

Reconstructing *Fiqh al-Aqalliyyāt* for Muslim Minorities in Europe: Islamic Legal Responses to Islamophobia and Religious Freedom Challenges

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Abstract: Muslim communities in Europe increasingly face complex tensions between religious identity, citizenship, social integration, and the protection of religious freedom. Islamophobia, discrimination, contestation over religious symbols, and debates concerning Muslim integration have exposed limitations in approaches that frame minority Muslim life solely through the binary of assimilation and religious preservation. This study examines how *fiqh al-tasāmuh* (jurisprudence of tolerance) and *fiqh al-aqalliyyāt* (minority jurisprudence) can be reconstructed to address these challenges while maintaining Islamic normative commitments. Employing qualitative library research, the study analyses classical and contemporary Islamic legal literature alongside scholarly studies on Muslim minorities, religious pluralism, Islamophobia, and citizenship in Europe. A normative-sociological approach is combined with *Maqāṣid al-Sharīʿah* to assess the compatibility of minority jurisprudence with the objectives of justice, human dignity, religious freedom, social coexistence, and communal welfare. The findings demonstrate that *fiqh al-tasāmuh* provides an ethical-legal framework for managing religious and social diversity, whereas *fiqh al-aqalliyyāt* offers contextual legal mechanisms for Muslims living under non-Muslim majority jurisdictions. Their integration enables a shift from defensive minority adaptation toward an active jurisprudence of coexistence, citizenship, and mutual recognition. The study argues that a *maqāṣid*-oriented reconstruction of these two *fiqh* paradigms can strengthen Muslim religious identity while simultaneously supporting social integration and equal citizenship in contemporary Europe.



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Introduction

Diversity is an inevitable necessity in human life, both in terms of ethnicity, religion, race, and class. In the context of globalization, interactions between individuals from different backgrounds are increasingly intense, thus opening up opportunities for social integration as well as potential conflicts. Therefore, an approach is needed that is able to manage these differences wisely so that they do not develop into broader social problems, especially related to the SARA issue (Müller, 2021). In a contemporary socio-religious perspective, diversity is

seen as a reality that demands tolerance, inclusivity, and respect for differences. This approach is important in building harmonious social relations between individuals and groups in a pluralistic society (Dangubić et al., 2024; Garcia-Yeste et al., 2021; Hancock, 2020).

However, social reality shows that diversity does not always go hand in hand with the creation of harmony. In various parts of the world, including in the European region, the issue of SARA is still a fairly complex problem, especially for Muslims who are in a position as a minority group. The increase in the Muslim population in Europe in recent years has often been accompanied by the emergence of various forms of discrimination, negative stereotypes, and policies that limit religious freedom (Adetry & Burhanuddin, 2024; Bell et al., 2021; Ghosh, 2022). The phenomenon of Islamophobia, for example, is one of the indicators of tension between majority groups and Muslim minorities in Europe. A report by *the European Union Agency for Fundamental Rights* shows that discrimination against Muslims still occurs in various sectors of life, such as education, employment, and access to public spaces (Boland, 2020; Garcia Yeste et al., 2020). This condition shows that the values of freedom and equality upheld in European countries have not been fully implemented in an inclusive manner for all groups of people.

In facing this reality, an approach to Islamic law is needed that is not only normative, but also able to respond to the social context in an adaptive manner. The concepts of Fiqh Tasamuh and Fiqh Aqalliyah are present as relevant theoretical frameworks in answering these problems. Fiqh Tasamuh emphasizes the importance of tolerance and respect for differences, while Fiqh Aqalliyah provides guidance for Muslims in practicing their religious teachings in the midst of a non-Muslim environment. Furthermore, this approach can be strengthened by the concept of Ukhuwah Islamiyah which is not only limited to brotherhood among Muslims, but also includes universal human values. The integration between the three concepts is important in building a harmonious social life and in responding to various forms of SARA problems faced by Muslims in Europe.

Based on this description, this study aims to analyze how the concepts of Fiqh Tasamuh and Fiqh Aqalliyah can be used as an approach in responding to the problems of SARA in the lives of minority Muslims in Europe, as well as how the values of ukhuwah can be implemented in building harmonious social relations in a plural society.

