under the jurisdiction of Muslims and, as an indication to that, they should enjoy safety in it”.\textsuperscript{543}

According to this view, the application of Islamic law has not been seen as a requirement for a place to be designated as \textit{dār al-Islam}. It seems, therefore, that those who held this opinion might have counted the dominion and the jurisdiction of Muslims over a territory as an adequate condition for it to be considered as abode of al-Islam (\textit{dār al-Islam}). Moreover, it may be said that the jurists might have looked at the fundamental principle of Islam, which says that a territory under the jurisdiction of Muslims should be governed by the Islamic law, which is considered to be an established consensus of Muslim community, and a well-known Islamic code of conduct practiced by Muslims since the establishment of Islamic rule by the Prophet in Medina in the 7\textsuperscript{th} century AC. Hence, the hanafi jurists do not possibly rule out the application of Islamic law as an integral component of domain of Islam (\textit{dār al-Islam}), as this assumption has been elevated to a confirmed position by a prominent hanafi jurist al-Sarakhsi (d. 1107). In his monumental work, al-Sarakhsi emphasises: “a conquered territory

\textsuperscript{541} Ibid. p.142
\textsuperscript{525} Ibid. p. 23
does not become dār al-Islam unless the laws of Islam are applied”. Highlighting the majority opinion of hanafi scholars, both Abū Zahrah and Zuhailī observe that dār al-Islam: “is a territory under the jurisdiction of Islam where Muslims have both power and authorities in their hands, Islamic laws are implemented, and Islamic rituals are established”. Justifying their approach hanafis argue that no “dār” (territory) can be attributed to “Islam” or “kufr” so that it can be designated as dār al-Islam or dār al-kufr unless that territory is prevailed by Islam or kufr respectively. If Islamic laws are applied, then it is dār al-Islam and if the laws are un-Islamic which is kufr, then it is dār al-kufr. Explaining further, al-Kāsānī (d. 1211) observes that there is no dispute among hanafi scholars that even if the territory is dār al-kufr, it can become dār al-Islam by applying Islamic laws in it, Nevertheless, Abū Hanīfah (d. 774) under whose name the hanafi school of thought (hanafi madhhab) is designated, is of the opinion that dār al-Islam does not become dār al-kufr simply because the laws of kufr are applied in it, rather it should fulfil three conditions which are: the laws of kufr should be applied, the territory should be adjacent with dār al-kufr, neither a Muslim nor a dhimmī (non-Muslim citizen in dār al-Islam) should be able to enjoy the protection provided by the previous protecting body which is dār al-Islam. As for his both disciples Abū Yūsuf (d. 806) and Muhammad (d. 813), as contended by al-Kāsānī, dār al-Islam becomes dār al-kufr simply by applying laws of kufr in it. According to both of them, designating a territory as dār al-Islam or dār al-kufr depends on it being associated with Islam

or *kufr* and it cannot be materialised, therefore, without Islam or *kufr* being apparently manifested in there. Justifying their position, both argue, that it is as same as naming the paradise *dār al-Salām* because its contents are peace, safety, and security, and the hell as *dār al-bawār* as it has nothing but ruin and destruction. The manifestation of Islam or *kufr*, therefore, cannot be actualised, they continue to argue, unless respective laws are applied. Hence, if a particular territory is ruled by laws of *kufr*, it becomes *dār al-kufr*. A territory would become either *dār al-Islam* or *dār al-kufr* by virtue of applying Laws of Islam or *kufr* in it.

As for Abū Hanīfah, al-Kāsānī further explains, the rational underpinning of a certain territory as *dār al-Islam* or *dār al-kufr* is not just because Islam or *kufr* exists in it; rather it depends on the guarantee of safety one can enjoy in it or the risk of insecurity someone could feel. If there is enough safety, according to Abu Hanīfah, for Muslims in a particular territory and disbelievers are in fear, then it is deemed to be *dār al-Islam*. On the contrary, if non-Muslims feel secure and enjoy safety in it and Muslims do not, then it is considered to be *dār al-kufr*. As such, legal rulings are not based simply on ground of Islam or *kufr*, but on safety or fear.547

What is apparent from the above discussion is that the leading Hanafi scholars are divided in classifying territories and are far from reaching a consensus position in this regard. Hence, the dispute revolves around the question of what it should be the rational for judging a territory as *dār al-Islam* or *dār al-Harb*. As for Abū Hanīfah’s two prominent students Abū Yūsuf and Muhammad, the rational underscores this classification as both application as well as superiority of Islamic laws in a particular territory. If that territory is ruled by laws of *kufr*, then it is to

547 Ibid. pp. 130-31
be considered as \(dār al-kufr\). If the laws of Islam are dominant in it, then it should be treated as \(dār al-Islam\).

In the view of Abū Hanīfah, the stipulated condition for such classification is the prevalence of either safety or fear someone can feel in a particular territory. In other words, as contended by al-Sarakhsi, if Muslims living in a territory, for instance, are powerful and enjoy full authority, then it is considered as \(dār al-Islam\) and if the territory is under control and authority of non-Muslims, then it is to be treated as \(dār al-Kufr\). If \(dār al-Islam\) is conquered by polytheists (\(al-Mushrikūn\)) and, as a result, their laws are applied, then that territory does not become \(dār al-kufr\) simply because of this new situation, rather it becomes as such only by their fullest domination and superiority in it. According to Abū Hanīfah, the superiority does not materialise unless the three conditions mentioned, are fulfilled. Commenting on these conditions, al-Sarakhsi observes that the reason why Abū Hanīfah considers the fullest superiority and power as a criterion for a formal part of \(dār al-Islam\) to become \(dār al-harb\) is, a particular territory would not be deemed lost by Muslims unless it is under the fullest authority of polytheists. It will not be actualised without those three conditions because if that territory is not adjacent with a non-Muslim territory then its people are overpowered by Muslims surrounding them. If a Muslim or a dhimmi enjoys safety and security in it, then it is an indication that it lacks fullest power and authority of non-Muslims.\(^{548}\) What makes the debate between Abū Hanīfah and his two disciples on the above issue clear is that both parties meet together in defining \(dār al-kufr\) and \(dār al-Islam\) in terms of application of laws belonging to

each of them in each ones’ territory. Although they agree on this aspect, as the core of the definition, one might assume that both disciples disagree on other aspects, which Abū Hanīfah lays emphasis on. A close scrutiny of the discourse would not suggest that assumption. It is not far from reality to suggest that the application of laws cannot be materialised unless there being enough power and authority to make it possible, which is included in Abu Hanifa’s definition and not mentioned in his two disciples’ opinions. Despite not mentioned by them, on the basis of the above reality regarding application of laws, it is not irrational to argue that both of them do not rule out the necessity of including this condition to agree with their teacher. The only remarkable distinction between the two parties in their definitions, however, is the third condition of Abū Hanīfah, which says the territory should be adjacent with dār al-Islam in order for it to be considered as dār al-Islam as noted before. Apart from this aspect one might not see that there is a substantial difference between leading hanafi scholars as such. To sum up the above discussion it can be said that hanafi scholars are in agreement, apart from the third condition, that dār al-Islam is a territory in which Islamic laws are applied with enough authority and power in the hands of Muslim while feeling secure and protected physically. It is worth mentioning in this regard that this position held by hanafi scholars has been echoed by majority scholars of fiqh (al-jumhūru min al-fuqahā’ wa al-‘ulamā’).549 Emphasising this point, Ibn Qayyim al-Jawziyyah observes that “the majority of scholars are of the opinion that dār al-Islam is a territory in which Muslims reside and laws of Islam are applied. A

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territory in which laws of Islam are not applied cannot be considered as *dār al-Islam* even if it is adjacent to *dār al-Islam*.”

Therefore, in the view of majority law scholars, the application of laws of Islam as a criterion for a territory to be designated as *dār al-Islam* or *dār al-kufr* is more important than any other considerations, particularly when comparing the third condition of Abū Hanīfah to other aspects mentioned above.

It may be said that the condition of inseparability between two or more territories in order for them to be considered as *dār al-Islam* as claimed by Abū Hanīfah, though it might sound practical during pre-modern time, is not something pragmatic for this modern age when huge technological advancements in warfare mechanisms are unimaginably on the increase as a demonstration of power and superiority which can be used from continent to continent at a time of war which gives little consideration to boundaries between countries. It can be noticed that because of the impracticability of this condition many of those who have written on International relations in Islam have given little consideration of it. “Even if Abū Hanīfah were to live to see what we see today he would have dropped this condition. The difference is not that of evidence and proof, rather that of time and circumstances.” Moreover, some contemporary scholars who have embarked upon the issue in question have dealt with the second condition of Abū Hanīfah, which is “al-amān” and suggested that it is no longer a valid component of *dār al-Islam*. Assuming it as an absolute characteristic of domain of Islam, they argue

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551 Abd al-Qâdir, Khâlid, Op. Cit. p.56
that even in the formal territories of war (dār al-harb) that never came under the jurisdiction of Islam before, one might feel secure and safety, and still no one would dare to designate it as dār al-Islam. It is, undoubtedly, far from reality and against the consensus of law scholars.553

Responding to this argument, ‘Abd al-Qādir observes that Abū Hanīfah did not intend it at all from this condition. What he intended, rather, by “al-amān” was the protection a Muslim deserves to be offered by virtue of being a resident of dār al-Islam and which, is guaranteed for him for being a Muslim by the Islamic law before dār al-Islam was conquered by non-Muslims.554 Exploring the benefit of this condition, Abū Zahrah comments that territories conquered by Muslims and their inhabitant were offered enough protection, and then, as a result of war or for some other reasons, they are forced to leave them, will not be deemed as dār al-harb if Muslims and other residents of those territories are allowed to live by the protection they used to enjoy before. This positive situation cannot come through for Muslims unless the new governing body makes peace with them and that peaceful situation should continue to exist without being interrupted by war. If the protection is ceased to exist and Muslims are fought by the ruling body, then the territory is dār al-harb despite the fact that they were offered a fresh protection agreement by that new governing body.555

As for the Mālikī school of thought, one might not see much discussion being articulated by its scholars on this particular issue of the definition of dār al-Islam and dār al-harb as other schools of fiqh have. Their concentration on this issue has been less in amount comparing to hanafīs and other schools of thought,

554 Abd al-Qādir, Khažīd, Op. Cit. p.57
555 Abū Zahrah, Muhammad, Op. Cit. p.54
especially shāfīʿīs. One of the reasons, it might be that, as Abou El Fadl contended, the strict position mālikī school held regarding the status of Muslims residing in non-Muslim territories, particularly the issue of permissibility of such residence in those lands and their obligation to migrate to dār al-İslam if necessity arises. “Abū Saʿid Sahnūn (d.854) reports that Mālik (d.796) strongly disapproved of Muslims travelling to non-Muslim territory even for purposes of trade.”

Although this uncompromising approach has been the special feature of the mālikī school since mālik: the pioneer of the school, through Ibn Rushd (d. 1122) till al-Mazārī (d.1141), it does not mean that the issue in question has been completely overlooked by them. It is noticeable that there are few reflections some mālikī scholars had on this regard when they engaged themselves in discussions on the issue of hijrah (migration) from non-Muslim territories to Muslim territories. Particularly, when they found themselves confronted with such situations in the twelfth century CE, they could not avoid dealing with issues related to dār al-harb and dār al-İslam while reacting to issues of hijrah.

As a foremost mālikī jurist, Ibn Rushd, for instance, discusses about dār al-harb and dār al-İslam when he responded, in a legal opinion (fatwā), to an issue raised by a Muslim of his time regarding the legality of entering or living in dār al-harb, for which he advised him not to enter or live in dār al-harb. The similar uncompromising position is best represented in two famous fatāwa of al-Wansharīsī (d. 1508) who deals with issues confronted by Muslims who accepted

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mudejar status in al-Andalus.⁵⁵⁸ Arguing that hijrah from a non-Muslim territory is an absolute duty, while rejecting the argument that corruption had become widespread and that all lands therefore are equal in status, al-Wansharīsī stresses that, “the territory of Islam (dār al-Islam), even if unjust, is superior to non-Muslim territory, even if just.”⁵⁵⁹ What could have prompted him to define dār al-Islam in such a way that mere association of dār with Islam can be a decisive factor to outweigh any consideration of substantive justice was, perhaps, the social and political consideration that prevailed and preoccupied him during his time.

According to Abou El Fadl, al-Wansharīsī confronted with a context contaminated with social unrest and political turmoil in Andalus after its conquest by non-Muslim. As a result, Muslims were under pressure to find a safe haven for them as well as their families to live a safe and secure life. This uneven situation prompted them to make migration from Andalus to North Africa where they encountered financial difficulties, because of which, they not only regretted their migration but also they mocked Muslims of North Africa “claiming that the Christian land from which they came was superior.”⁵⁶⁰ It was against this social background that al-Wansharīsī built his argument about “territory” (dār) and condemned those who mocked the Muslim lands and preferred the non-Muslim ones (dār al-harb) to them. “How could anyone say Christian territory is superior? How could anyone prefer the company of non-Muslims?”⁵⁶¹ For al-Wansharīsī, it is immaterial whether or not the territory is just as long as it is formally associated with Islam. Notwithstanding his position on the issue in

⁵⁵⁸ Ibid. p.154
⁵⁵⁹ Ibid. p.154
⁵⁶⁰ Ibid. p.154
⁵⁶¹ Ibid. p.154

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question, the jurists, on the contrary, generally argue, “that the material issue is safety and justice and that if corruption spreads, there is no duty to migrate because all lands become equal in status.” Further arguing the nature of the territory, al-Wansharīsī does not seem, as Abou El Fadl observes, to be differentiating between lands which were originally non-Muslim and lands which were conquered by Muslims. “Some have argued that there is a material difference between a Muslim finds himself or herself in land that historically has been non-Muslim and land that used to be Muslim but was conquered by non-Muslims”. Despite the rational behind this argument is not clear from both parties, one can find, however, the typical Mālikī position on the superiority of Muslim lands over others has been best reflected in al-Wansharīsī’s indiscriminating approach mentioned above towards non-Muslim lands. “Although al-Wansharīsī dismisses this argument” Abou El Fadl contends “as a distinction without difference, other jurists argued that conquered Muslim territory generally remains Muslim territory despite non-Muslim rule.”

