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RETHINKING NON-MUSLIM NOMINATION IN NATIONAL ELECTIONS: APPLICATION OF MAQASID AL-SHAR'AH IN ADAPTING MODERN FATWA IN DEMOCRATIC CONTEXTS

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ABSTRACT

This study examines the principles guiding the political participation of Muslim minorities in democratic societies, with a focus on the application of Islamic jurisprudence (fiqh) in n minority contexts. It argues that traditional frameworks of leadership (imamah) and fatwa issuance must be reconsidered to align with contemporary political realities, thereby avoiding social conflict and ensuring the well-being of Muslim communities. The research applies a qualitative, descriptive, and analytical approach grounded in the objectives of Sharia (Maqāṣid al-Sharīah), particularly the establishment of justice (adl) and the promotion of public interest (Maṣlaḥah). It highlights the need for a contextual and outcome-oriented approach to Islamic rulings. Drawing on historical precedents, such as Umar's cancellation of the punishment for theft during the year of famine and Ibn Taymiyyah's pragmatic response to the Tatars, the study demonstrates how prioritizing higher Sharia objectives can justify flexibility in juristic reasoning. The findings propose several recommendations: Muslim scholars should integrate the realities of minority life into fatwas; adapt classical leadership conditions to modern democratic systems; evaluate political candidates based on competency and justice rather than religious affiliation alone; and prioritize the five necessities (al-ḍarūriyyāt al-khams) in electoral decision-making.

1. INTRODUCTION

One of the crucial questions that is raised over and over to 21st-century Muslims is how minority Muslims should contribute to the political affairs under the umbrella of the live reality of pluralistic and democratic nations, which often presents scenarios not explicitly detailed in classical Islamic texts. One of such pressing issues is the permissibility of nominating or voting for non-Muslim candidates or campaigning for a non-Muslim party in national elections. Classical fiqh rulings, developed in different socio-political contexts, often lean towards restriction based on the principle of waliu al-amr or Imamah (Muslim leadership). The general mandate (President of the Republic) is considered the highest religious and worldly position, which is called the Great Imamate, and to which the interests of the entire nation are entrusted. However, the nature of this era imposed on us hypotheses that were unprecedented, due to the weakness of the Islamic mandate that was dominant over the world, which called for the necessity of looking at some issues from different perspectives in order to fit with reality.

In addition, through the concept of Maqasid al-Shari'ah, this research posits that this evolution in legal opinion is fundamentally driven by the application of Maqasid al-Shari'a (the Higher Objectives of Islamic Law), rather than a purely textual analysis of isolated proofs. The problem is the gap in understanding how these objectives are strategically employed by modern jurists to navigate this complex issue. Maqasid are principles that provide answers to the above question and some other similar questions in Islamic law, which are derived from the wisdom of ruling to enhance social welfare (Jaseser, 2008, p. 1).

Accordingly, besides the maqasidi approach, minority Muslims across the globe need other than classical fiqh ruling - addressing minority Muslims-called: Fiqh for minorities, suitable for their contemporary situation, and meet the conditions of modern fatwa. As stated in the introduction of the book: Towards a Fiqh for Minorities by Alalwani, 2023: "Muslim theologians have produced theology for the majority, but a systematic formulation on the status of being a minority remains to be developed. (p. x). Muslims living in Europe, America, Asia, and African countries face various complex socio-political challenges related to the secular and democratic system, where national elections and political parties do not consider religious aspects and principles. This phenomenon has created a challenge faced by Muslim Minorities worldwide. The context of Muslim minorities in non-Muslim countries or non-Muslim majority areas is the process of social interaction and integration of Muslim communities within the local communities. Therefore, there is a need for a jurisprudential rule with a special perspective relying on the application of the Maqasid approach to monitor the adaptation of the modern Fatwa for the Muslims who are in these minority conditions (Adel, Alturki & others, 2023).

The objective of implementing the Maqasid approach to monitor the fiqh al-Aqaliyyat (Fiqh for Minorities) on the modern Fatwa is in harmony with the local conditions faced by Muslim minorities, to enable them to carry out Islamic teachings and principles well, without causing any legal or social problem. And most importantly, this approach can provide a way to create positive relations between Muslims and non-Muslims in their countries (Kazemipur, 2016).