Research Methods

This research is a qualitative research with a type of library research, which is research conducted by examining various literature sources that are relevant to the topic being discussed. The data sources in this study consist of primary and secondary legal materials. Primary legal materials include the Qur'an and hadith, while secondary legal materials are in the form of books, scientific journals, and research reports related to Fiqh Tasamuh and Fiqh Aqalliyah.

The approach used in this study is a normative and sociological approach. The normative approach is used to examine concepts in Islamic law related to tolerance and the lives of minority Muslims, while the sociological approach is used to understand the social realities faced by Muslims in Europe, especially related to the SARA issue. The data collection technique is carried out through a documentation study by browsing various relevant literature. The data that has been collected is then analyzed using a descriptive-analytical method, namely by describing the phenomena that occur and analyzing them based on the perspective of Islamic law. In the analysis process, this study also uses the Maqashid al-Sharia approach to understand the goals of sharia in responding to socio-religious problems.

Result and Discussion

The Concept of Fiqh Tasamuh and Fiqh Aqalliyyah in the Perspective of Islamic Law

Fiqh Tasamuh is one of the fundamental concepts in Islamic law that emphasizes the importance of tolerance, respect for differences, and recognition of plurality in social and religious life. This principle has a normative basis in the Qur'an, one of which is as stated in the word of Allah that there is no coercion in religion (*lā ikrāha fī al-dīn*) (Muhajir et al., 2025). This shows that Islam has recognized religious freedom from the beginning and encouraged the creation of a harmonious life in the midst of diversity.

In the treasures of fiqh, tasamuh is not only interpreted as a passive attitude in accepting differences, but also as a form of active interaction based on the principles of justice and benefit. Yusuf al-Qaradawi explained that tolerance in Islam includes respect for the rights of non-Muslims in various aspects of life, both social, economic, and political (Al-Qaradawi, 1992). Thus, tasamuh has a normative as well as practical dimension in regulating relations between religious communities.

The concept of Fiqh Tasamuh is not just a survival strategy for minorities, but a theological mandate that recognizes that differences are God's will (*iradah kauniyah*). Without this recognition, tolerance will only be superficial and prone to rupture when social friction occurs. Allah SWT affirms this principle of diversity in QS. Al-Hujurat [49]: 13:

Translation:

"O people! Indeed, We have created you from a male and a female, and We have made you into nations and tribes so that you may know one another. Indeed, the most noble among you in the sight of Allah is the most pious."

This verse uses the redaction "*lita'arafu*" (to get to know each other), which semantically implies *interdependence*. In the context of Muslims in Europe, this means that Muslims should not shut themselves off in exclusive ghettos. Instead, they should be active subjects in civic dialogue. Piety, as the standard of glory in the verse, is manifested through noble social and ethical contributions, so that the existence of Muslims is seen as an asset, not a burden to the majority society.

In the current context, the concept of *tasamuh* has significant relevance, especially in looking at the reality of Muslims in minority areas such as Europe. *Tasamuh* can be understood not only as an ethical attitude, but also as a normative principle in Islamic law that serves as an instrument to bridge differences without eliminating the religious identity of Muslims. Along with global social developments, the concept of *Fiqh Aqalliyah* has emerged which specifically discusses Islamic laws for Muslims who live as minorities in non-Muslim countries. This concept exists as a response to the contextual needs of Muslims who are in a different social and legal system from the Muslim-majority society. In this case, Taha Jabir al-Alwani emphasized that *aqalliyah fiqh* aims to provide convenience for Muslims in carrying out their religious teachings without ignoring the social reality and laws of the country where they live (Alalwani, 2010).

Fiqh Aqalliyah is closely related to the principles of benefit (*maṣlaḥah*) and avoidance of difficulties (*raf' al-ḥaraj*) as part of the main goal of Islamic law. Therefore, the approach used in this *fiqh* tends to be more flexible through contextual *ijtihad*, especially in terms of social interaction, economic activities, and participation in state life. The existence of *Fiqh Aqalliyah* shows that Islamic law has a dynamic and adaptive character to social changes. This emphasizes that flexibility in Islamic law is not a form of deviation, but part of efforts to maintain the relevance of *sharia* in various contexts of life, including in minority situations.