What emerges from above discussion is that the argument that conquered lands remain Muslims as long as the laws of Islam are applied is a typical hanafi position. It appears, therefore, that the debate between hanafis and mālikīs on the definition of territories revolves around the centrality of how far Muslims can practice or “manifest their religion” in non-Muslim territory. Whereas hanafis do not bother what type of territory Muslims reside as long as they feel accommodated and comfortable to practice their religion, mālikīs too, on the other hand, hold seemingly the same point, despite the ambiguity embedded in their

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562 Ibid. p.154
563 Ibid. p.154
564 Ibid. p.154
discriminative approach towards classification of territories. In other words, mālikīs although prefer Muslim territories to be the ideal as well as legitimate residence for Muslims to that of non-Muslims, do not entirely rule out the permissibility of such residence in territories either originally belong to non-Muslims or belong to Muslims initially but were conquered by non-Muslims. What stands out from their position is the fear they demonstrate about Muslims residents of non-Muslim territories lest they “lose their mastery over the Arabic language and will be influenced by Christian manners, habits and fashion.”

Moreover, they fear that “Muslims inevitably are reduced to subjugation and invariably end up losing their culture and religion”. Al-Wansharīsī,566 assumes, as contended by Abou El Fadl, “that it is impossible for Muslims to practice or “manifest their religion” in Christian territory.”567 Since al-Wansharīsī’s argument is based on empirical assumption, it is not irrational to question what if Muslims can, in fact, “manifest their religion” in a particular non-Muslim land? Particularly, what would be his position if he were to live to see the present situation of Muslims minorities who live in non-Muslim societies practicing or manifesting their religion either in the West or East? It can be said that “the mālikī position, which predominated in al-Andalus and Sicily, was heavily influenced by its own historical experience.”568 It will not be unrealistic to say that if mālikī jurists like al-Wansharīsī were to experience different social situations in which the risk of apostasy and assimilation was far from real, their response would be more flexible as well as realistic. Significantly, in contrast to Andalusian mālikī jurists, the Egyptian mālikī jurists adopt typically hanafī position reflecting their

565 Ibid. p.155
566 Ibid. p.156
567 Ibid. p.156
568 Ibid. p.156
own environment. This precisely explains why Mālikī jurists of Egypt like al-Sāwī (d.1825) argue that “occupied Muslim territory remains Muslim despite non-Muslim sovereignty, as long as laws of Islam applied by Muslims remain respected.”

Similarly, another Mālikī jurist al-Dasūqī maintains that Muslim territories captured by non-Muslims should be recaptured by Muslims if it is possible, as for those territories do not become non-Muslim simply because they are occupied by non-Muslims. They do so only if Muslims are unable to establish the rituals of Islam ( iqāmatu sha‘ā’ir al-Islam). Those territories do not become, therefore, abode of war ( dār al-harb) as long as the rituals are established.

Al-Rafi'ī observes that some contemporary scholars tend to understand from al-Dasūqī’s view that Muslim territories that are conquered and dominated by non-Muslims do not become dār al-kufr as long as Muslims are able to practice and manifest respectively some of the religious rituals and laws of Islam. Commenting on this point, al-Rafi'ī argues that this understanding is inaccurate from the Mālikī point of view, which is, in essence, nothing but the same, more or less, both disciples of Abū Hanīfah do maintain, nevertheless, the scenario al-Dasūqī presents is different from what both of them bring forth. As for both disciples, Muslim territories become non-Muslim by virtue of prevailing non-Muslim laws in them. In al-Dasūqī’s portrayal the situation is different in which a Muslim land, though becomes conquered by non-Muslims, is not prevailed by them. Consequently, Muslims not only overcome and drive them out, but also,

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569 Ibid. p. 156
570 Al-Dasūqī, Muhammad Ibn Ahmad Ibn ‘Arafat, Hāshiyat al-Dasūqī, Dār al-Fikr, Beirut, n.d., V.2, p.188
repossessed what they lost for them. In this scenario, Muslim territories did not become non-Muslim as the rituals of Islam are already in place.

It is palpable that al-Dasūqī does not seem to be contradicting the opinion of both disciples, as the situation he describes is same as both in essence not in form. Here the essence is laws of non-Muslims which do not prevail in both situations. There seems to be no reason what so ever as to why a territory of this nature would not remain dār al-Islam as long as the rational for such reasoning that is “the dominance of Islamic laws” does remain.

The daily religious rituals Muslims perform in their daily life do not serve, al-Rāfī further argue, as a basis for a territory to be designated as Muslim or non-Muslim. “These countries of disbelief (contemporary non-Muslim countries) where Muslims are allowed to perform prayer and fasting, and some other daily rituals of their religion have not been viewed by a single scholar that they have become dār al-Islam”. It is not difficult to understand that the above discussion evidently reveals that, although most prominent mālikī jurists demonstrated an essentially strict approach in locating territories as Muslim or non-Muslim, this issue was not left uncontested even within the mālikī school. Secondly, the legal ruling (fatwā) can be differed in accordance with differences which materialize in time, place, and circumstances, which manifested in different juristic approaches of mālikī scholars to the same issue. Thirdly, it brings home the point that the scholarly attempt for exerting any effort to find solutions for issues of any circumstances is not bound by certain time and place rather it is an ongoing

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572 Ibid. p. 27
exercise to be executed by appropriately qualified scholars called *al-mujahidūn* in any time to come.

The third major school of thought that engaged itself in this debate was al-shāfī‘īyyah (Shāfi‘ī school of thought) represented by the disciples of Abu ‘Abd Allah al-Shāfī‘ī (d.819-820) and their followers. Al-Shāfī‘ī and his school represented the opposite of what mālikīs perceive of the issue under discussion. Generally speaking, unlike mālikīs, their position is not rigid in dealing with issues related to domain of Islam (*dār al-Islam*) and domain of war (*dār al-harb*). To one’s astonishment, they even made it obligatory to take residence in non-Muslim territory. According to Abou El Fadl, the striking feature of shāfī‘ī school in its early formative stages was to maintain the idea of “continued residence in non-Muslim territory might at times be either recommended or obligatory”. It is patent, therefore, that shāfī‘īs are more lenient than mālikīs in positioning themselves into the debate under discussion. This pertinent position of al-shāfī‘īyyah (shāfī‘ī school of thought), more or less, continued to be uncontested within the circle of shāfī‘ī scholars even at its developed stages. Significantly, this was what supported through by them and best reflected in the eleventh century by one of the leading pioneers of shāfī‘ī school.

Al-Nawawi, one of the prominent authorities of al-shāfī‘īyyah, reports that al-Māwardi (d.1058) who is reported to have said, “if (a Muslim) is able to manifest (his) religion in one of the non-Muslim territories, that territory becomes a part of *dār al-Islam*. Therefore, residing in there is better than making migration as it is

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573 Qualified professional law scholars of Fiqh who fulfil conditions stipulated by scholars of fiqh who originate its fundamental principles (*al-Usūlīyyūna fi al- fiqh*); The detail discussion of this aspect will take place in the chapter of “Fiqh al-Aqālīyyāt...”.

574 Abou El Fadl, Khaled, “Islamic Law and Muslim Minorities: The Juristic Discourse on Muslim Minorities from The Second / Eighth to The Eleventh/ Seventh Centuries”, in *Islamic Law and Society*, 1:2, 1994, pp. 159.
hoped that others will revert to Islam (through him). Shāfi‘ī school adds, undoubtedly, a new dimension to the debate. It is quite remarkable to see the idea which says that the residence in a non-Muslim territory may be preferable to migration, when it is compared to other schools of thought especially mālikīs. The other significant aspect that emanates from al-Māwardī’s opinion is the revisited paradigm of the same question of what is dār al-Islam and dār al-kufr. Moreover, Al-Māwardī’s position reflects the idea that it is not just the formal association of a territory to Islam or kufr that constitutes the quintessence of its designation as Muslim or non-Muslim, rather the social and political realities are the matters that determine the inner formation of one’s territory. Hence, it may be said that the rights, all sorts of freedoms, and civil liberties accorded to a Muslim residing outside the geographical location of Muslim territories play a vital role in classifying the territories whether Muslim or non-Muslim. It is noticeable that al-Māwardī’s flexible approach became an outstanding feature of shāfi‘ī school of thought throughout the centuries.

Reflecting the same position in its most developed form, al-Ramali (d.1595-96) and Ibn Hajar al-Haytami (d.1566-67), both of whom were prominent scholars of al-shāfi‘iyyah and lived in Egypt, maintain in two different fatāwā that Muslims do not have to emigrate from non-Muslim territory to Muslim one if they can manifest their religion. Going one step further, al-Ramali argues that it is not allowed for them to leave because their residence might be the mechanism by which Islam could spread.

Advising the Muslims who asked about the permissibility of residence in one of the Andalusian countries called Aragon, al-Ramali, responded that “the area in which they reside is part of dār al-Islam and that if they left it would revert to being dār al-kufr. The long period during which Muslims have been able to enjoy their religious freedoms creates the presumption that they will be safe from forced conversion or oppression in the future”. Similarly, Muslims of Malibar who were under the jurisdiction of non-Muslims and faced rather different social condition than that of their compatriots in Aragon asked Ibn Hajar al-Haytami about the permissibility of providing shelter and protection to Christians wishing to revert to Islam in Malibar. Significantly, the judgment was, unmistakably, similar to that of al-Ramali coupled with an extra ordinary reasoning that added a new dimension to the ongoing debate. The focal point of the problem faced by Muslims was the rule of the land that prevented them from providing protection to those who wished to revert to Islam. Failing to comply with such prevention would mean painful repercussion for Muslims. Muslims of Malibar, asking about their inability to execute their religious obligations towards other Muslims, were unmistaken in figuring out their real situation in it. It may be said that the situation was, mostly parallel to that of Muslims who happened to be the foundation stone of Islam in Makkah where they faced enticement away from Islam (al-fitnati fi al-dīn) by non-Muslims and yet, the duty of migration was still not prescribed by God. Ibn Hajar responded unequivocally that “if sheltering the reverted entailed Muslims being forced to abandon their homes, then they should not afford him

577 The one who was given the title al-Shāfi‘ī al-Saghīr (al-Shāfi‘ī the Junior) and reached the rank of Mufti of Egypt.
What emerges from above discussion is that contexts similar to this would bring, unfailingly, the relevance of one of the fiqhi principles to such situations into sharp relief, which is “consequences of the actions (ma‘ālāt al-aʃāl)”. Like the principle which says “actions are determined by intentions” the underlying rational for the above mentioned principle is the determination of the legal ruling for an action to be executed in certain situations depends largely on the fulfilment of purposes of Islamic law for which the law itself has been legislated. If such an action, for instance, would be detrimental to the fulfilment of legitimate purposes of Islamic law or it will bring negative consequences that are more harmful to the individual or society than some benefits it could bring forth, then such actions should not be encouraged and permitted. It may be said that Ibn Hajar’s judgement also might have been based on this legal principle, which is considered to be one of the important legal tools that can be used to deal with exceptional situations such as the one that Muslims of Aragon found themselves in. Had those Muslims been given the opposite verdict by him to the issue seen before based on general rulings of the sharī'ah, which would oblige them to offer protection and loyalty to their fellow men or women as prescribed by the Qur’ān, they would have faced an undesirable social condition and it will impact upon, in turn, the very reason they were allowed to take residence in it, which was the spread of Islam. Thus, in order to avoid such sombre repercussions, Ibn Hajar has favoured that fatwā over this general ruling of the sharī'ah, as the social context was alarmingly not normal and the situation was extremely exceptional. His judgment has vividly demonstrated that this vital principle of the Islamic law can

be of immense use and instrumental for Muslims in non-Muslim societies, as it has been utilised so well by scholars like al-Shāṭibi\textsuperscript{580} throughout the history of Muslim community, to resolve such social conflicts that could emerge time to time triggered by exceptional social conditions.

Moreover, shāfi‘ī jurists maintained that “whether or not a Muslim may continue to reside in such territory depends on whether he or she can contribute to its Islamization.”\textsuperscript{581} If these Muslims are optimistic enough because of their residence in non-Muslim territory, they might be able to play a positive role in spreading Islam, then it is highly preferable, in the opinion of al-shāfi‘iyah, that they do not migrate. Going one step further, shāfi‘īs maintain that if Muslims are able to seek the status of autonomy (\textit{al-imtinā‘u}) and stand on their own feet independently (\textit{al-i’tizāl}) in non-Muslim land, and need no, by making \textit{hijrah}, other Muslims’ assistance, then their stay in dār al-kufr is obligatory upon them, because their place of residence is considered to be dār al-Islam. On the contrary, if they make migration, then it becomes dār al-harb.\textsuperscript{582} Nevertheless, “shāfi‘ī jurists do not explain what is meant by autonomy or independence”.\textsuperscript{583} Similarly,

\textsuperscript{580} ‘Abd al-Majīd al-Najjār (one of the members of the European Council for Fatwa and Research, Dublin, Ireland, and of the Editorial Board of the Scientific Review of the Council) says when he searched for the phrase “Ma‘ālāt al-Af‘āl” and “Ma‘ālāt al-Ahkām” in the CD “Maktabat al-Fiqh wa Usūluhū” which contains hundreds of fiqh sources, he found no trace of it except in two places of al-Shātibi’s al-Muwāfaqāt, which means, according to him, al-Shātibi might have been one of the \textit{Fuqahā} and \textit{Usūliyyūn} (Scholars of Law fundamentals) who used this principle the most. Nevertheless, the contents of this principle has been one of the oft-used principles in the legacy of fiqh and enormously used by them in different names like Sad al-Dharā‘i’, al-Istīhsān and al-Hiyāh; Generally speaking, all these principles contain the connotation of Ma‘ālāt al-Af‘āl in terms of its implication and impact. (Al-Najjār, Abū al-Majīd, “Ma‘ālāt al-Af‘āl wa Atharuhū fi Fiqh al-Aqāliyyāt” in \textit{Scientific Review of the European Council for Fatwa and Research}, N: 4-5, 2004, pp. 150-51.

\textsuperscript{581} Abou El Fadl, Khaled, “Islamic Law and Muslim Minorities: The Juristic Discourse on Muslim Minorities from The Second / Eighth to The Eleventh/ Seventh Centuries”, in \textit{Islamic Law and Society}, 1:2, 1994, p. 162.