Despite the claim that Fiqh al Aqliyyat was born in the context of Europe and America, which tries to structure it as a new concept from the classical fiqh, it can be proved that Mawardi is considered one of the scholars who rethought the situation of the minority Muslims, especially in matters related to social-political affairs as the ruling of Imamah and Wilayyah (Islamic Leadership). He built this innovative concept on the Quran, Sunnah, Ijmah, and Qiyas, which are the sources of classical fiqh (Mawardi, 2015).

1.1. Research Problem

With the shift from a religious political system to a democratic government system, the concept of non-Muslim State (Dar al Kufr) and Islamic State (Dar al Islam) or the State of War (Dar al Harb), which made Islam one of the key conditions of Imamah or Willaya (Islamic Leadership), is no longer considered in the political concept as known in the classical Fiqh as one of the key fundamental factors of Islamic leadership. Based on this new concept, various challenges have been faced by Minority Muslims around the globe related to understanding what principles are essential for the selection of non-Muslim candidates for state leadership.

1.2. Research Objectives

This study aims to systematically analyze the phenomenon of political elections of minority Muslims in non-Muslim countries, arguing that Maqasid al-Shari'a serves as the primary tool for reconciling Islamic legal principles with the demands of modern citizenship and political participation. Therefore, the research attempts to elaborate on the

following points as the target goal:

1. Conditions and principles of Islamic leadership
2. Contemporary jurists and fatwa-issuing bodies employ the framework of Maqasid al-Shari'ah in their reasoning for permitting the nomination of non-Muslims in elections.
3. The rule of specific maqasid that are most frequently invoked and prioritized.
4. The impact of this maqasidi approach on the methodological principles of ijtihad and the evolving concept of "Fiqh al-Aqalliyyat" (Jurisprudence for Minorities)?

1.3. Research Questions

Based on research objectives, the research questions are as follows:

1. What are the conditions and principles for nominating a non-Muslim over a Muslim candidate in national elections?
2. How do contemporary jurists and fatwa-issuing bodies employ the framework of Maqasid al-Shari'a in their reasoning for permitting the nomination of non-Muslims in elections?
3. Which specific maqasid are most frequently invoked, and how are they prioritized?
4. How does Maqasid al-Shari'ah approach influence modern fatwa adaptation in national elections based on the evolving concept of Fiqh al-Aqalliyyat (Jurisprudence for Minorities)?

1.4. Research Methodology

The study adopts a qualitative, descriptive, and analytical approach. It focuses on the discussion of the political situation of the minority Muslim communities during the national election.

This approach has been selected to understand in depth the construction of ideas and intellectual responses called (Fatwa in classical fiqh) of Muslim minorities regarding the relationship between the Maqasid al-Shari'ah and the selection of the state leaders in various national contexts of the democratic system (Dodi, H,2024).

The approach is founded on two primary frameworks: Initially, it involves the analysis of fatwa discussions from both traditional and modern Fiqh viewpoints, enabling the investigation of how ideas like Maqasid al-Shari'ah, Justice, and Maslaha are developed in the writings of minority Muslim intellectuals as well as among state citizens.

Secondly, there is a comparative study across nations, designed to investigate and differentiate the political ideologies and tactics faced by minority Muslim groups in the democratic system.

2. LITERATURE REVIEW AND THE CONCEPT OF THE MAQASID APPROACH AND FATWA

By reflecting on the historical background of the political ruling, it is clear that for over a decade, political activities were considered a part of a religious act. This phenomenon affected the classical fiqh and intellectual thought of Muslim scholarship, which led to the adoption of some fatwas in accordance with the times' motion by different schools of fiqh known as the four Mazhab.

In fact, there is no doubt about the validity of their adopted rules, which were linked to the reality of life and the political relationship of the states back then. However, Muslims living in Europe, America, Asia, and most of Africa face various complex socio-political problems related to immigrant-local, minority-majority, discrimination, Islamophobia, and identity crisis, due to some classical fatwas in the Fiqh books (Adel et al., 2023).

In addition, one of the major problems facing minority Muslims that cannot be found in the classical fiqh books and fatwas in context with the current situation is the compulsion of choosing (political vote) for leaders and representatives who are not Muslims in the national election under the democratic system. According to the majority view in the classical fiqh, leadership of a non-Muslim over a Muslim or in Muslim states is not permissible.

This idea basically refers to the concept that categorizes countries into two major parts, which are: Islamic States and Non-Believer States, based on the previous political relations among the leaders and states.