The application of Islamic law in minority areas such as Europe requires methodological flexibility so that the *sharia* does not become a burden that hinders social integration. *Fiqh Aqalliyah* utilizes the space of *ijtihad* through the rules of dispensation (*rukhsah*) when facing emergency situations or urgent needs. The main foundation of this flexibility is based on the following principles:

Meaning:

"Difficulty attracts ease."

Meaning:

"If a matter becomes narrow (difficult), then the law is broad (loose)."

The above rules provide legal legitimacy for the Muslim minority to make creative adaptations without having to lose the substance of the faith. For example, in the matter of the limitation of prayer spaces or the adjustment of working hours with prayer times, *Fiqh Aqalliyah* prioritizes the essence of worship over technical formalities. This is in line with the principles of *Maqashid al-Sharia* which aims to eliminate difficulties (*raf' al-haraj*) that can threaten the stability of a Muslim's life. This diversity of law is not a form of relativism, but a proof of the dynamic nature of Islamic law that is able to answer the challenges of time and space.

Thus, the relationship between *Fiqh Tasamuh* and *Fiqh Aqalliyah* shows the existence of an integrative Islamic legal framework in responding to socio-religious problems. Both can be seen as complementary approaches in building a harmonious life of the *ummah* in the midst of a pluralistic society, while maintaining the basic principles of Islamic teachings.

The Problem of SARA in the Life of Muslim Minorities in Europe

The life of Muslims as a minority group in Europe cannot be separated from complex social dynamics, especially related to the issue of SARA (Ethnic, Religious, Racial, and Inter-Group). In recent decades, the increase in the Muslim population in the European region has been accompanied by the emergence of various challenges, such as negative stereotypes, discrimination, and policies that restrict religious expression (Civila et al., 2020). This phenomenon is closely related to the rise of Islamophobia which is not only cultural, but also institutionalized in several public policies.

Islamophobia manifests itself in many forms, from hate speech to structural discrimination. The *European Commission against Racism and Intolerance* notes that Muslims often have difficulty obtaining equal employment, access to education, and public services (Liebert et al., 2020; Van Raemdonck, 2024). A report from the Pew Research Center also shows that in some Western European countries, Muslims are the most vulnerable religious group to social discrimination (Bayraklı & Hafez, 2023; Pipes, 2022). In addition, research shows that names associated with Muslim identity can significantly affect job opportunities, even if they have equal qualifications (Scharbrodt, 2021).

One concrete form of SARA's problematic is seen in the policy of restricting religious symbols. In France, the principle of *laïcité* is used to limit the use of religious symbols in public spaces, including the ban on the hijab in public schools and the restriction of the niqab in public spaces (Llorent-Bedmar et al., 2023). In Belgium and Austria, similar policies are also implemented under the pretext of maintaining public neutrality (Moir & Wagner, 2018). Even in Switzerland, there was a referendum that resulted in a ban on the construction of mosque minarets, which reflected symbolic resistance to the presence of Islam (Cheng, 2015).

However, not all European countries have shown a restrictive approach. In the United Kingdom, for example, the multiculturalism approach provides a wider space for Muslims to express their religious identity, including the use of the hijab in the workplace and educational institutions (Iqbal & Abbas, 2024). In Germany, despite some restrictions at the state level, the government generally recognizes the existence of Islam as part of society and provides space for mosque construction and Islamic religious education (Wildan & Husein, 2021). This suggests that there are policy variations that reflect different levels of acceptance of religious plurality.

In addition to policy aspects, challenges also arise in daily social life. Muslims often face pressure to assimilate into the majority culture, which sometimes leads to identity dilemmas. But on the other hand, this condition also gives birth to forms of constructive adaptation. For example, the development of Muslim communities that are active in interfaith dialogue, cross-community social activities, and involvement in local politics in various European countries (Fathul Wahab, 2023). In fact, the young generation of Muslims in Europe is beginning to play an important role in building a moderate and inclusive narrative of Islam.