\textsuperscript{582} ‘Abd al-Qādir, Khālid, Op. Cit. p. 51

\textsuperscript{583} Abou El Fadl, Khaled, “Islamic Law and Muslim Minorities: The Juristic Discourse on Muslim Minorities from The Second / Eighth to The Eleventh/ Seventh Centuries”, in \textit{Islamic Law and Society}, 1:2, 1994, p. 163.
the other aspect of their position which is left unexplained and is relevant to the issue in question is the phrase “able to manifest or practice religion”. In their perception, a non-Muslim territory in which Muslims are able to “manifest or practice their religion” is considered to be a dār al-Islam or part of dār al-Islam. Although this is an expression used quite often by them, they do not specify, unfortunately, what they mean by it. Abou El Fadl observes that Muslim jurists use a variety of expressions to refer to this idea including *IQāmat amr al-dīn* (establishing affairs of the religion), *izhār al-dīn* (making religion prevails), *izhār sharāʾiʿ al-Islam* (making the laws of Islam prevail), and *al-Qiyāmu bi wājibāt al-Islam* (performing the obligations of Islam).584 One would argue that these expressions more or less imply nothing but the same in contents or something that those Muslims are able to put in practice in order to “manifest their religion”. A possible justification for these expressions could be that the historical contexts these jurists faced had had its imprints in their conceptualisation of the situation. It was not simply the case that Muslims were able to take residence in non-Muslim territories and to easily practice their religion. They were not allowed to do so by non-Muslim rulers. Having confronted with such social phenomenon, the jurists may have thought to define dār al-Islam as “a territory in which Muslims are able to manifest the rites of religion” (*shaʿāʾir al-dīn*) and its laws”. In those days Muslims were not able to practice their religion freely except in their own territories or where they had power and Muslim territories were ruled by Islamic law. The freedom to practice religion in non-Muslim territories was not in place. This sort of a social context might have influenced those jurists to come up with those expressions.

584 Ibid. pp. 157-58
What this explanation would imply is that rulings differ with the difference of time and space. Otherwise, “al-Habashah” (Abyssini) would be deemed as ever first dār al-Islam on the earth for the facilities and freedom offered by non-Muslims for Muslim migrants in terms of manifesting the religion. But, no scholar so far ever dared to designate it as dār al-Islam and similarly, if some one would hold the same position in today’s contexts as jurists had in their own time, most of the non-Muslim territories would be considered as dār al-Islam for freedom and rights Muslims enjoy in these territories to practice their religion. It would be far from reality and truth to hold such view in today’s context. Nevertheless, what they mean by the notion of “manifest the religion” is still ambiguous and it needs clarification, as the phrase “the religion” can imply the whole aspects of Islam as a way of life or it can be understood as basic tenets as well as obligations of Islam…etc. It is important to seek distinction between those phrases as some of the expressions of jurists seem to be heavier for Muslims in non-Muslim territory to shoulder than the other. The application of laws of Islam in non-Muslim lands, for instance, may not be as easier to make it possible as performing acts of worships such as prayer or fasting. Although it is not difficult to put those ʿibādāt (acts of worship) into practice in those territories, nevertheless, it is not easier to apply Islamic criminal or commercial laws. As for the personal laws are concerned, it was not the case with each and every Muslim minority societies of the past or present that they have been deprived of accessing to such laws. Muslim minorities of Sri Lanka, for instance, have been able to enjoy the benefit of such legal provision for more than ten centuries. The minority status in there has been and continues to be more or less semi autonomous. Bernard Lewis is of the

opinion that Muslim jurists envisaged a kind of communal autonomy similar to that given to non-Muslim (*dhimmīs*) in Muslim lands. Confirming the same, Abou El Fadl observes that “Muslim minorities in different ages and localities often enjoyed a semi-autonomous status. Frequently, they had their own judges and governors who managed their affairs and applied some Islamic laws.”

Muslims of Sri Lanka have their own Muslim judges who deal with their own problems related to marriage, divorce, and other issues related Muslim personal law, which have the constitutional guarantee of the Sri Lankan government. The judge is called “*Qādi*” and the premises these judges function are called “*Qādi Courts*”. It should be noted that the Sri Lankan Muslim minority is not the only historical as well as current precedence that can be considered as a fitting example for Muslim minorities which “manifest their religion” in this manner, rather Indian as well as Singaporean Muslims too have their own historical as well as current social status which is mostly no different to that of their Sri Lankan compatriots as regards to personal laws and other legal provisions are concerned. Historically speaking, Indian Muslims had been manifesting the religion more than what is termed as personal laws. They were rulers of the land more than eight centuries while they were minorities in a non-Muslim society. It may be said that a territory resided by Muslim minorities whose socio-political situation is characterised by more than what is called “acts of worship” and demonstrates a sort of autonomy and a degree of independence, as viewed by *shāfiʿī* jurists, which has to be considered a part of *dār al-Islam*. Although, these jurists do not explain what is meant by “autonomy and independence” (*al-imtināʿu wa al-

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586 Abou El Fadl, Khaled, “Islamic Law and Muslim Minorities: The Juristic Discourse on Muslim Minorities from The Second / Eighth to The Eleventh/ Seventh Centuries”, in *Islamic Law and Society*, 1:2, 1994, p. 158
587 Ibid. p. 162
and “manifesting Islam”, hanafīs specify that the latter means the manifestation or application of Islamic laws. Some other hanafīs are of the opinion that a Muslim judge should be appointed and that Muslims should demand a governor. Moreover, the hanafi school maintains that if a locality has a Muslim judge and applies Islamic laws, then it is a part of ḏār al-Islam. Whereas shāfī‘īs are concerned, they are of the opinion that wherever “the duties of religion” (wājibāt al-dīn) or worship (‘ibādah) are possibly practiced, then it becomes ḏār al-Islam.

Abou El Fadl observes that “wājibāt al-dīn” or “‘ibādah” commonly refers to “‘ibādāt” and not “mu‘āmalāt”, which is acts of private worship such as prayer and fasting and not commercial or criminal laws.

It has been reported by some of the hanafi scholars that al-Shāfi‘i does not entertain the idea of classifying the world into two as ḏār al-Islam and ḏār al-harb, and for him, it is only one territory (dār). Some contemporary scholars attributed this opinion to al-Shāfi‘i, as well. According to al-Rāfī‘i, attributing this opinion to al-Shāfi‘i is incorrect and “it has been proved that al-Shāfi‘i maintained the opposite”.

In order to justify his position, al-Dabūsi brings the following legal debate into discussion. Exploring the issue of leaving one’s spouse behind in ḏār al-kufr to ḏār al-Islam as a Muslim migrant or as a dhimmi, al-Dabūsi

588 Ibid. p. 163
589 Ibn al-Humām, Kamāl al-Dīn (d. 1456-57), Fath al-Qādir, Cairo, Mustafā al-Halabi, 1970, V.7, p. 131
591 Abou El Fadl, Khaled, “Islamic Law and Muslim Minorities: The Juristic Discourse on Muslim Minorities from the Second / Eighth to the Eleventh/ Seventh Centuries”, in Islamic Law and Society, 1.2, 1994, p. 159
593 Al-Zuhayli, Wahbah, ʿĀthār al-Harb, Dār al-Fikr, Beirut, p. 195
maintains that the separation should be made between the two, but in Shāfī’ī’s opinion it will not take place simply because he or she leaves the other. It should be noted that al-Dabūsi based this argument on his assumption that according to hanafīs the world is classified as dār al-Islam and dār al-harb and for al-Shāfī’ī it is nothing but one territory. Based on this argument, he further explains that according to our scholars, if a Muslim drinks alcohol, fornicates or takes part in any un-ethical activity and in dār al-harb he will not be penalised, but for al-Shāfī’ī, he would be liable for punishment.⁵⁹⁵ Refuting al-Dabūsi’s opinion, al-Rāfi’ī argues that al-Shāfī’ī’s view does not provide any indication that the world cannot be classified into to two; rather it denotes that al-Shafii does not accept the change of laws along with change of territories. Whereas hanafīs view that penalties do not take effect in dār al-harb, al-Shāfī’ī, on the other hand, considers the application of those penalties in it including the laws that underpin them would not change with the change of territory. In his view, the penalties are to be implemented without distinction in both territories. Al-Shāfī’ī, therefore, sees no difference between territories in terms of application of laws of Islam. In this sense, the world is one in Shāfī’ī’s opinion. Hence, it does not mean that he negates the classification of the world.⁵⁹⁶ Hence, the difference of opinion itself between hanafīs and shāfī’īs amply implies that it is acceptable to both parties that there is a reasonable ground for the world to be classified into two territories. Further explaining, al-Raﬁi argues that if the classification is not acceptable with al-Shafii, the comparison made by him

between the issues mentioned above based on territories does not make any sense.\textsuperscript{597}

What is crystal clear from above discussion is that al-Shāfi‘ī, although asserts unequivocally that the obligations and laws of Islam remain applicable regardless of the categorisation of territories, has no objection to classify the world or territories according to one’s readings of the texts of Islam as well as the contexts of his time. In fact during the historical stages after al-Shāfi‘ī through which al-Shāfi‘ī school underwent considerable developments, the very idea al-Shāfi‘ī regarding the classification of territories had been carried through over the centuries after him by his disciples and followers, and improved drastically adding more dimensions, that are unique only to Shāfi‘ī school, to the ongoing discussion.

It is against this background that one can see al-shāfi‘iyyah even maintains that there is another type of domain classified as \textit{dār al-harb} (domain of treaty) in addition to \textit{dār al-Islam} and \textit{dār al-harb}, which is “not conquered by Muslims and its residents made treaty with them upon paying tax for their lands while being exempted from paying Jizyah (poll tax) since their residence is not in \textit{dār al-Islam}”.\textsuperscript{598} Those who reside in this type of territory are free to apply their laws and the Muslim territory (\textit{dār al-Islam}) has no right to interfere in the dealings of their affaires except for what they are bound by the treaty with Muslims.\textsuperscript{599}

Drawing on the above discussion, it can be concluded that shāfi‘ī and hanafi schools have been more flexible in their approach towards the definitions of \textit{dār

\textsuperscript{599} Abd al-Qādir, Khālid, Op. Cit. p. 60
al-harb and dār al-Islam than mālikīs. The former did not wish to handle Muslim minority situations with rigid and un-compromised rulings that could be detrimental to the very reason why they were allowed to reside in non-Muslim territories which is of course the spread of Islam amongst their non-Muslim counterparts, while the latter maintained an uncompromising and strict position as the historical circumstances they faced forced them to adopt a non-negotiable position. As mentioned before having confronted with specific contexts in which Muslim territories came under siege, most mālikī scholars had to respond to such situations resorting to no concession rules (‘azā‘im), “for most malikis” Abou El Fadl observes that “choosing to reside in a non-Muslim land was a religious and ethical decision as well as a political one. Muslim lands, Islam, and a moral life became inseparable”.600

It may be said that if mālikīs were not encountered with such social contexts, they would have approached it rather differently and would not have demonstrated such a rigid and strict position. This is evident in the articulation of Egyptian mālikī jurists who dealt with such issues in a way that narrows the gap down between schools of thought and brought them closer to each other. Nevertheless, the influence of flexibility has been, it seems, overtaken by the rigidity. The proof of this can be found in scrutinising the history of spreading Islam beyond the boundaries of traditional Muslim territories, especially in the Muslim minority societies of Asia and South East Asia that are predominantly hanafīs and shāfi‘īs. Examining the root causes how Islam came in to shores of these societies, when it was introduced to them, and significantly, why they are shāfi‘īs and hanafīs and

600 Abou El Fadl, Khaled, “Islamic Law and Muslim Minorities: The Juristic Discourse on Muslim Minorities from The Second / Eighth to The Eleventh/ Seventh Centuries”, in Islamic Law and Society, 1:2, 1994, p. 163.
not mālikīs, one would come to a conclusion that the uncompromising approach of mālikīs towards the classification of territories including the issue of Muslim residence in non-Muslim territories has led, on one hand, the mālikī school confined only to the main lands of Islam, while the flexible approach of both hanafi and shāfi‘ī schools on some issues, on the other, paved the way for their followers to take residence in non-Muslim territories by which they could spread Islam through manifesting it in their day today life. If this approach demonstrated by the latter were not existed, it would not have been possible for territories outside the dār al-Islam to receive the message of Islam. This would explain to a certain extent why Muslims in Asia and South East Asia are mostly shāfi‘īs for centuries.

The hanbali school of thought considers dār al-Islam as the one in which the superiority is for laws of Islam. Al-Qādī Abū Ya‘lā al-hanbali maintains that “any territory in which laws of Islam are superior that the laws of disbelief, that territory is to be considered as dār al-Islam. If it is the opposite, then it is regarded as dār al-kufr”. 601 According to al-Buhutī, “dār al-harb is a territory in which the rule of disbelief is rampant”. 602

The two opinions mentioned above imply that superiority of laws is the basis on which hanbali school build the edifice of their definition. It may be said that hanbalis mostly do not contradict other schools, particularly mālikīs and shafiis in pursuit of the rational for their judgment on the nature of a particular territory, which is the prevalence of law in it. As for these schools, designating a territory as

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dār al-Islam or dār al-kufr largely depends on the type of law that prevails in that territory.

6.3.3 Contemporary opinions on Definition of Dār al-Islam and Dār al-Harb

This part of the discussion mainly focuses on contemporary opinions on concept of dār al-Islam and dār al-harb in the light of modern discourse which is in favour of the concept and against the concept. Hence this section seeks to examine the current debate on how far the classical concept of dār al-Islam and dār al-harb is still valid to classify the territories of the world in the context of contemporary socio-political challenges and realities. It attempts to find whether the pre modern approach directed by classical fuqahā (Muslim Jurists) to figure out territorial classifications is still to be maintained and sought after at the expense of demographic changes that have taken and still taking place in the modern world, what, if so, are the socio-political implications and if not, what sort of alternative move one can undertake to determine the relationship between Muslims and non-Muslims in general, and Muslim minorities and non-Muslims in particular. In so doing, it seeks to locate the role of fiqh al-Aqalliyyāt (Jurisprudence of Muslim minorities) in finding reconciliation between the classical texts on the basis of which the classical approach has been established and the realities of modern contemporary socio-political and religio-cultural context, and to suggest also to Muslim minorities as to how to position themselves within their societies and the Muslim ummah as a whole in terms of their relationship with both without contradicting their loyalties within and without.
As a prelude to this discussion, it is worth noting that the opinions on the issue in question are divided into two categories:

1. There are those who maintain that dār al-Islam and dār al-harb are still in existence in their classical form and essence, and the classical definition for them is still in operation.