The concept of "Dar al-Islam" (the Islamic State) is interpreted in various ways by Islamic scholars, depending on their particular schools of thought. Fundamentally, this concept centers on the dominance of Muslims and the widespread presence and practice of Islamic teachings within a territory or state. It refers to a state governed by Muslim authorities, where strength and power belong to the Muslim community (Abu Zahra, 1995).

Abu Ya'la defined it as land where the laws of Islam prevail over those of disbelief, describing it as a land of Islam (1986). Ibn Qayyim stated, "A land of Islam is one inhabited by Muslims and where Islamic laws are implemented. Any land where Islamic laws are not enforced is not considered a land of Islam, even if it borders other such lands" (1997, p. 56).

On the other hand, the term "Dar al-Kufr or Harb" (Land of Disbelievers or War) refers to territories

where no authority or protection is granted by a Muslim ruler, and no covenant exists between its inhabitants and Muslims that binds or restricts them. In such lands, power, protection, and authority are the primary determinants.

As long as the land remains outside Muslim control and authority, it is considered a land of war, in contrast to the land of Islam. Al-Sa'di states: "The land of disbelief is that which is ruled by disbelievers, where the non-Islamic laws are implemented, and disbelievers hold sway" (2002, p. 92).

Ibn Hazm said: "It is the land that is owned and ruled by disbelievers, and where their laws prevail, because a land is attributed to the dominant communities" (2003, p. 140). It should be noted that the division of the world, as indicated, is not a fixed classification explicitly derived from the texts of the Quran and the Sunnah.

Rather, it is a report on the reality of the relationships that existed between Muslims and others during the era of early Islamic legal scholarship that may vary over time and change according to the circumstances and requirements of each era. These divisions arise from classical events experienced by jurists. Likewise, it is forbidden for a scholar to introduce a different type of division to prevent conflict among members of the same community (Wahba, 1998).

However, some contemporary scholars, including Wahba Al-Zuhayli (1998) and Sayyid Abd al-Aziz (2019), have objected to this idea and conclude that the concept of Dar al-Harb is a temporary designation that ceases with the end of the conflict, after which the world returns to its original state as a single realm—a view held by Al-Shafi'I.

By analyzing the current situation, it becomes evident that this division no longer reflects the reality of countries today. The situation of Muslim countries has changed significantly from the past in terms of power, influence, and authority.

Moreover, their current circumstances often contradict the provisions of Islamic law regarding governance in most Islamic nations. Today, many Islamic countries are governed by secular and Western legal systems, resulting in little difference between them and non-Islamic countries in terms of political systems, lifestyles, and cultures.

Consequently, non-Muslims have been granted equal rights and responsibilities alongside Muslims, enshrined on the principles of patriotism and nationality. Based on the foregoing analysis, it can be concluded that the Muslim minorities in European and American countries, as well as in some Asian and African nations, are connected to the state through citizenship—either by their own free will or by birthright—alongside the shared human bond rooted in the principle that we are all descendants of Adam. This connection necessitates interaction and cooperation between both parties to foster the development of the state based on peaceful coexistence.

2.1. The Role Of The Maqasid Approach In Adapting New Fatwas In The Era Of The Companions

2.1.1. Definitions of Maqasid and Fatwa

The term "al-maqsad" (objective or purpose) carries several connotations, including justice, righteousness, and direction (Ibn Manzur, 1873, p. 353; Ibn Faris, 1979, p. 95). In this context, Ibn Ashour (2004) described it as "the meanings and rulings observed by Sharia law in most cases of legislation" (p. 165). Allal Al-Fassi characterized it as "the purpose and reasoning behind Shari'a rules" (Al-Fassi, 1993, p. 7). Ahmed Al-Raysouni stated: "the goals that Shari'a was established to achieve for the benefit of mankind" (1995, p. 19).

A fatwa is a type of authoritative ruling or clarification issued in response to a specific question. For example, one might say, "I gave him a fatwa when I answered his question." Another example is, "to give him a fatwa on the matter if he clarified it to him" (Ibn al-Arabi, 2013, p. 145). In the Quran is stated: {And they ask you for a fatwa regarding women. Say, "Allah will give you a fatwa concerning them} (Al-Nisa': 127).

This refers to providing clarification on the matter in question. This interpretation is supported by the explanation in Al-Misbah Al-Munir, which states that the ruling is given by the responsible authority to the questioner (Al-Fayumi, 2002, p. 462). By analyzing both definitions, Maqsad is considered a methodological approach of Islamic jurisprudence to reform classical fatwas in Fiqh books to ensure their accuracy in the current context.