This phenomenon of discrimination does have an impact on the psychological and religious aspects of Muslims, such as the emergence of a sense of marginalization and insecurity. However, this condition also encourages the formation of stronger internal solidarity and increased awareness to contribute positively in society. Thus, the SARA problems faced by Muslims in Europe not only reflect challenges, but also open up opportunities for the creation of a more adaptive, dialogical, and inclusive model of religion in a pluralistic society.

In a broader context, the dynamics of relations between majority and minority Muslim groups in Europe are also influenced by political and media factors. The representation of Islam in the mass media is often associated with issues of radicalism and security, thus forming a disproportionate public perception of Muslims. This condition indirectly reinforces negative stereotypes and increases the social distance between the Muslim community and the majority society (Latif, 2026; Suryandari & Arifin, 2021). However, in recent years, there have been efforts to improve through alternative media and digital platforms used by the Muslim community to build a more inclusive and representative counter-narrative (Musta'in, 2022).

On the other hand, the response of governments and international institutions to the issue of discrimination has also shown significant developments. Various anti-discrimination policies and social integration programs have begun to be implemented to guarantee the rights of minority groups, including Muslims. Institutions such as *the European Union Agency for Fundamental Rights* actively monitor and provide policy recommendations to EU member states in order to create a more inclusive society (Akaliyski et al., 2022). These efforts show that although the SARA problem is still a challenge, there is an institutional commitment to improve the condition.

Furthermore, the development of the Muslim diaspora in Europe is also an important factor in shaping the future of more harmonious social relations. This generation tends to have a dual identity that allows them to bridge Islamic values with Western culture in a more adaptive manner. Through education, political participation, and involvement in various professional sectors, they contribute to reducing social tensions while strengthening the position of Muslims as an integral part of European society (Nabriz et al., 2025). Thus, the existence of Muslims in Europe is not only understood in a problematic framework, but also as part of the process of social transformation towards a more plural and inclusive society.

Ukhuwah Islamiyah Approach and Tasamuh Values in Responding to SARA Problems

The SARA problems faced by Muslims as minorities in Europe require an approach that is not only normative, but also contextual and solutionive. In this case, the values contained in Fiqh Tasamuh and the concept of Ukhuwah Islamiyah can be used as the main foundation in building harmonious social relations in a pluralistic society.

Faced with the increasing phenomenon of Islamophobia and structural discrimination in several European countries, Muslims are required to respond in elegant ways. Reactive and emotional responses often reinforce negative stereotypes that are being built by far-right groups. Islam commands absolute justice, as He says in QS. Al-Ma'idah [5]: 8:

Translation:

"And do not let your hatred of a people drive you to act unjustly. Be just. For (justice) is closer to piety."

The command to remain just in the midst of hatred (*syana'an*) is the ultimate test of the moral integrity of minority Muslims. In the context of the SARA issue in Europe, this means demanding civil rights through legitimate legal channels and dignified dialogue, without being trapped in hatred against the majority. By maintaining justice, Muslims practice *da'wah bil hal* (da'wah through action), which is often more effective in breaking down the walls of Islamophobia prejudice than oral debate. This creates harmony based on *Ukhuwah Insaniyah* (brotherhood of humanity) that crosses religious boundaries.

The concept of *ukhuwah* in Islam is not limited to *ukhuwah Islamiyah* (brotherhood of fellow Muslims), but also includes *ukhuwah insaniyah* (brotherhood of humanity) which emphasizes the value of equality and respect for fellow human beings regardless of religious or ethnic background. This principle is in line with the teachings of the Qur'an which affirms that human beings are created in diversity to know each other (*li ta'ārafū*) (Sayaka et al., 2025). Thus, differences are not a source of conflict, but a foundation for building constructive social interaction.

Often the psychological burden as a minority arises because of the fear of being wrong in carrying out religious rituals in the midst of limitations. However, the Prophet PBUH from the beginning has laid down the basic principle that da'wah and the application of the law in a new place must bring calm and ease, not fear or difficulty. The Prophet PBUH said:

Meaning:

"Make it easy and do not make it difficult, give glad tidings and do not turn people away." (Narrated by Bukhari)

This hadith is the main pillar in *Fiqh Tasamuh*. For Muslims in Europe, this message has two dimensions. First, internally, it makes it easier for fellow Muslims to remain firm in their religion without feeling extremely burdened. Second, externally, it presents a friendly and solutive face of Islam in front of non-Muslim communities. By prioritizing the aspect of *basyara* (good news), Muslims can reduce the Islamophobic narrative that often portrays Islam as a rigid and threatening religion.