2. Some others are of the opinion that the classical classification of the world as dār al-Islam and dār al-harb is no longer valid either in form or essence and the territories should be redefined and classified in line with contemporary socio-political, religio-cultural, national as well as international realities and contexts.

Those who are in favour of the first opinion may be identified as extreme Islamic movements and its advocates originated and gained ground in modern day Muslim world. After seeing their countries being ruled by Muslim rulers who were not in favour of the implementation of Islamic Sharī'ah even after the liberation of their lands from colonial powers, some Islamic movements and individuals stepped into launching a struggle hoping to bring their countries into their previous status. To put what they thought into practice and to legitimise their cause of action, they sought legal provisions in the Islamic law. This was how they sought refuge in the idea of classical classification of the world by the early scholars of Islamic law. Hence, in 1976, as observed by Abd al-Rahman Al-Haj,603 “Tanzīm al-Jihād al-Islāmi” (organization of Islamic jihad) of Egypt, for instance, sought to the classical concept of dār al-kufr and dār al-Islam, on the

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603 A Syrian researcher and the chief editor of the Arabic journal “al-Multaqa al-Fikriyyi li al-Ibda” aghal@gawah.com
issue of becoming of dār al-Islam into dār al-kufr. Exploring further, he stresses that the organization was heavily influenced by the concept of “contemporary jāhiliyyah” of Sayyid Qutb, which was inextricably interwoven with the concept of “al-hākimiyyah” coined by al-Mawdudi. The fact why dār al-kufr has been used in the place of dār al-harb was that, according to the organization’s constitution, the struggle it launched was not against countries beyond Islamic territories (dār al-Islam), rather it was against a Muslim government. The organization sought to this idea through its view on the issue of implementation of Sharī’ah and condemnation of secular systems as disbelief. According to this view, the Muslim societies whose system of governance and laws are secular are deemed to be secular and un-Islamic. The preference of dār al-kufr to dār al-harb given by the organization to deal with the problem was a matter of internal rather than external. In other words, it was more of a national issue than an international one. Although this classification of territories was largely confined to address internal issues, as noted before, in 1970s and 80s, it took a new turn expanding its horizon extraterritorially to embrace external issues with the attack of twin towers in New York in 11th of September 2001. The

604 The organization was of the opinion that the Egyptian society was becoming un-Islamic (Jahiliyyah) as it has given up, in its view, the sovereignty of Allah (al-Hakimiyyat li Allah or Shariah) to the sovereignty of Man (Hakimiyyat al-Bashar or man made law) and it was, therefore, turning to a Dār al-Kufr (abode of disbelief) from being a Dār al-Islam (abode of Islam).
605 The term “Jahiliyyah”, although it was originally used in the Qur’an to denote the pre-Islamic period and the social system of Arabia and used by the Prophet Muhammad (PBUH) to indicate anything un-Islamic, the first one to formulate it in the modern usage, according to Esposito, was al-Mawdudi in 1939. (Esposito, John L, ed. The Oxford Encyclopaedia of the Modern Islamic World, Oxford University Press, 1975, p. 323)
606 The first one to coin this terminology was Abu al-Ala al-Mawdudi whose writings and speeches were mainly directed towards presenting Islamic alternatives to western educational, social, economic, political, and legal ideologies prevailed in the Indian subcontinent prior to the partition of India.
608 Clause no 3 of the constitution of Egyptian Jihad Movement headed by Ayman al-Zawahiri (Al-Haj, Abd al-Rahman, Op. Cit.) who is considered to be the present second in command in Al-Qaeda Organization after Usama Bin Laden.
paradigm of the issue has been shifted drastically from its being a national issue to a trans-national providing a new dimension to the classification of territories in the Islamic law. Hence, “The legitimacy sought (by the perpetrators) for this suicidal operation” Al-Haj observes “was based on the fiqhi classification of “dār al-harb” and “dār al-Islam” and America is a “dār kufr”, and the blood of the people of war (dimā’u ahl al-harb) should be shed off! This is what it appeared to be indicating by the first speech delivered by Usama Bin Laden right after the incident: “Indeed this incident had classified the world into two fustat for sure”610. It is an indication by him to dār al-harb and dār al-Islam or dār al-kufr and dār al-Islam and I mān (as indicated in his other speeches and messages). This classification has been derived by him form a prophetic tradition.

From the discussion above, it can be noticed that some individuals and organisations still maintain the validity of separation of land into two entities along the line of classical fiqh. Yet, their opinion did not go unchallenged. There are strong reservations in accepting the classical classification of territory among Muslim scholars. They see little relevance of this concept in modern day socio-political realities and international relations between countries and societies. In this connection, Faisal Moulawi can be considered as one of the pioneers who voiced reservation in accepting this concept. In the following pages he argues that dividing the world into two territories is no longer valid. He presents his argument posing some serious questions if the concept has to be accepted by Muslims today.

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610 Two groups or two cities and the root meaning of fustat is tent (Al-Azim Abadi, Muhammad Shams al-Haq, Awn al-Mabud Sharh Sunan Abi Dawud, Dar al-Kutub al-Ilmiyyah, Beirut, 2nd ed. 1995, V.11, p. 209)
6.3.4 The Concept of Dār and Its Relevance in Today's Muslim Minority Context – Faisal Mowlavi

Classifying the world into dār al-Islam (abode of Islam), dār al-kufr (abode of non-belief) or dār al-harb (abode of war) has not been something prescribed by the Qur’ān or Sunnah of the Prophet. It has been purely an exertion of effort by early Muslim scholars of Islamic law (fuqahā). After the Prophet’s demise, when the boundaries of Muslim rule expanded dramatically beyond the Arabian Peninsula in the first three centuries, the issues regarding Muslim and non-Muslim relations within the Muslim community and without, have been intensified. Particularly, the issues of how to identify the territories of Muslims and non-Muslims and what are the features and characteristics of such domains became one of the heated debates ever articulated by the scholars of Islamic law. As they felt that it was their responsibility to shoulder the burdens to guide Muslim masses after the Prophet, the Muslim jurists have been under immense pressure because of their living conditions as well as their own contexts they were facing with, to exert effort to understand and explain the issues mentioned above and to make legal rulings and judgements on them during their time under those circumstances. As a result, the concept of classification of boundaries and territories based on Islamic legal understandings and purposes of Islamic Sharī‘ah came into being.

Early Muslims when they were confronted with other people, there came a situation where the lands they could not bring under their rule had to be identified and designated. This was how the designation of territories as dār al-Islam and dār al-harb found its place in the early Islamic legal terminologies which helped
the classical jurists to deal with complicated, conflicting, and contrasting social contexts.

As for dār al-Islām, it is a land, which comes under the jurisdiction of Islam and where the Islamic laws are implemented, and also Islamic rituals are freely observed and established. This sort of a land is also called as dār al-‘ādl (land of justice) and dār al-tawhīd (the land of monotheism). As for dār al-harb, it is a land in which the laws of Islam are not implemented, as it does not come under the jurisdiction of Islam or the authority of Islam. The lands of this nature is called also dār al-shirk (abode Polytheism).

According to al-Shāfi‘i, there is another category, which is called dār al-ahd (abode of covenant) or dār al-sulh (abode of truce). These lands belong to non-Muslims and they would enter into agreements with Muslims that the jizya (poll tax) would not be levied from them. Hence their lands are not ruled by Islamic laws, and they are neither Muslim lands nor abodes of war as there are no conflicts between Muslims and them.

When one looks at the discourses of the early legal scholars, it would be apparent that the yardstick for the identification of the boundaries as abode of Islam and abode of war has been the dominance of Islamic political authority over those lands and the implementation of Islamic laws in such territories. As Muhammad Ibn al-Hasan: one of the closest disciples of Abu Hanīfa contended, “The consideration of the status of a territory depends on the authority and the power to make the laws prevailing”.

It is obvious from the above discussion that the division of the world into two or three entities has been a fiqhi-oriented divisions deduced by fuqahā’ from the
*shari‘ah* laws to deal with a particular context which prevailed at that time, which was the war that Muslims were engaged against their enemies.

The question arises that is it possible to maintain the same position and to stick to the same division now and also to implement the laws that jurists have come up with, out of that context? Certainly the implementation of the division of lands in today’s contemporary contexts will create, undoubtedly, enormous problems, which are as follows:

1. What is the yardstick that can measure the authority of Islam, implementation of Islamic laws, and the establishment of its rituals? Is it the total implementation of Islamic laws? If so, it means that many Islamic countries today are not abodes of Islam.

2. Is it sufficient to implement Islamic personal laws at the expense of other civil laws to consider a particular county *dār al-Islam*, which means that some traditional Islamic countries have to be excluded from abode of Islam like Turkey while some other traditional Muslim minorities would be included in the abode of Islam like Sri Lanka … etc?

3. Is it enough for Muslims to practice Islamic rituals like prayers, fasting, zakat, and haj freely without any hindrance in order for their residence in any part of the world to be considered as abode of Islam? If that is the case, what is the legal ruling on many non-Muslim countries that have become not only a safe heaven for Muslims but also they face no problems in practicing those rituals more freely and securely than in their own countries of origin?
It is apparent, of course, that those countries cannot be considered as abode of Islam. Nevertheless, considering the real situation and the context, there seems to be no difference between those countries and the many Muslim countries that are not implementing Islamic laws, although the rituals are allowed to be practiced.

Such issues aroused out of today’s Muslim minority context, will be strong enough to grab our attention to the reconsideration of division as dār al-Islam and dār al-harb.

Besides, what could be the yardstick to measure a country as abode of war? Does it mere presence of non-Muslims in a particular place designates it as dār al-harb? It does not help us in anyway to consider that territory as abode of war as non-Muslims of that land could enter into a pact or truce with Muslims that they do not pay jizyā and to come under the rule of dār al-Islam. The countries of this nature could be considered as dār al-ahd as observed by al-Shāfī‘ī.

Drawing on above discussion, is it possible to consider today’s international treaties signed by countries around the world through the mediation of UNO are sufficient enough to treat non-Muslims countries as dār al-‘ahd as far as Muslims are concerned?

Answering this question, some would argue that since Islamic countries do not implement Islamic law: the Sharī‘ah, the pacts or treatises they sign with other countries do not oblige Muslims to abide by them. As a response to this argument, it can be said that:

1. It is one of the agreed principles of Sharī‘ah that even the deviated Muslim ruler can hold Muslims liable for his deeds as long as those deeds are not sins, which means that Muslims are bound by the actions of their
rulers unless they are unambiguous sins. According to this principle, signing treaties with non-Muslim countries that are not in conflict with Muslim interests and are helpful to make peaceful co-existence between people is acceptable in the light of *Sharī'ah* and if the deviated ruler undertakes this sort of activities, then it binds all Muslims without exception.

2. The presence of Muslims in the West may be for many individual reasons: study, employment or may be for international treaties of refuge and displacement. Whatever the reasons there may be, it is not acceptable and reasonable to accept some of these conditions and covenants when Muslims accept to live in the West and to refuse some other as it is not allowed for them to behave double standard at all, and this is what called cheating. It has to be both accepting these covenants and standing up to their requirements and obligations while enjoying their rights and fruits or they should not be accepted at all and not to be enjoyed by any means.

3. Even if one assumes that these treaties are not binding Muslim individuals as they are not supposed to accept the legitimacy of the governing bodies that rule their countries, and also if he or she assumes that there is no such a thing which is called treaties between him or her and those non-Muslim countries, if this is the case then who would say that there is a war between him or her and them?

Is it allowed in the sight of *sharī’ah* for an individual Muslim to decide on his own volition that there is a war situation between Muslims and others
or is it a collective decision that should be taken by the Muslim ruler on behalf of his fellow Muslims?

If Muslims are not in a position to accept the right for their deviated rulers to sign treaties, and if there does not exist a legitimate Muslim ruler who can declare war, then how is it permissible for an individual Muslim living in those countries to consider him to be at war with people of non-Muslim countries?

4. It is little wonder that the Quranic verses and the sayings of the prophet emphasise the legitimacy of fighting with non-Muslims. Nevertheless, the declaration of war is not without Sharī’ah limitations. If the declaration has been done without considering these limitations and legitimate justifications, it is not permissible at all for Muslims to treat non-Muslims under war ethics as it is considered to be an act of treachery and disloyalty. Allah says in the Qur’ān: “And if you fear treachery from any people (with whom you have a covenant) then publicly throw their covenant at them. Allah does not love the treacherous” (al-Anfal: 58). This means that Muslims should publicly announce that the treaty is no longer valid as it is being violated by the other party.

Drawing from the above discussion, it may be concluded that this classification of the world based on fiqhi concepts has no way to fit into the contemporary context. Muslim minorities in dār al-da’wah, therefore, resemble the context and the situation of the Prophet and Muslims when they were in Makkah before their migration to Madīnah. During that time Makkah was not a dār al-Islam or dār al-harb, but it was a dār al-da’wah i.e. inviting people towards Allah. The Muslims
at that time considered the Arabian Peninsula as dār al-da‘wah. Hence, it can be said that the whole world is dār al-da‘wah according to following Quranic verses: “We have sent you forth as nothing but mercy to people of the whole world” (al-Anbiya: 107). “We have sent you with the truth to proclaim good news and to warn. Never has there been a nation but a Warner came to it” (Fatir: 25).

If some people accept the invitation of the Prophet and establish the rule of Islam among them, the rest of the world is considered to be dār al-da‘wah. If some countries declare war on Muslims or Muslims declare war on them, then they become dār al-harb. When the war is stopped by a truce or a treaty and they do not accept Islam, then their countries become dār al-‘ahd (abode of truce).