Application of the Maqasid Approach for adapting new fatwas in the era of the companions

The application of the Maqasid approach refers to the concept of "Ijtihad al-Maqasidi" within the principles of Fiqh. This process relies on transmission and reasoning to interpret and apply Quranic verses and hadiths to real-life situations.

It involves the use of analogy, consideration of public interest (Maslaha) and consensus, attention to underlying causes, customs, extrapolation, and the sayings of the Companions. It has been defined as the consideration of the objectives of Sharia and their

observance in the process of deriving Islamic rulings. The term means: to achieve the promotion of public interest or welfare for the good of humanity and preventing corruption in human society (Al-Khadimi, 1998, p. 19; Al-Idrisi, 2010, p. 24; Al-Khadimi, 1998, p. 122).

The above definitions show that a relationship exists between the fatwa and ijtihad of Maqasidi. This relationship lies in the fact that the fatwa is the product of ijtihad. The mufti cannot respond to the questions without first exerting efforts to determine the appropriate ruling for the situation, and this process is known as ijtihad.

In addition, Activation of al-Maqasid (I'mal al-Maqasid) in Sharia legislation refers to the process of prioritizing pubic welfare and preventing harm to ensure the preservation of the five necessities at all levels. During this careful process, the mujtahid (the scholar exerting efforts)'s considerations and the tools employed are guided by these objectives. This methodological process of Islamic jurisprudence can be observed from some of the Prophet's and companions' Fatwa as follows:

First case: The Hadith of prayer in Bani Qurayza

Narrated by Ibn Umar: When the Prophet (PBUH) returned from the Battle of al-Ahzab (The Confederates), he said to us, "None should offer the Asr prayer except at Bani Quraizah." The 'Asr prayer became due for some of them while on the way. Some decided not to offer the Salat except at Bani Quraizah, while others chose to pray on the spot, believing that the Prophet's (PBUH) intention was different from what the former group had understood. When this was reported to the Prophet (PBUH), he did not blame any of them. (Al-Bukhari, Hadith No. 946).

The hadith serves as the basis for permitting rulings derived from the Maqasid of Sharia inferred from legal texts.

The first group focused on the literal interpretation of the text; accordingly, they refrained from praying before reaching Bani Qurayzah. In contrast, the second group considered the underlying purpose and understood that the intent of the prohibition was to expedite the journey.

Therefore, they performed their prayer and then resumed their travel, thereby deviating from the literal wording of the hadith. The Prophet (SAS) did not deny their actions, which serves as evidence supporting the validity of applying the Maqasid approach. Ibn al-Qayyim (n.d.) stated:

Both groups will be rewarded for their intentions, except that whoever prays will acquire two virtues: complying with the command by hastening and complying with the command by preserving the time

… but those who delayed getting up did not have their excuse reprimanded for adhering to the apparent meaning of the matter" (Ibn Hajar, n.d., p. 410). Based on this, Ibn al-Qayyim recognized the validity of the actions of the group that prioritized the purpose over the other group, affirming that the purpose he deduced is a legitimate matter that must be followed, while the other group is excused due to their effort (ijtihad).

Second Case: Prevention of new Muslims' Shared by Umar ibn al-Khattab

The process of halting the share of those who newly embraced Islam during the era of Umar Ibn Al-Khattab (may Allah be pleased with him) is considered a clear example of al-Ijtihad al-Maqasidi (purposeful legal reasoning). As narrated by Al-Jassas in his interpretation, he said: "Uyaynah bin Hisn and Al-Aqra' bin Habis came to Abu Bakr (R) and said, 'O successor of the Prophet, we have swampy land that has no pasture or benefit. If you decide to grant it, please do so.' Therefore, he cut it off, wrote a letter regarding it, and provided testimony." (Abu Bakr, 1913).

Umar (R) was not present among the people, so they went to him to testify on their behalf. When Umar heard what was written in the letter, he took it from their hands, then spat on it and erased it. He was either complaining or criticizing the content of the letter. He said that the Messenger of God (SAS) used to protect both of them, and at that time, Muslims were still few in number.

God has since strengthened Islam. Umar then urged them to strive and exert efforts, emphasizing that God does not care for those who care for others instead of Him. Al-Jassas commented that Abu Bakr Al-Siddiq (R) refrained from denouncing Umar for his actions after signing the ruling, indicating that he recognized Umar's reasoning when he warned him.