In this context, *Fiqh Tasamuh* serves as a legal approach that encourages an open, dialogical, and inclusive attitude in the face of differences. This approach does not mean obscuring the principles of Islamic teachings, but rather placing them proportionately in a pluralistic social life. Yusuf al-Qaradawi emphasized that tolerance in Islam must be built on the principle of justice and must not sacrifice faith, but still provide space for peaceful

coexistence (Al-Qaradhawi, 1992). Furthermore, from the perspective of *maqāṣid al-syarī'ah*, the problems of SARA can be analyzed through the main objectives of the sharia, such as safeguarding religion (*ḥifẓ al-dīn*), safeguarding the soul (*ḥifẓ al-nafs*), and maintaining honor (*ḥifẓ al-'ird*). Discrimination and marginalization of Muslims in Europe can be seen as a form of threat to these goals, so efforts are needed to create conditions that guarantee religious freedom, security, and respect for individual identity.

In the face of a pluralistic European society, the Islamic legal framework does not only stop at the aspect of prohibition, but also gives an active mandate to do good to fellow citizens as long as there is no real religious hostility. This is the basis for Muslims to integrate healthily without having to be assimilated in faith. Allah SWT provides clear limits on who is entitled to good treatment in QS. Al-Mumtahanah [60]: 8:

Translation:

"Allah does not forbid you to do good and to be just to those who do not fight you for religion and do not drive you out of your land. Indeed, Allah loves those who are just."

The use of the word "*an tabarruuhum*" (to do good) in this verse has the same root as *birrul walidain* (filial devotion to one's parents). This shows that the level of kindness demanded of neighbors or non-Muslim citizens in Europe is not just passive tolerance, but rather proactive and compassionate kindness. In the context of *Fiqh Aqalliyah*, this verse is legitimized for Muslims to engage in humanitarian work, philanthropy, and interfaith social cooperation in order to remove stigmatization and build *public trust*.

In this regard, Fiqh Aqalliyah makes an important contribution through a flexible and contextual approach to *ijtihad*. This fiqh allows Muslims to adapt their religious practices to existing social conditions without losing the substance of Islamic teachings. Taha Jabir al-Alwani states that fiqh for minorities must consider social realities and aims to facilitate, not complicate the ummah in practicing their religion (Alalwani, 2010).

Thus, the integration of *tasamuh* values, the principle of *ukhuwah*, and the *maqāṣid al-syarī'ah* approach can be a comprehensive solution in addressing the problem of SARA. This approach is not only oriented towards conflict resolution, but also on the construction of a just, inclusive, and civilized social order. In the context of a pluralistic European society, this strategy is important to ensure that Muslims can live with dignity without losing their religious identity.

Conclusion

The SARA problem faced by Muslims as a minority in Europe shows that there is a tension between the values of religious freedom and the social reality that is still colored by discrimination and marginalization. This condition confirms that the existing diversity has not been fully managed in an inclusive manner, thus requiring an approach that is not only normative, but also contextual and solutional.

From the perspective of Islamic law, the concepts of Fiqh Tasamuh and Fiqh Aqalliyah have a strategic role in responding to these problems. Fiqh Tasamuh emphasizes the importance of tolerance and respect for differences, while Fiqh Aqalliyah provides space for flexibility for Muslims to practice their religious teachings in a non-Muslim environment. Both show that Islamic law is adaptive without losing its basic principles. Furthermore, the integration of the values of Ukhuwah Islamiyah with the Maqashid al-Sharia approach emphasizes that the main goal of sharia is to realize the benefits, justice, and protection of basic human rights. Therefore, this approach can be a comprehensive solution in building a harmonious social life in a pluralistic society, while ensuring that Muslims can continue to exercise their religious identity with dignity.

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