If there is neither war nor truce, then the whole world is dār al-da‘wah: abode of inviting people towards Allah, as da‘wah is the fundamental feature of Muslims’ relations with non-Muslims, not the war and fighting. Hence, Muslims can enter those countries through agreements seeking protection or safety or asylum. Even during the classical period when the above-mentioned divisions were in practice, the jurists permitted non-Muslims who were at war with Muslims to enter Muslim lands under treaties of protection and safety. Similarly, Muslims were allowed to enter non-Muslim lands with similar agreements. When a non-Muslim was entering a Muslim land having this agreement signed, he was allowed to sell, buy, deal with business, possess, and to obey the laws of Muslims, and when he finishes his business, he would return home. On the other hand Muslims were obliged to stick to the agreement as long as the other party was upholding it. This was the case with Muslims as well. They were entering non-Muslim lands with similar bonds and treaties for business purposes or to fulfil any need… then they were allowed to enter those lands and obey the rules of the land as long as they
were not in conflict with the *Sharī’ah* and they were dealing with them with just
and piety. When they finish their business, they returned to their own lands.

This was the attitude and the relationship the Muslims had with non-Muslims for
centuries and it has been not only a well known fact but also a practice throughout
the centuries, and this was the reason why Muslim merchants went into far lands
and became sources of guidance and role models of Islam attracting many
indigenous people towards the fold of Islam. It was not the armies who entered
these lands and turned them to Islam, but the Muslim merchants journeyed
through land and sea that invited people to the fold of Islam. This was the case in
Indonesia and the parts of South, and south East Asia, and many countries in
Africa.

6.4 *Seeking fiqh al-aqalliyyāt to Address the Problems of Muslim*

**Minorities**

Discussions made in previous chapters, unequivocally shows that there is a
pressing need to find ways and means to address the problems of contemporary
Muslim minority in Britain. Although there are writings in Islamic literature on
the status of non-Muslim minorities in the Muslim majority states, the works on
Muslim minorities in non-Muslim states are very few. These works too do not
touch the problems of these minorities from the perspective of Islamic
jurisprudence, but all these studies more or less focus on their problems from the
educational, social, economical, and political perspectives. Despite the
significance of studying their problems from the perspective of Islamic
jurisprudence, as these problems pose enormous challenges towards these
minorities, efforts from the part of Muslim scholars to tackle with these
challenges from the perspective of Islamic jurisprudence are poor. In this respect, al-Qardāwi, al-Alawani, Abdul Qadir Khalid, and Faisal Moulawi are few among the others who pay attention in bringing the concerns of Muslim minorities into the focus. To address these problems from the perspective of jurisprudence, one has to understand the nature and the scope of this fiqh.

6.5 The Nature and the Scope of fiqh al-Aqalliyyāt

To understand the nature of fiqh al-aqalliyyāth, one has to answer the following questions. What is the position of existing fiqh on addressing the problems of contemporary Muslim minorities in general and Muslim minority in Britain? Given the situation of contemporary Muslim minorities, generally speaking, it is obvious that existing fiqh is inadequate to address these problems in a required manner. A situation like this, which is unique, was unknown, to the early jurists and unheard of in the context in which they exerted their efforts to address the problems of their times. It is unreasonable, therefore, to expect from them to address the context of contemporary Muslim minorities with all its complexities. Hence, it is obvious that the existing fiqh practised in a Muslim majority social and historical contexts that are totally unlike the contemporary contexts of Muslim minorities, is inadequate to effectively address these problems.

As a dynamic and proactive way of life, Islam is able to guide people in any given historical context. It can cope with any given situation as it has guidelines in abundance on the basis of which the early scholars of jurisprudence played their role, responding to the challenges they faced. As a result, the four major schools of thought emerged which were the outstanding outcome of their admirable scholarly efforts. However, it is worth noting that Islamic jurisprudence is the
human interpretation of the Sharī’ah at a given context. In other words, it is the output of the human understanding applied to grasp what Islam is all about in a particular social, political and historical context and what is the spirit, objective and goals of Islamic guidance in these matters. It has legal principles and fundamentals on the basis of which the early scholars deduced legal rulings from their sources: the Qur’ān and the Sunnah (the Prophet’s way of life). Yet it is undeniable that their understanding and interpretations do not go beyond their contexts and limitations of space and time. The obvious example is Shafi‘’s legal rulings, which he changed to suite different circumstances in his own lifetime. Abou El Fadl observes that “the traditional criteria worked out by earlier generations of Muslim jurists pose difficult questions for the modern age, when the application of Muslim personal or family law in a secular state has become a difficult matter. Although law and ethics do not always correlate in Islamic jurisprudence legal solution imply ethical choices. The rulings and decisions of pre-modern Muslim jurists will not necessarily resolve the dilemmas facing modern Muslim minorities. They do, however, provide examples of ethical choices made in response to particular historical challenges. Whether the choices of the past will inform the discourse of the present is for Muslims to explore”. This explanation gives impetus to a fresh reading of the divine texts and a new understanding of goals and objectives of the Sharī’ah in order to respond to the issues and challenges of our times as the early scholars did. This signifies to a great deal the necessity of finding an adequate alternative system of jurisprudence within the purview of the Sharī’ah, to cater for this timely and inevitable need.

611 Ramadan, Tariq, To Be A European Muslim, Tha Islamic Foundation, 1999, p. 60.
6.6 Scope of *fiqh al-Aqalliyyāt*

Contemplating the discussion made in the chapter of problems of Muslim minorities, it is apparent that their problems are not confined only to their day-to-day life but they surpass to include some other problems that are related to their attitude and conduct, policies and ideologies, and plans and strategies. As such, the following areas may be identified as covering the scope of *fiqh al-aqalliyyāt*.

6.6.1 The Sub-Rulings of Fundamental of Islam

As emphasised by al-Qardāwi, the fundamentals of Islam i.e. belief system, five pillars of Islam, rituals (*al-shaʿār al-taʿabbudiyyah*), the inner rituals (*al-`Ibādāt al-bātinah*), code of conduct (*sulūk*), fundamentals of moral values, and fundamentals of vices do not come under *fiqh al-aqalliyyāth* in general. Nevertheless, the sub-rulings (*furūʾ*) may well be included in this *fiqh*, such as combining the prayer in the summer in western countries… etc.

6.6.2 Sub-rulings of Islamic Provisions (*al-ahkām al-Islamiyyah*)

“For the fundamental provisions are concerned” al-Qardāwi argue “there is no dispute on them, the dispute (*khilāf*) is in sub-rulings and particulars that can be varied from country to country and time to time. It is the grace of God that He made this religion with two sections. One is unchangeable, which is fundamentals and definitive texts, which constitute the essence of Islam. Moreover, the other is flexible, which can change according to the changes in circumstances. Moreover,

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613 Qardāwi, Yūsuf al-, *fiqh al-Aqalliyyāth*, Avilable at [http://www.Qardawi.net/arabic/meetings/shreai-&#38;hayaa/prog.1.htm](http://www.Qardawi.net/arabic/meetings/shreai-&#38;hayaa/prog.1.htm); accessed on 09. 07. 00, p. 4

it is His grace that He made the fixed section, which is unchangeable as a restricted section, whereas the section of flexibility is unrestricted. If it were not for the flaxibility, the one Islamic community (ummatun wāhidah) would have become communities. Therefore, we should not call Islamic communities, but Islamic nations. The community is only one. “This is your community, which is the only one” (Qur'ān)

Al-Qardāwi, further adds that it is the grace of God that He made this section flexible as it has been reported in the prophetic tradition: What Allah has made lawful in His Book is halal and what He has forbidden is haram, and that concerning which He is silent is allowed as His favor. So accept from Allah His favor, for Allah is not forgetful of anything. He then recited, “And thy Lord is not forgetful.”

In another narration the Prophet said: "Allah, the Exalted, has laid down certain duties which you should not neglect, and has put certain limits which you should not transgress, and has kept silent about other matters out of mercy for you and not out of forgetfulness, so do not seek to investigate them.”

Al-Alawani observes that the subject in question raises number of methodological questions.

1. Which of the Islamic sciences this fiqh belongs to?

2. With which of the social sciences this fiqh to be connected and to what extent both sciences can be interacted?

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615 Qardāwi, Yūsuf al-, fiqh al-Aqalliyyāth, Avilable at http://www.Qardawi.net/arabic/meetings/shrcai-4hayaa/prog.1.htm: accessed on 09. 07. 00, p. 4

616 The Qur’ān, Chapter 19, Verse no 64. This hadith was reported by Al-Hakim and classified by him as sahih (sound), and quoted by al-Bazzaar.

617 Reported by al-Darqutni and classified as hasan (good) by al-Nawawi.
3. How can we deal with the issues that have been raised by the existence of Muslim minorities in huge number outside the aboard of Islam geographically and historically?

If it is to answer these questions, al-Alawani argue, it is inappropriate to include *fiqh al-agalliyyāt* within the definition of what is known today as *fiqh al-furūʿ* (sub-rulings of jurisprudence). On the contrary, it is more appropriate to include it in a comprehensive meaning which includes every section of the Sharī’ah in terms of theory and practice which was meant by the Prophet in his saying: “To whomsoever God wishes good, He gives him *fiqh* (true understanding) of the religion”. Alternatively, it may be called *al-fiqh al-akbar* (great fiqh) as called by Abu Hanifa and named his book as such. We find, therefore, the necessity of attaching this fiqh with *fiqh al-akbar* (great fiqh) to lend a wider sense to a smaller part and to fill the void in the legislation or in the jurisprudence.\(^6\) It appears from al-Alawani’s discussion that the scope of *fiqh al-agalliyyāt* is wide and comprehensive as far as the enormity of the concerns and problems of Muslim minorities are concerned. It does not mean, however, that it includes the fundamentals of Islam too, as al-Qardāwi maintains, for it is clear from al-Alawani’s wish to place this *fiqh* in a wider sense naming it *fiqh al-Akbar* to indicate the magnitude of the subject although it constitutes a smaller part (furūʿ) of the Sharī’ah.

\(^6\) Alawani, T Jabir al-, Op. Cit. p. 3
6.7 The Ways and Means to Seek fiqh al-Aqalliyyāt

6.7.1 The Role of Ijtihād (Legal Reasoning)

The above discussion apparently manifests the crucial nature of this fiqh. It requires laborious effort to work out the framework of this fiqh, as it had to cover not only the day-to-day life of contemporary Muslim minorities, but also their conceptual and ideological problems. This explains the importance of ijtihād and its role in devising this fiqh. According to al-Alawani, ijtihād plays a pivotal role in devising this fiqh.

“In fact, the problems of Muslim minorities cannot be addressed except through a new ijtihād based on generalities of the Qurʾān (kulliyyāth), its goals, values, objectives of the Sharīʿah and its methodology. In addition, it should be guided by the authentic life style of the Prophet, his practices of the Qurʾān, his implementations of its values and generalities in his life. This will characterise the methodology of following him and make his way of life a crystal clear evidence by which the pious men are able to follow him and his system in every time and place”.

6.7.2 The Use of Existing fiqh

From the existing fiqh, one can find many lessons and fundamentals on the basis of which the early jurists exerted their effort to respond to the issues they faced. The contemporary jurist can amply make use of these legal treasures inherited from early jurists. Through using their legal precedence in fiqh, the contemporary jurist is able to find what might not be able to find without them. This exercise

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620 Ge Speelman, Op. Cit. p. 76
621 Ibid. p.6
should lead him to find lessons from their rulings and fundamentals to deduce rulings from which they deduced.\textsuperscript{622}

Apparently, this system was in practice when Ottomans were regulating the affairs of the state. As such, \textit{al-majallah al-ahkām al-`adliyyah}, which was the civil code of the Ottomans in 1876 is an example as to how to deal with earlier \textit{fiqh} work and its need to contemporary times, as it some times preferred a secondary verdict to a weightier one, because it is more suitable for the present times.\textsuperscript{623} The striking manifestation of this approach can be seen in the enactment of \textit{majallath al-ahkām al-`adliyyah} (The book of rules of Justice), or the Ottoman Civil code, in 1876. “It was a valuable work of standardization that was much needed throughout the Muslim world. \textit{Al-majallah} was confined to the \textit{hanafi}-school of law, which was the official school of the state”.\textsuperscript{624} Its great importance is, however, derived from two factors: Although it was based on \textit{hanafi} jurisprudence, it was not confined to the dominant opinions of the said school but on an eclectic choice between the opinions of a wide spectrum of \textit{hanafi} jurists.\textsuperscript{625} Eclectic choice means the choice, “not only as between different opinions within one and the same \textit{madhab}, but across the board as between all accepted schools of Islamic jurisprudence emerged as an increasingly prominent feature of subsequent efforts at codification and modernization of \textit{fiqh}”.\textsuperscript{626} The second one is “it showed the way of how to deal with earlier \textit{fiqh} work and its applicability to contemporary times, as it

\textsuperscript{622} Ibid. p.6
\textsuperscript{623} Salahi, Adil, Trends in contemporary times, handout: Major Trends in Muslim Thought, MIHE, Leicester, 15.05.2001, p. 2
\textsuperscript{624} Salahi, Adil, op. Cit. p. 2
\textsuperscript{625} Qardāwi, Yūsuf al-, \textit{Madkhalun li al-Dirāsath al-Shari`ah al-Islāmiyyah} (Arabic), 3\textsuperscript{rd} ed. Maktabath Wahabah, Cairo, 1997, pp. 297-8
\textsuperscript{626} Abd al-Rahim, Muddathir, \textit{The development of fiqh in the modern Muslim world}, Institute of Islamic understanding Malaysia, Malaysia, 1996, p. 40
sometimes preferred a secondary verdict to a weightier one as it is more suitable for the present times.” 627

The prevailing complex modern problems in Muslim states like Egypt and Syria has necessitated the formulation of laws in those states. Scholars and legislators charged with this task have found it necessary to resort to views of different schools of law. One of such early attempts was *fiqh al-Sunnah* by Sayyid Sabiq. “Although it follows *al-Mughni* by ibn Qudama of *hanbali* school to a considerable extent, it breaks away from commitment to one school, and adopts views of other schools where the evidence is stronger or the verdict is more applicable to our times. This trend was followed by such scholars as Mustafa al-Zarqa, Ali al-Tantawi of Syria, Muhammad Shalthoot, Muhammad Mustafa Shalabi, Ali al-Khafeef, Muhammad al-Ghazzali, and Yusuf al-Qardawi of Egypt. What such scholars have identified as necessary for such approach is:

1. Looking for strong evidence in support of a view before endeavou-ring to seek solutions.

2. Ability to evaluate conflicting evidence, so as to choose the best supported view.

3. Ability to resort to *ijtihad* in a particular question, even though it had no ruling by earlier scholars.

This trend also, looks at making matters easier for people to follow. In this, they look at the numerous verses and hadith calling for ease, rather than hardship. They

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627 Salahi, Adil, op. Cit. p. 2
also consider the nature of our age, when strong power tries hard to turn people away from Islam.”