He also noted that the portion allocated to those whose hearts were to be reconciled was limited due to the state of the Muslim community at the time, which was small in number compared to the large number of non-Muslims. (Al-Jassas, 1405, p. 326).

Third Case: Halting the punishment for theft during the year of famine.

Among the examples that demonstrate the understanding of the Companions (R) of the Maqasid approach is their application of legal fatwas in the legal texts revealed during the prophetic era, which sometimes led them to modify fatwas based on the prevailing conditions and needs of the people.

A notable instance is the well-known case of Umar ibn al-Khattab (R) suspending the punishment for theft, which represents a temporal circumstance that

permits the relaxation of certain prohibitions, shifting from established principles to alternative measures to preserve the community and alleviate the extraordinary hardship faced at that time. Such flexibility can only be achieved through a correct understanding of the objectives of Sharia.

This is supported by evidence found in the Qur'an and the Sunnah of the Prophet (SAS). The Almighty said: "But whoever is compelled [by necessity], neither desiring [it] nor transgressing [its limit], there is no sin upon him. Indeed, Allah is Forgiving and Merciful" (Al-Baqarah 2:173). This verse serves as a concession to address issues for the Islamic community. Based on this, Al-Qaradawi (2008) believes that:

The jurisprudence of Umar Ibn Al-Khattab (may Allah be pleased with him) is based on a specific wording in the Qur'an, namely the Almighty's command: "As for male and female thieves, cut off their hands for what they have done—a deterrent from Allah. And Allah is Almighty, All-Wise" (Surah al-Ma'idah, 5:38).

Umar interpreted this verse as referring to taking something to which one has no rightful claim. He applied this principle to a case of theft during a year of famine, considering that the person took the money rightfully due to necessity. Since the text does not explicitly include such a case, Umar concluded that the hand should not be cut off.

He further developed this jurisprudence by asserting that the general principle of necessity, as exemplified by the famine, overrides the usual ruling. Therefore, it is not obligatory to investigate the specific circumstances of a thief during a famine to determine whether he was in need or not. This conclusion was drawn from a narration by Al-Qasim bin Abdullah, who reported that a man stole from the treasury. Saad bin Abi Waqqas wrote to Umar Ibn Al-Khattab, who replied: "I would not cut off his hand, because he has a share in it" (p. 107).

However, this reasoning appears inaccurate for several reasons. First, the thief does not have a right to everything he takes under these circumstances. It is more precise to state that the suspension of the punishment occurs because the thief's action includes the rule of necessity, with the intent to protect himself. In this context, the Objective behind preventing theft is the preservation of money, and self-preservation takes precedence over the violation of others' rights. This principle is supported by the legislator's explicit allowance to consume carrion during starvation. Consequently, this issue highlights the depth of Umar's jurisprudence, particularly regarding the role of the Maqasid

Approach and how it influences the course of fatwas in certain cases.

These three examples demonstrate the significant impact of the Maqasid approach in adapting fatwas according to varying circumstances and conditions. The differences in the actions of the Companions (R) in applying the words of the Prophet (SAS) stemmed from their differing understandings regarding the balance between the literal text and its underlying legitimate objective of the Prophet's statement.

The decision by Umar (R) to suspend the share of those whose hearts were reconciled after the revelation of a definitive text in the Book reflects the application of the Maqasid approach. Umar (R) recognized the legal intent behind this ruling, understanding that the original directive aimed to address the weakness of Islam and Muslims at that time.

As the situation changed, it became appropriate to modify the fatwa for those individuals while maintaining the original ruling for others. Furthermore, scholars believe that the primary reason for suspending the share of those whose hearts were reconciled lies in the validity of their faith thereafter. The final example clearly illustrates that the fatwa concerning the thief serves a higher objective than the literal punishment of hand amputation under those specific circumstances. Umar (R) intended to convey that the preservation of life takes precedence over the protection of property.

3. THEORETICAL FRAMEWORK:

The concept of Maqasid aims to attain a higher standard of ethical conduct within society by promoting justice, equality, common good, and facilitation, alongside the preservation of religion, life, intellect, wealth, and lineage. These goals serve as the criteria that distinguish correct interpretations and applications of Sharia from incorrect ones. They are regarded as evaluative tools for classical fiqh rulings. This research framework is founded on the principles of justice and the advancement of public welfare (Maslaha) as noted by Ibn Taymiyyah (2010): "Allah establishes a state based on justice, even if it is a state of disbelievers, and he doesn't establish a state based on injustice even if it's a state of Muslims" (p. 68).

This idea provides a useful foundation for the current political situation of Muslim minorities. Because justice is one of the universal principles that may be implemented by anybody, Muslim or non-Muslim. It demonstrates that the main goal of Sharia in the construction and leadership of a state depends on justice and public interest rather than only the

religious attribute of the leader, as depicted in figure   1.
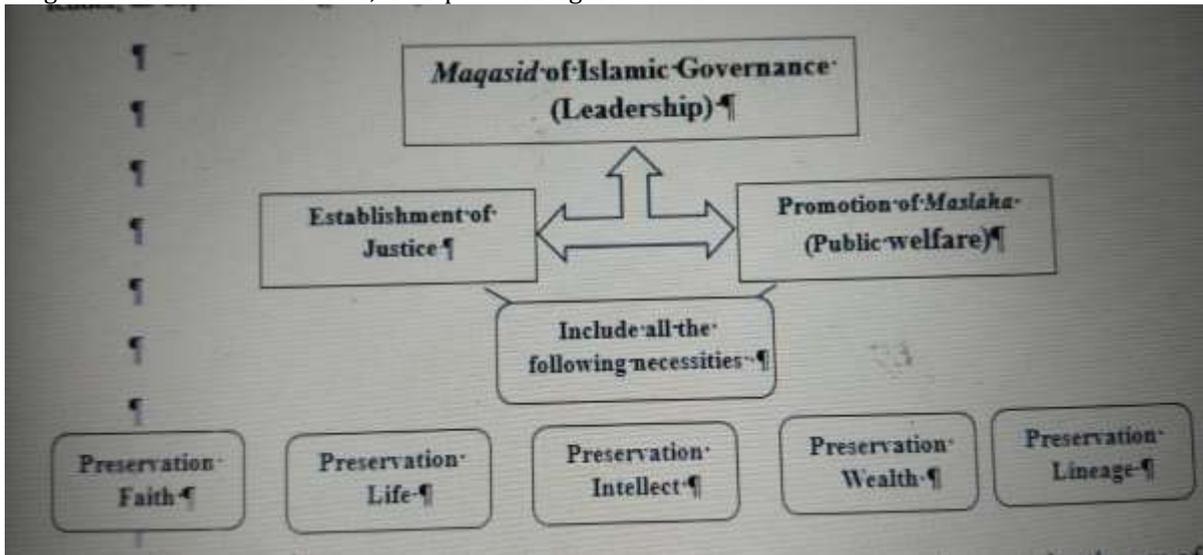
Figure 1: Model.

The above model (figure) elaborates that this study will implement the theory of Maqasid in terms of socio-political leadership selection for the measurement of selecting leaders in the national election of pluralistic communities under the rule of democracy in accordance with the modern Fatwa through the above-mentioned framework (Justice and Public welfare). However, the model of this research developed a relation between leadership conditions and Maqasid al-Shari'ah, by elaborating the relationship between two indicators of universal Maqasid (UM) and their nature of working under the limit of the concept of the five necessities (Daruriyyat) (FN) in solving Muslim minorities' issues.

Universal Maqasid (UM): The idea of the two UM is based on safeguarding rights and fostering good within human society, which are crucial responsibilities of Islamic leadership towards communities, thus rendering political participation a mandatory act for Muslims, irrespective of their country of residence. Muslims are not only permitted but also required to engage in political life, particularly when their involvement benefits the larger community. Political involvement allows Muslims to protect their rights, advocate for justice, and work towards enhancing the circumstances for everyone in society (IslamOnline, 2025). This concept teaches Muslims the principles of evaluating and choosing an ideal leader for the state, especially in a democratic context.

Five Necessities: alongside the two UM, the five necessities are used as the field of application of the concept, which means justice should be used by the

state leader to safeguard all the necessities of Maqasid al-Shari'ah , which include the preservation of religion (Hifz al-Din), life (Hifz al-nafs), intellect (Hifz al-'aql), lineage (Hifz al-nasl), and wealth (Hifz al-mal). These necessities are protected regardless of the religion of the citizen. (Malik, 2019. Firman et al., 2025).