6.7.3 Example of New *Fiqh* Approach in Contemporary Muslim Minority Context: Fatwa on Taking part in Fighting against Muslims by Faisal Mowlavi

Mr. Muhammad Abd. Al-Rashid, the most senior chaplain in the American armed forces asks how far it is permissible for Muslim soldiers in the American armed forces to take part in fighting tasks and other relevant duties in Afghanistan and other Muslim countries. In his question, he specifies the expected goals of these operations as follows:

1. Taking revenge of those who are thought to have taken part in planning the suicidal attack perpetrated against civilians and military targets both in New York and Washington on 9 11 2001. (with the detail description of these attacks)

2. Eliminating the extreme elements who sought refuge in Afghanistan and in other territories, and deterring other governments who are complacent in harbouring such people and enabling them to get trained on fighting skills and to attack their targets in the world.

3. Restoring the awe and the respect for USA as the sole global superpower.

Concluding his question he says: Muslim soldiers in the American Armed forces in its all three branches are not less than 15 thousands. Should they refuse to take part in the above mentioned operations, the outcome is not other than their

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Ibid. p. 2
resignation from their posts and the consequence of that situation is obvious in the current climate.

Finally he asks whether it is permissible for them to request the relevant authorities to transfer them to some other duties other than fighting tasks in the battle field.

All praise is due to Allah and His peace and blessings be upon Allah’s Messenger and his companions and his followers…I have studied the fatwa of Dr. Salim al-Awwa in which he mentions that Dr. Al Qardāwi, the Judge Tariq al-Bishri, Dr. Muhammad Haytham al-Khayyat, and Mr. Fahmi Huwaudi have agreed on it. And also I have studied the interpretation of Dr. al-Qardāwi as for why he has accepted the Fatwa mentioned above. Similarly, I have read the fatwa of Dr. Ahmad al-Raysuni who is the Prof. of Shari‘ah in Morocco and the fatwa of Dr. Ali Jumuah a professor at Al-Azhar University. I have already responded to a similar question in a live fatwa on the web site “Islam on line”. In fact, I have become more satisfied with that fatwa after I have come across the fatwa of my respected brothers. Nevertheless, as a response to the request made by fatwa section I am presenting the legal basis for that fatwa in light of the detailed question mentioned above which I have not come across of it before. I would say, thus, Firstly there are two characteristics for an American Muslim soldier. He is an American citizen hence; he has to abide by the laws of America to protect his country when it is subjected to an external attack. Secondly, he is a Muslim and therefore, he has to follow the laws of Islam in order to obey Allah and His Messenger.
It is quite obvious firstly, that America is now entering a fierce war against terrorism. It may be a decisive war as far as her continuous pursuit for the leadership of the new world order is concerned. Secondly, what are the Islamic rulings in this regard as far as American Muslim soldier is concerned?

1- Is it primarily permissible for a Muslim to be a soldier in a non-Muslim army?

The answer is in fact that this matter is related to his being a citizen in a non-Muslim country. If this citizenship is permitted, then its obligations that ought to be permissible should also follow accordingly. Practically speaking, one third of Muslims today live as minorities in non-Muslim countries. Most of them are indigenous populations. While many of the Muslim countries do not appear to be committed to implement Islamic Sharī‘ah, there is no country among them would like to welcome Muslims from another country if they are willing to emigrate to them. On the other hand, these indigenous Muslims are the one who are capable enough to do dawah to their own people by being in their own countries. Indeed Allah has chosen all His messengers from among their communities for this sheer reason. Allah says: “We have never sent a messenger except in his nation’s language so that he would be able to explain to them...”

On this basis the majority of scholars agree with the permissibility of a Muslim being a citizen of a non-Muslim country. Hence, he being a soldier in the army of that country, as a result, is what can be expected as a natural outcome.

2- The contemporary Islamic dawah has been keen enough to call Muslims to engage, while they are a minority, in the societies where they live in. It is because a Muslim, by his nature, is a positive person in any society he lives in and Muslims, by their positive integration in their societies, would be more capable to
spread dawah as long as contemporary societies grant them freedom to do dawah on the basis of freedom of religion which is considered in all countries of contemporary world as one of the basic human rights and has been also prescribed protection by constitutions of most countries. Hence, it would never be possible for this integration to bear fruits via spreading dawah unless a Muslim could possibly preserve his distinct Islamic personality through its main features of creed, thought, and conduct, and then he would be able to apply them in his secondary issues. It is a mercy from Allah on a Muslim that He would not burden him more than what he can not bear. This is an undisputed position among all scholars irrespective of their schools of thought. It is based on the verse: “Allah will never burden any soul except for what in its capacity” “Fear Allah as much as you can” There are many other Quranic and Hadith verses to this effect.

3- One of the basic Islamic laws which a Muslim is not permitted to violate is that it is permissible for him to join his country’s army to fight alongside it when on fighting for his homeland and his rights. Today, the purpose of most armies is solely confined to defend their countries and a Muslim also would defend for the truth and fight for oppressed even if that involves the defence of those who do not share his religion or ethnicity. Hence, it goes without saying that he would indeed defend the rights of his country in which he lives and his fellow citizens whom he lives with. There is clear evidence in the life of the Prophet in Makkah and his life with Jews in Madina. Yet, when the army goes beyond the premises of defending the country and the rights of its inhabitants to commit aggression on other countries and their rights, then, it is not permissible for a Muslim to take part in this aggression regardless of the victim being a Muslim or a non-Muslim.
Allah says: “Be not the hatred of a people because they have prevented you entering the sacred Mosque, persuades you to egress on them and help each other on piety and God conciseness and do not help each other in sin and aggression” It can be understood from the context of the verse that there can be cooperation with non-Muslims on matters that are considered to be piety and God consciousness by our religion and non-Muslims too can accept it for some other considerations. And also it follows that there can be Non-cooperation on things which are considered to be sin and aggression by our religion if it is acceptable for non-Muslims as well.

Thirdly, diagnosing the current situation of fighting of the American forces in Afghanistan and the Islamic legal ruling about it:

The question has forwarded the goals of the operations of American army in Afghanistan in brief, which are: taking revenge of those who are assumed to have partaken in the attacks of 9/11, eliminating the perpetrators who sought refuge in Afghanistan, deterring other governments from sheltering them and giving space for their training camps and helping them, as a result, to fulfil their goals in the world, and restoring the authority of the USA as a sole global super power. On the basis of these clarifications we would like to say:

1- The fighting of American forces in Afghanistan cannot be considered as a defence of America, but it is an aggression on another country which is Afghanistan in this case. The defence cannot be undertaken except against aggressors and the Afghan nation is not an aggressor in this case. It is not established yet even with the American government that who is the real culprit so that he or she could be punished. We believe that the explosions in New York are
an aggression on innocent people and it is imperative to bring the perpetrators to justice. Yet, the attacking of the American forces of Afghanistan is also an aggression on innocent civilians. Hence, it is not permissible for partaking in it. The argument for hitting the bases of terrorists and those who support them does not justify the attack on innocent civilians.

Similarly, the argument of American bias, its injustice, and its share of aggression does not justify the attack on innocents in New York as well. The aggression is rejected regardless of whom the perpetrator was. A Muslim in the American armed forces is not allowed to take part in the acts of aggression even if they were against non-Muslims.

If the American forces attack, for example, China or Japan or Europe it is imperative for the Muslim American soldier not to take part in that aggression. Because the matter is not a religious one based on sectarian foundations, rather it is a matter which a Muslim soldier fights in defence of rights and he can not commit aggression on any other human being regardless of his belief for Allah says: “Do not aggress, for Allah indeed does not like aggressors”

2- The impermissibility becomes certain for a Muslim to partake in the army of his country when the aggression aims at a Muslim country. There are many clear-cut texts reported in this regard for which a heart of a Muslim trembles, such as “When two Muslims are engaged in a combat against each other with their sword's and one is killed, both are doomed to Hell, I (the companion of the Prophet) said, "O Messenger of Allah! As to the one who kills, it is understandable, but why the slain one?" He (PBUH) replied: "He was eager to kill
his opponent" So, it is obvious that this warning has included Muslim in his all situations.

As such, we would clearly say that fighting of a Muslim soldier under the banner of American Army against his fellow Muslims in Afghanistan being subjected to aggression is Islamically not allowed.

3- It may be difficult for a Muslim soldier to be committed to fulfil this religious duty. Yet, it is essential that this matter should be clear for him so that he can clarify it before the American society and the American government. Indeed, there were demonstrations in front of White House condemning the war in Afghanistan. And also there raised certain important voices against these operations as they tend to kill innocent people and do not eliminate terrorism. Rather it may increase it because of enmity as a consequence of this war. Therefore, it would not be difficult for Muslims in America, while they all have condemned the 9/11 attacks, not to agree on the war on Afghanistan. What is apparent from the question is that if a Muslim soldier does not agree to join the fighting in Afghanistan he would be compelled to resign from his post. If this has been the consequence of it, I would say: it is imperative for Muslim American soldier to resign and it is not permissible for him to take part in an unjust fighting against his fellow Muslims in Afghanistan. If this position tends to result in some other more harming consequences which cannot be borne as far as he is concerned personally or for the Muslim diaspora as a whole, then necessities would allow prohibitions. Hence, he has to weigh up between the two matters, and to choose the lesser evil. It is only him who would bear the consequences in this case.
4- It is only Muslim’s loyalty towards his religion and his adherence to laws of Sharī‘ah is considered to be basis. It does not mean that his loyalty to his country is secondary, but it is of course a part of his loyalty towards his religion. Nevertheless, the loyalty to country does not mean loyalty to government in all its policies. Otherwise, the political opposition would be accused of lack of loyalty to the country. This would definitely contradict the political pluralism and principles of democracy itself. It may be the reason why it is allowed for American soldier not to participate in fighting if he does feel uncomfortable in fighting and this would not be considered as a failing in his loyalty to his country. The issue presented today is not the condemnation of 9/11 attacks, rather the issue is how to face terrorism. And this is a matter on which viewpoints may differ. Muslims also should be allowed to exercise their right to express their viewpoint that terrorism can never be fought except by establishing justice in the world, the acceptance of civilization and cultural pluralism, and ending all sorts of injustice and bullying.

The loyalty of a Muslim to his Islamic country itself does not permit him to carry out the order of the ruler if it is a sin. On the contrary, It is obligatory upon him to oppose it as ‘there is no obedience to the created one in committing sin against the Creator’. When this sort of opposition comes from a Muslim it does not serve to tarnish his loyalty to his Islamic country. Islam strives for the prevalence of moral and human values which Allah has prescribed for all societies and makes every Muslim the guardian of these values whether he lives in a Muslim society or in another society. Hence it is obligatory upon him to oppose the ruler even if he is a Muslim when he tends to transgress these values.

This fatwa of Faysal Mawlawi can be treated as an example of striving to seek reconciliation between Islamic teachings and the modern-day liberal democratic
secular values in a non-Muslim society. It can be considered as an attempt to harmonise, contemporise, and indigenise Islam in the West. It unfailingly reflects the growing interest among scholars who deal with problems of Muslim minorities in the West from a fiqhi perspective. As a familiar person to the West, particularly to Europe where he had stayed and taught and as a senior member of European Fatwa Council, Mawlawi, by dealing with this issue, has given an added value to the ongoing debate around the issue of Muslim and non-Muslim relationship in the West. In fact, his contribution tends to represent a balanced approach a growing number of scholars who deal with Muslim minority affairs have been taking up since recent past. It can be said, therefore, it strives to seek a middle path between two extreme standpoints on the compatibility of practicing Islam and its teachings in a non-Muslim society. While one of them is represented by some groups and scholars from the Muslim community itself who see no meeting points between Islam and liberal democratic social system, the other approach, on the other end, is equally represented by some groups and scholars from the non-Muslim community who are also not prepared to reconcile between the two. What makes it interesting here is that both stand in two extreme polarised positions arguing notion of compatibility of values, principles, and way of life while sharing the same platform with a single voice which is ‘no coexistence between Muslim and non-Muslims in the West’. Between these two there exist a third way which is represented by vast majority of scholars and intellectuals form among Muslim and non-Muslim communities who tend to seek to find a common platform where every community can coexist on equal basis while being critical of extreme trends which emanate form both Muslim and non-Muslim sides of the society.
6.8 The Problems of Seeking fiqh al-aqalliyyāth

Despite the silver linings in the horizon of contemporary Muslim minority in Britain in its quest to find the best methods by which they can endeavor to relate their realities and experiences to the normative guidelines of the Qurʾān and the Sunnah, there are some gray areas that serve as obstacles standing in the path of addressing their problems.

The contemporary Muslim community witnesses the evolution of fiqh along with three different trends. These are namely modernism, traditionalism, and revivalism. Although these trends emerged largely to respond to the spread of colonialism, and to meet the challenges and issues created by it, the first two remain as obstacles in the path of responding these challenges.

The first trend, which was represented by modernists, tried to interpret Islam so that it seemed appealing, rational, and more acceptable by modern standards. In their search for this “new look”, they largely ignored the role and importance of tradition in Islamic history and thought. Dazzled by the glitter of western civilization they cannot visualize the intrinsic superiority of Islam, nor can they appraise the real value of its laws. Overawed by the idol of western civilization, they justify whatever it brings, call for it, and stand for it passionately. Those are the people who in the words of Mustafa Sadiq al-Rafi: they want to renovate the religion, the language, the sun and the moon. As far as fiqh and the related institutions are concerned, the modernists not only advocate the rejection, but also encourage complete disregard of the past experience dismissing such experience,

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630 Rafʿi, Mustafa Sadiq al-, Tahta Rayat al-Qurʾān, n.d., Caíro.
as irrelevant to modern conditions. Thus, this trend renders a big challenge to find *fiqh al-aqalliyyāt*, as the contemporary Muslim minority societies have been immensely influenced by this trend.