The impact of Maqasid al-Shari'ah on changing fatwa for non-Muslim nomination in national elections:

Just as Islam connects economics to ethics, it also links politics to ethical principles. Islamic politics is not Machiavellian; it does not hold that the ends justify the means regardless of their nature. Instead, it is a politics grounded on principles and values, which it steadfastly upholds even in the darkest circumstances and most critical times. This commitment applies both to the relationship between the Muslim state and its citizens internally and to its external relations with other states and groups, as it applies to Muslim citizens living under a non-Muslim governance system alike. Therefore, regarding the relationship between the state and its citizens, the Quran addresses the Muslim authorities: {Allah commands you to render trusts to their rightful owners, and when you judge between people, judge with justice. Excellent is that which Allah instructs you. Indeed, Allah is ever Hearing and Seeing} (Al-Nisa: 58). Fulfilling trusts—in all their material and moral forms—to those who deserve them, and judging between all people with justice, is the duty of the Muslim state toward its subjects. In its relations with other states, a state must fulfil its promises, honor all its obligations, and keep

its word. The Quran states:

And fulfill the covenant of Allah when you have taken it, and do not break oaths after their confirmation while you have made Allah your guarantor. Indeed, Allah knows what you do. And do not be like the one who unravels her spun thread after it has become strong, [by] taking your oaths as a means of deception among yourselves because one nation is more numerous than another. Allah only tests you thereby, and He will surely make clear to you on the Day of Resurrection that over which you used to differ. And if Allah had willed, He would have made you one nation, but He misguides whom He wills and guides whom He wills. And you will surely be questioned about what you used to do (Al-Nahl: 91-93).

A Muslim ruler is not permitted to show favoritism toward any of his relatives or entourage by appointing them to positions they do not deserve while depriving those who are qualified. The Prophet (SAS) regarded this as a sign of the approaching end of the nation. When a man once asked about the day of Judgment, the Prophet replied, "When trustworthiness is lost, then await the Hour." When asked, "How is it lost?" he said, "When authority is entrusted to those who are not qualified for it, then await the Hour (al-Bukhari, 341). Nor is it permissible to exempt anyone from a prescribed punishment due to their lineage, status, or proximity to those in power. In this regard, the hadith states: "Those who came before you were destroyed because when a noble person among them stole, they let him go, but when a weak person among them stole, they carried out the punishment on him. By Allah, if Fatima, the daughter of Muhammad, had stolen, I would have cut off her hand." (Al-Qaradawi, 2007)

Islamic governance must be founded on justice, fairness, promotion of public welfare, and equality in rights, duties, and punishments. It must also be characterized by honesty with the people, always telling them the truth without misleading, deceiving, or lying to them. The Prophet (SAS) informed us that one of the three individuals whom Allah will neither look upon on the Day of Resurrection nor purify and for whom there is a painful punishment - is "a lying king" (Sahih al-Bukhari, Hadith 823).

Leadership in Islam is regarded as a legitimate authority through which its holder can govern and administer the state in accordance with the commands of Allah. It is noted that the definition of legal leadership has been narrowly confined to the exclusion of other states (Al Tanm, 2006). However, a relationship exists between the linguistic and Fiqh definitions, encompassing concepts such as closeness, love, friendship, support, planning, authority, principality, and unity (Abadi, 2009). These aspects collectively enable the state to exercise domination and management through leadership, fostering a close relationship with the guardian and ensuring the implementation of tasks and affairs. Such outcomes can only be achieved by an individual who possesses full authority to govern. In this statement, it is assumed that the general mandate, according to jurisprudential sources (Fiqh), requires four conditions unanimously agreed upon by jurists from various schools: 1. Islam, 2. assignment, 3. masculinity, and 4. freedom.

From these conditions, it is evident that most jurisprudential principles related to political issues in classical Fiqh were based on the nature of the state's relationships. However, this foundation necessitates a new framework for contemporary minority Muslims. If it is determined that the Islamic objective of leadership aims to achieve both religious and socio-political interests - namely, the establishment of justice and the promotion of public welfare within the state - then it becomes essential for Muslims to nominate individuals qualified to lead the state toward virtue and development. Therefore, Islam establishes political rules that specify the conditions and qualities required of those who assume leadership over the people. The concept of Imamah (leadership) applies divine guidelines and rulings ordained by Allah to these individuals to reform and benefit the community, both in family life and in their collective destiny. This leads to governance policies focused on selecting the best leader for the people (Ibn Hazm & Ibn al-Mubarrad, 2011).

The legitimate purpose of establishing these conditions and qualities in a state leader is to serve the interests of the people and to organize the system of life in the best possible manner. This aims to uphold the principles of justice and equality in human society, protecting human rights, dignity, and freedom. The Quran states: {Indeed, Allah commands justice, kindness, and generosity to close relatives. He forbids indecency, wickedness, and aggression. He instructs you so that you may be mindful} [Surah al-Nahl: 90].