The traditionalists on the other hand, are just opposite to the Modernists. Although they have rendered a great service to the Muslim community by preserving tradition, particularly at times when the danger of erosion of values was present, they have, unfortunately, over-emphasized preservation. Thus, the preservation became, the goal, and the challenge of recreation and transformation was often lost. They advocate strict adherence to the four main schools of law. They claim that Islamic jurisprudence has attained perfection at the hands of the great *Imāms* (masters) of the past and that there is no need for innovation or improvement whether in general principles or in its detailed rules. They usually attach great importance to the literal meanings of the texts, give disproportionate attention to trivial details and pay only lip service to the ends and purposes of the *Sharīah*. Some of these scholars go even further and defend the outdated theory of strict adherence to the four Sunni schools of jurisprudence, thus discouraging any meaningful form of individual or collective *ijtihād*. According to Qardāwi, they pay little attention to the objectives of the literal texts, have little understanding of trivialities in the light of general conceptions, and no wonder to see them staging wars against petty things in religion. They are overprotective of a fixed form of Islamic jurisprudence, very much like the mother who brings about death to her infant by locking it up lest the scorching of the sun and the searing of the wind

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631 Omar, Abd al-Khalik, op. Cit. P. 230
632 Siddiqi, Ataullah, op. Cit. p. 24
633 Qardāwi, Yūsuf al-, *Qadāyā Islamiyyah Muāsirah*, op. Cit. Pp. 168-9
injure his health. They have been named by Qardāwi as modern literalists (Zāhiriyyah al-judod).\textsuperscript{634}

The traditionalists try to apply the rulings and views applied in earlier centuries to present day questions. This is seen in a variety of situations, which merit new considerations and rulings. Scholars belonging to this trend have always preferred following earlier scholars, issuing the same verdicts without careful reconsideration of issues, despite the changing circumstances.

The special feature of this trend is sticking to one school of thought with rigidity. What makes this trend even more rigid is the insistence by scholars on following their particular school of law, without looking into what other schools say on the same question, even though it may be better supported. In fact, some scholars tend to right off certain schools, as do the salafi scholars when they speak about the hanafi school of law. “This group is frozen in its fixed opinions concerning the \textit{halāl} (Lawful) and the \textit{harām} (Prohibited), following a statement in a text which they assume to be Islam. They do not budge a hair’s breadth from their position, nor do they try to weigh their opinion against the arguments of others, and to arrive at the truth after a comparison and critical evaluation of all opinions. If one of them were to be asked his opinion concerning music, singing, chess, women’s education and similar matters, the most likely word to come out from his tongue would be \textit{harām}”.\textsuperscript{635}

The other side of the coin of this trend is the little understanding of contemporary issues. The lack of profound understanding of the contemporary age and its issues

\textsuperscript{634} Qardāwi, Yūsu’al-, \textit{Min Ajli Sahwatin Rāshidah}(Arabic), Dar al-Wafa, al-Mansurah, 1995, pp. 44-5

\textsuperscript{635} Qardāwi, Yūsu’al-, \textit{al-Halāl wa al-Harām fi al-Islam}(Arabic), 10\textsuperscript{th} ed., Maktabath Wahabah, Cairo, 1976, p. 9.
coupled with the generally limited education among those who belong to this
trend hampered the development of Muslim minorities. This situation is more
visible in European countries than anywhere else, particularly in Britain. The
quality of religious leaders (imāms) now found in many local mosques in Britain
exemplify this pathetic situation. “Many imāms, particularly those originating
from Pakistan have, in general, a limited or non-existent command of English, in
many cases a poor educational background and little understanding of the society
with which young Muslim in particular have to engage”636. It is common for an
imām to be sent from the country of origin of the particular Muslim community
and also, from the particular jmā`ath (sect). This means that an imām may be well
trained in the Qur’ān and the Sunnah, and the cultural norms of the home country.
As far as his knowledge about his surroundings is concerned, he is unaware of the
real-life situation of the people of the community. “Many of the imāms will have
received little information about the European religious and secular scene and are
consequently not well prepared for dialogue”637. Mohammad Raza observes, “The
majority of imām lacks a thorough knowledge of Islam. Traditional leadership has
no communication with the younger generation for they cannot provide answers
to the questions asked by the latter. Such ignorance in highly industrialized
societies neither helps the young nor builds their confidence in traditional
leadership (Imāms) who have only a ritualistic and literal understanding of their
faith. Lacking conceptual knowledge, they cannot see Islam in its wider global
context…”638

636 Sophie Gilliat, ‘Comparing and Contrasting Minority experience: Christians in Pakistan and
Muslims in Britain’ in Encounter, 3:2, 1997, pp. 176-77.
637 Penelope Johnstone and Jan Slomp, ‘Islam and the Churches in Europe: A Christian
Between these two, there is a third approach, which is represented by a middle path. This could be termed as revivalist option, which seeks to reform the area of *fiqh* and its related institutions. This trend is seen as flexible and striking a middle path between the two extremes of either breaking completely with the past or sticking to it rigidly. This trend is what is immensely needed today to overcome these obstacles in the quest of finding *fiqh al-aqalliyāth*. It is to achieve this aim that Muslim minorities should find the ways and means.
Chapter 7: Conclusion

The summaries and concluding remarks of our studies will be made here precisely in order of each chapter. In our introductory chapter, we have indentified that the Muslim minority law is a relatively new legal studies yet no one has systemically studied this legal concept. We have noticed that classical legal theories of Islamic law are not always viable and applicable in modern conditions. We also concluded that following one of four legal school of Islamic law is also sometime not feasible in modern contexts in European countries. Furthermore, our study reveals that our imported Muslim clerics and scholars do not fully comprehend the cultural and social set ups of western nations in our modern context and their Islamic legal knowledge is confined to some Islamic ideological and sectarian teachings. Our study shows such Islamic clerics cannot gauge the legal and religious problems of Muslim minority community fully and thoroughly and for this reason, we argued that a new legal approach is needed to address these challenges. In our second chapter, we have outlined the method and methodology of this research and we have followed the qualitative research method in accomplishing this research due the time constraints.

Our third chapter reveals that there is no conclusive definition for the concept of minorities in the world. The term minority has been used vaguely and differently in different contexts. It can be evidentially concluded that a unanimous definition of minority is not yet developed by academics and out of all the yardsticks used to define minority, Muslims are to be identified with their religiosity and thus Muslims are a ‘religious minority’. However, they are not perceived as such by the British establishments. British administrative
departments and institutes identify people as ‘coloured’: blacks and whites, as ‘race’: Jew and Sikh, as ‘ethnic’: Pakistani, Bangladeshi, and Arab. The ethnic minority groups are classified in this way in British administrative department. With the increase in the British Muslim population and the influx of other minority groups in the country, there was a tendency to identify them as ‘culturally distinct groups’. Because of this population increase in ethnic minority groups, the question of ‘multiculturalism’ has been widely debated in academia in Britain. After the attacks on twin towers in New York in 2001, precisely after the London bombings in 2005, the viability of multiculturalism as a social bridge connecting between communities has been questioned. The only way to recognise them as a part of the British society, it is being argued in far and wide, is to ask them to ‘integrate’ or ‘assimilate’ in the wider society. This is one of the reasons why Muslims are widely subject to various types of discriminations as they are not included in any of the categories listed in the British legislation and consequently, they are not protected by law as the chapter five identifies. This is one of the reasons why Muslims are being subject to various types of attacks and harassments by far right groups. They are aware that Muslims are an easy target and not protected by law as a legally protected minority.

Consequently, Muslims on the other hand also tend to identify themselves as ‘Muslims’ reacting to the pressure from the wider society. This is one of the crucial challenges theoreticians face when defining Muslims as a minority group. Hence, The Muslim minority laws can be used to reconcile the difference because Muslim minority laws guide us to come to terms with difficult situations like this. Local issues such as a controversy around ḥijāb, beard, jilbāb, Muslim schools, and accommodation for practicing faith in public places and international issues
such as cartoons about the Prophet (pbuh), Palestine conflict, and war in Afghanistan can be examined and reconciled in the light of Muslim minority law taking into account the general philosophy of Islamic law into account.

It would not be appropriate to issue legal verdict on these matters merely based on certain scriptural texts on legal opinion of some Islamic legal schools. The Muslims in general, Imams and scholars in particular face the challenge of understanding the problems in the British context. Understanding them incorrectly can have wider implications, which are detrimental to the peaceful coexistence of Muslims and non-Muslims in the society. This may explain the root causes of social disharmony created by the Salman Rushdi affair and the way Muslims approached it. Muslim minority law should help us to reconcile these differences.

The fourth chapter of our research reveals Muslim migration patterns into Britain in a historical perspective. Moreover, it also tells about the migration disperse of Muslim minority communities in Britain. It further discloses that Muslim minority communities have greatly contributed to the wider British society politically, economically, socially and culturally and Muslims have become part and parcel of the British society now than ever before. Muslim minorities feel that they have a lot to offer to this British society educationally, academically, culturally, and economically. The third generation of Muslim minority feel that they are a part and parcel of this wider society and they no longer feel that they have been marginalised. They also have a responsibility to contribute to the society in times of difficulties and ease. They are morally, legally and religiously duty bound to serve the country they live. They feel that they are fully integrated into this British society yet how they preserve their religious, identity is a big question and as we have explained before, the Muslim minority
laws explore the ways and methods of saving and preserving our identities as Muslims. Newly converted indigenous people of this country could play wider role in this British context. They understand the mentality, customs, and tradition of British society than migrants and therefore, they could play a wider role to identify and solve many of Muslim minorities’ issues.

The chapter five exposes some of the major legal and religious problems Muslims in Britain so far faced. These problems are complex and complicated. Apparently these issues seem to contradict with basic teaching of the Qur’ān and Sunnah. Yet, our study shows that many problems Muslim minority community face in Britain can be reconciled and solved if we read them in the light of general philosophy of law and legal theories of Muslim minority law is devised as problem solving mechanisms. Moreover, our study shows that legal concept of religious loyalty is different from law binding to the democratic constitutions of Western countries. Our study makes a distinction between the loyalty to ideologies and procedural democratic systems of the countries. We find that the concept of citizenship in Britain expects everyone to obey the set of laws that are equal and just for all. This does not contradict Muslim faith or religious expression.

Furthermore, our research shows that Muslim minority communities in Britain have been facing many socio-economical, political, cultural, legal and religious problems at various levels and identification of the problems of Muslim minorities has not been done sufficiently and scientifically from Islamic juristic point of view. Our research further reveals that there are not enough scientific and methodological studies have been undertaken yet by Muslim and Non-Muslim social scientists about Muslim minorities in Britain comprehensively. Many socio-
economics, educational and legal issues of Muslim minorities are ignored and neglected because of the lack of research on these areas. In addition, our study further explores inherent relationship between the concepts of equality laws and Muslim minority laws. Under the concept of equality law, minority rights should be protected and preserved. Our study shows that there is a compelling need in the British society to undertake an in depth research on this area comparing Muslim minority rights under the concept of equality laws.

Our sixth chapter recognizes that Fiqh is not Sharī'ah, which is the immutable. The fiqh is the interpretation of the divine guidance to humanity, which is the reflection and interpretation of Islamic jurists and scholars. It is prone to change according to change in time, space, circumstances, problems, and people attitude. The contemporary social context in Britain and the problems emanated from it is unprecedented in Islamic legal history. Our classical scholars could not visualise these social changes in their legal writings. This does not mean that their legal contributions are useless. Rather, their contributions are insufficient for today’s needs and demands. That is why scholars such al-Alwāni and al-Qardāwi have devised this new approach called fiqh al-Aqalliyyāt for Muslim-minorities to meet the need of our contemporary problems in the West.

In this respect, the Islamic legal methodological tools and principles, which are called Usūl al-fiqh pioneered by scholars of Islamic law, were the signposts for any future works in this field. Nevertheless, the verdicts and edicts issued by them based on these tools have been time-bound and contextual. They reflect the socio-cultural, religio-political climate of their time. Hence, it is undisputable that the methods introduced by them to deduce rules from texts are an invaluable contribution to Islamic fiqh. Yet, their rulings are inadequate to be used as
answers to issues faced by contemporary Muslim minority in Britain. This entails that it is imperative to develop a viable fiqh mechanism, which is based on not only the text and precedence inherited from the Islamic legal legacy but also on the comprehensive knowledge of the context with all its complexities and issues as highlighted in previous chapters. In so doing, the universalities of Islamic legal texts: the Qurʾān and the Sunnah, purposes of Islamic Sharīʿah: maqāsid al-Sharīʿah, maxims of Islamic law: al-Qawāʿid al-fiqhiyyah and other sources and principles of Islamic law need to be consulted before arriving at a solution for a particular issue. This arduous effort, which is to be done by scholars, is called Ijtihād.

A body of fiqh scholars should undertake this effort collectively, which is called al-Ijtihād al-Jamāʿi. This body should be divided into two institutions: one can deal with purely religious issues including personal law and the other one can deal with issues needed high calibre of expertise in respective fields and should be guided by experts in each aspects of human life, as it has become a practice in ECFR (European Council for Fatwa and Research). The role of the Muslim community and the government is crucial in order for this project to be materialised in real life. Muslim community should initiate capacity-building projects to produce scholars of Islamic law and it is imperative for the community to focus on it. It is a fard ʿain unlike Muslim chaplain scheme, which is a fard kifāyah. If Muslims aspire to be role models of their religion for the wider society as they in the capacity of the witness for the humanity, it is an obligation upon them to concentrate on this. As far as the government is concerned, its role is not less imperative than the Muslim community itself is. By supporting this project,
the government can place the British society in the eyes of the world as a role model for the rest of Europe and the Western world at large.

The resource persons who teach the Islamic subjects need to be either home grown or trained in the West. Mostly, the problem in the apparent failure of our system may be attributed to the incompetency and inefficiency of resource persons mainly in terms of mastering the language namely English and right understanding of the culture, society, and context of the country. The advantage of having a competent person of this calibre is that he or she would know how to ‘speak’ to our youth. ‘To speak’ does not mean that he or she is having a PhD in English language, rather it is to know how to understand their mindset before speaking to them, to know what sort of a mentality they have, what type of issues and problems they face in their environment and to communicate in the same wave length.

It could be the reason why Allah says in the Qur’ān: ‘and We never sent a Messenger except with the language of the folk, so that he might make (the message) clear for them...’ (14:4) It is understood that the language of the folk referred to in this verse means more than the language itself as it has been Allah’s wisdom to choose a Prophet from within the same community to whom he has been sent for and no wonder, of course, he speaks their language! It is self-evident that the mentioning of the language of the folk has deeper meaning than its face value which understands the culture, mentality, and mindset of the people whom we are talking to.

Islamic clerics and teachers should be competent enough not only in the above-mentioned main sources of knowledge but also in knowing how to relate them
effectively to the current complex modern social context. In other words, he or she should know the **text** as well as the **context**, and know how to contextualise the text in order for the people to understand the guidance of the Creator: Allah in the context of modern day issues and problems. This successful approach will be effective enough to give our youth the confidence in the religion, its relevance in their day today life, and, as a result, a solid foundation for forming their Islamic identity. This will effectively help them to stand firm in the face of cultural onslaught they confront in the macro-environment.

Our study shows that problems and challenges of Muslim minorities in Britain are enormous and they are unprecedented and unfamiliar to the available corpus of Islamic fiqh. It became clear how the existing fiqh is far behind to guide people in this crisis. Moreover, the jurists are lagging behind when it comes to respond to these issues for they are solely dependent on the existing fiqh solutions. Hence, it is vital for them to seek guidance from Islamic jurists who understand these issues Islamically in British contexts taking into account all changes that have been taking place in this new environment. This study identifies that there is a scarcity of Muslim legal and religious experts in this country with thorough knowledge in Islam and modern social sciences. As a result, Muslim minority communities do not possess enough intellectual resource to engage in Muslim issues. Some individual scholars or individual groups cannot solve these challenges and problems single handedly. The collective efforts of Muslim communities are needed to face these issues effectively. Moreover, there may be other relevant subjects and topics related to Muslim minority issues, which must be studied from different perspective. It is my humble expectation that the study
will attract Muslim intellectuals to engage in the subject from different perspectives.
Appendix 1: UN’s Universal Declaration of Human Rights

Articles:

1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one other in a spirit of brotherhood.

2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

3. Everyone has the right to life, liberty and security of person.

4. No one shall be held in slavery or servitude; slavery trade shall be prohibited in all their forms.

5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

6. Everyone has the right to recognizition everywhere as a person before the law.

7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

9. No one shall be subjected to arbitrary arrest, detention or exile.
10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

11. 1). Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2). No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall be heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence or to attacks upon his honour and reputation. Everyone has the right to the protections of law against such interference or attacks.

13. 1) Everyone has the right to freedom of movement and residence within the border of each state.

2) Everyone has the right to leave any country, including his own, and return to his country.

14. 1) Everyone has the right to seek and enjoy in other countries from persecution.

2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

15. 1) Everyone has the right to a nationality.

2) No one shall be arbitrarily deprived of his nationality or denied the right to change his nationality.

16. 1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They
are entitled to equal rights as to marriage, during marriage and at its dissolution.

2) Marriage shall be entered into only with the free and full consent of the intending spouse. The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.

17. 1) Everyone has the right to own property alone as well as in association with others.

2) No one shall be arbitrarily deprived of his property.

18. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

19. Everyone has the right to freedom of opinion and expression; this includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

20. 1) Everyone has the right to freedom of peaceful assembly and association.

2) No one may be compelled to belong to an association.

21. 1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

2) Everyone has the right of equal access to public service of his country.

3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each state, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.
23. 1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2) Everyone, without any discrimination, has the right to equal pay for equal work.

3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4) Everyone has the right to form and join trade unions for the protection of the interests.

24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holiday with pay.

25. 1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2) Motherhood and childhood are entitled to special assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

26. 1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stage. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for maintenance of peace.
3) Parents have a prior right to choose the kind of education that shall be given to their children.

27. 1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

28. Everyone is entitled to a social and international order in which the rights and freedom set forth in this Declaration can be fully realized.

29. 1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

30. Nothing in the Declaration may be interpreted as implying for any state, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Appendix 2: Universal Islamic Declaration of Human Rights
prepared by Islamic Council. U.K. 1981

1 Right to Life

a) Human life is sacred and inviolable and every effort shall be made to protect it. In particular no one shall be exposed to injury or death, except under authority of the law.

b) Just as in life, so also after death, the sanctity of a person’s body shall be inviolable. It is the obligation of believers to see that a deceased person’s body is handled with due solemnity.

II Right to freedom

a) Man is born free. No inroads shall be made on his right to liberty except the authority and in due process of the law.

b) Every individual and every people has the inalienable right to freedom in all its forms-physical, cultural, economic and political – and shall be entitled to struggle by all available means against any infringement or abrogation of this right: and every oppressed individual or people has a legitimate claim to the support of other individuals and /or peoples in such a struggle.

III Right to Equality and Protection Against Impermissible Discrimination

a) All persons are equal before the Law and are entitled to equal opportunities and protection of the Law.

b) All persons shall be entitled to equal work.
c) No person shall be denied the opportunity to work or be discriminated against in any manner or exposed to greater physical risk by reason of religious belief, colour, race origin, sex, or language.

**IV Right to Justice**

a) Every person has the right to be treated in accordance with the law, and only in accordance with the Law.

b) Every person has not only the right but also the obligation to protest against injustice; to recourse to remedies provided by the Law in respect of any unwarranted personal injury or loss; to self–defence against any charge that are preferred against him and to obtain fair adjudication before an independent judicial and tribunal in any dispute with public authorities or any other person.

c) It is the right and duties of every person to defend the right of any other person and community in general (*Hisbah*)

d) No person shall be discriminated against while seeking to defence private and public rights.

e) It is the right and duty of every Muslim to refuse to obey any command, which is contrary to the Law, no matter by whom it may be issued.

**V Right to Fair Trial**

a) No person shall be adjudged guilty of an offence and made liable to punishment except after proof of his guilt before an independent judicial tribunal.
b) No person shall be adjudged guilty except after a fair trial and after reasonable opportunity for defence has been provided to him.

c) Punishment shall be awarded in accordance with the Law, in proportion to the seriousness of the offence and with due consideration of the circumstances under which it was committed.

d) No act shall be considered a crime unless it is stipulated as such in the clear wording of the Law.

e) Every individual is responsible for his actions, responsibility for a crime can not be vicariously extended to other members of his family or group, who are not otherwise directly or indirectly involved in the commission of the crime in question.

VI Right to Protection Against Abuse of Power

Every person has the right to protection against harassment by official agencies. He is not liable to account for himself except for making a defence to the charges made against him or where he is found in a situation wherein a question regarding suspicion of his involvement in a crime could be reasonably raised.

VII Right to Protection Against Torture

No person shall be subjected to torture in mind or body, or degraded or threatened with injury either to himself or anyone related to or held dear
by him, forcibly made to confess to the commission of a crime or forced to consent to act which is injurious to his interests.

**VIII Rights to protection of Honour and Reputation**

Every person has the right to protect his honour and reputation against calumnies, groundless charges or deliberate attempts at defamation and blackmail.

**IX Right to Asylum**

a) Every persecuted or oppressed person has the right to seek refuge and asylum. This right is guaranteed to every human being irrespective of race, religion, colour and sex.

b) Al- Masjid al-Harām (Sacred House of Allah) in Mecca is a sanctuary for all Muslims.

**X Rights of Minorities**

a) The Qur’ānic principle “There is no compulsion in religion” shall govern the religious rights of non-Muslim minorities.

b) In a Muslims country religious minorities shall have the choice to be governed in respect to their civil and personal matters by Islamic Law, or by their own laws.

**XI Right and Obligation to Participate in the Conduct and Management of Public Affairs**

a) Subject to the Law, every individual in the community (Ummah) is entitled to assume public office.
b) Process of free consultation (Shura) is the basis of the administrative relationship between the government and the people. People also have the right to choose and remove their rulers in accordance with this principle.

**XII Right to Freedom of Belief, Thought and Speech**

a) Every person has the right to express his thought and belief as long as he remains within the limits prescribed by the Law. No one, however, is entitled to discriminate falsehood or to circulate reports which may outrage public decency or to indulge in slander, innuendo or to cast defamatory aspersions on other persons.

b) Pursuit of knowledge and search after truth is not only a right but a duty of every Muslim.

c) It is the right and duty of every Muslims to protest and strive (within the limits set out by the law) against oppression even if it involves challenging the highest authority in the state.

d) There shall be no bar on the dissemination of information provided it does not endanger the security of the society or the state and is confined within the limits imposed by the Law.

c) No one shall hold in contempt or ridicule the religious beliefs of others or incite public hostility against them; respect for the religious feelings of others is obligatory on all Muslims.

**XIII Right to Freedom of religion**

Every person has the right to freedom of conscience and worship in accordance with his religious beliefs.
XIV Right to Free Association

a) Every person is entitled to participate individually and collectively in the religious, social, cultural and political life of his community and to establish institutions and agencies meant to enjoin what is right (ma’roof) and to prevent what is wrong (munkar).

b) Every person is entitled to strive for the establishment of institutions whereunder an enjoyment of these rights would be made possible. Collectively, the community is obliged to establish conditions so as to allow its members full development of their personalities.

XV The Economic Order and the Rights Evolving Therefrom

a) In their economic pursuits, all persons are entitled to the full benefits of nature and all its resources. These are blessings bestowed by God for the benefit of mankind as whole.

b) All human beings are entitled to earn their living according to the Law.

c) Every person is entitled to own property individually or in association with others. State ownership of certain economic resources in the public interest is legitimate.

d) The poor have the right to a prescribed share in the wealth of the rich, as fixed by Zakāt, levied and collected in accordance with the Law.

e) All means of production shall be utilised in the interest of the community (Ummah) as a whole, and may not be neglected or misused.

f) In order to promote the development of a balanced economy and to protect society from exploitation, Islamic Law forbids monopolies, unreasonable
restrictive trade practices, usury, the use of coercion in the making of contracts and the publication of misleading advertisements.

g) All economic activities are permitted provided they are not detrimental to the interests of the community (Ummah) and do not violate Islamic laws and values.

**XVI Right to Protections of Property**

No property may be expropriated except in the public interest and payment of fair and adequate compensation.

**XVII Status and Dignity of Workers**

Islam honours work and the worker and enjoins Muslims not only to treat the worker justly but also generously. He is not only to be paid his earned wages promptly, but is also entitled to adequate rest and leisure.

**XVIII Right to Social Security**

Every person has the right to food, shelter, clothing, education and medical care consistent with the resources of the community. This obligation of the community extends in particular to all individuals who cannot take care of themselves due to some temporary or permanent disability.

**XIX Right to Found a Family and Related Matters**

a) Every person is entitled to marry, found a family and bring up children in conformity with his religion, traditions, and culture. Every spouse is entitled to such rights and privileges and carries such obligations as are stipulated by the Law.
b) Each of partners in a marriage is entitled to respect and consideration from other.

c) Every husband is obligated to maintain his wife and children according to his means.

d) Every child has the right to be maintained and properly brought up by its parents. It being forbidden that children are made to work at an early age or that any burden is put on them, which would arrest or harm their natural development.

e) If parents are for some reason unable to discharge their obligation towards a child it become the responsibility of the community to fulfil these obligation at public expense.

f) Every person is entitled to material support, as well as care and protection, from his family during his childhood, old age or incapacity. Parents are entitled to material support as well as care and protection from their children.

g) Motherhood is entitled to special respect, care and assistance on the part of the family and the public organs of the community (Ummah).

h) Within the family, men and women are to share in their obligation and responsibilities according to their sex, their natural endowments, talents and inclinations, bearing in mind their common responsibilities toward their progeny and their relatives.

i) No person may be married against his or her will. Or lose or suffer diminution of legal personality on account of marriage.
XX Rights of Married Women

Every married woman is entitled to:

a) Live in the house in which her husband lives.

b) Receive the means necessary for maintaining a standard of living which is not inferior to that of her spouse, and, in the event of divorce, receive during the statutory period of waiting (Iddah) means of maintenance commensurate with her husband’s resources, for herself as well as for the children she nurses or keeps, irrespective of her own financial status, earnings, or property that she may hold in her own rights.

c) Seek and obtain dissolution of marriage (Khula’) in accordance with terms of the Law. This right is in addition to her right to seek divorce through the courts.

d) Inherit from her husband, her parents, her children and other relatives in accordance to the Law.

e) Strict confidentiality from her spouse, or ex-spouse if divorced, with regard to any information that he may have obtained about her, the disclosure of which could prove detrimental to her interests. A similar responsibility rests upon her in respect of her spouse or ex-spouse.

XXI Right to Education

a) Every person is entitled to receive education in accordance to his natural capabilities.

b) Every person is entitled to a free choice of profession and career and to the opportunity for the full development of his natural endowments.
**XXII Right of Privacy**

Every person is entitled to the protection of his privacy.

**XXIII Right to Freedom of Movement and Residence**

a) In view of the fact that the world of Islam is veritably *Ummah Islamiah*, every Muslim shall have the right to freely move in and out of any Muslim country.

b) No one shall be forced to leave the country of his residence, or be arbitrarily deported therefrom without recourse to due process of Law.

**Explanatory Notes**

1- In the above formulation of Human Rights, unless the context provides otherwise:

a) The term 'person' refers to both the male and female sexes.

b) The term 'Law' denotes the Shari’ah, i.e. the totality of ordinances derived from the Qur’an and the Sunnah and any other laws that are deduced from these two sources by methods considered valid in Islamic jurisprudence.

2- Each one of the Human Rights enunciated in this declaration carries a corresponding duty.

3- In the exercise and enjoyment of the rights referred to above every person shall be subject only to such limitations as are enjoined by the Law for the purpose of securing the due recognition of, and respect for, the rights and
the freedom of others and of meeting the just requirements of morality, public order and the general welfare of the Community (Ummah).

The Arabic text of this Declaration is the original.

Source: http://www.alhewar.com/islamdecl.html
Bibliography


2. Abd al-Rahim, Muddathir, The development of fiqh in the modern Muslim world, Institute of Islamic understanding Malaysia, Malaysia, 1996.


42. Qardāwī, Yūṣuf al-, *Fī fiqh al-Awlawiyyāth* (Fiqh of Priorities) Maktabath wahbah, Cairo, 1996.


61. ………, *Shifā’ al-‘alīl*, Baghdad: Dār al-Irshād, 1971