It can be argued that some of the previously presented conditions for assuming state leadership are difficult to apply as mandatory requirements for candidates of secular countries such as France, the United States, and most African nations influenced by colonialism. In these countries, the law permits anyone who meets certain legal criteria to run for the presidency, regardless of religious or doctrinal affiliation. Thus, a Muslim is allowed to run just as

anyone else is. From an Islamic perspective, the primary condition for assuming a general mandate is rooted in Islam itself, as agreed upon by the consensus of the scholars of the nation—this was previously referenced. Additionally, non-Muslims were considered with caution, alongside the requirement of masculinity. Unfortunately, it must be noted that these conditions carry little weight in most Islamic countries today. Therefore, the ruling on nominating a non-Muslim in the national election should be considered from several angles. First, most of the contemporary leadership conditions are not compatible with some of the political ruling conditions that were established by the jurists of the schools. Second, the concept of Islamic and non-Islamic states in the classical Fiqh is no longer considered; it is realistic and clear that there is no difference between the policy of the state described as Islamic and other secular states.

Elections: "means empowering citizens who meet the legal conditions to participate in choosing rulers according to whom they see suitable for them" (Ibn Uthman, 2018, p. 27). From this definition, it is understood that choosing the ruler of the state is a common right for all citizens without distinction in religion or belief, which applies to presidential candidates as well. There is no doubt that it is contrary to some Islamic conditions, but the reality is that we are forced to deal with it in such a way.

To clarify the aforementioned, Egypt is an Islamic country, as established in the state constitution issued in 2014. Egypt's Constitution (2014) states that "Islam is the religion of the state, Arabic is its official language, and the principles of Islamic Sharia are the main source of legislation "Article 1). However, the constitution does not consider Islam and masculinity a condition for assuming the national presidency. The presidency in Egypt requires the following (National Elections Authority, 2014):

1. To be an Egyptian of two Egyptian parents.
2. Neither he nor any of his parents or spouse has carried the nationality of another country.
3. He should have a high qualification to enjoy his civil and political rights.
4. He must not have been convicted of a felony or crime involving breach of honor or trust, even if he has been rehabilitated.
5. That he has performed military service or has been legally exempted from it.
6. His age should not be less than forty Gregorian years on the date of opening the floor for candidacy.
7. He must not suffer from any physical or mental illness that affects his performance of

the duties of the President of the Republic.

This represents the reality of the majority of Islamic countries subject to secular politics in the contemporary era; the laws in force in the state do not represent Islam in any way. All of these are reasons for looking at the issue from its various contexts. It has been observed that most of the writers and researchers talked about the ruling on electing non-Muslims in Islamic countries, without considering the non-Islamic environments, forgetting that the condition of Islam and Muslims was not familiar with what it was like in the past, and that the political system of states is not based on a religious character. Rather, it is built upon a democratic system, so that makes the right of non-Muslim citizens and Muslims alike, even if non-Muslims are in an Islamic state, as it appeared in the case of Egypt, or vice versa. Therefore, this problematic issue is worthy of consideration in a research field. In this regard, contemporary scholars argued concerning their rulings on voting non-Muslims in the national elections of Islamic countries based on the following points of view:

The first opinion: the permission for non-Muslims to participate in national elections in the Islamic state. This point of view refers to Abd al-Karim Zaidan (1984), Farid Abd al-Khaliq (1998, pp.170-172), Muhammad al-Awa (2006), and Fahmy Howeidi (1999). Who built their argument based on several pieces of evidence as follows:

The first principle: These scholars considered the lack of evidence to prevent the participation of non-Muslims in the national elections as evidence of permissibility.

The second principle: the presidency of the Republic in our present era does not have a religious character, such as the succession that jurists talk about. Jurists had stipulated that whoever elects the imam should be a Muslim because the state was a religious character; therefore, the voter must be a Muslim. As for the situation in our time, the presidency of the state is a worldly matter, and there is no objection to the participation of non-Muslims.

The second opinion: prevention of non-Muslims' participation in the national election. This opinion is the doctrine of Abi Al-Ala Al-Mawdudi, and his basis for this doctrine was as follows (Al-Mawdudi, 1967):

First evidence relies on Allah's saying:
Those who believed, emigrated, and strived with their wealth and lives in the cause of Allah, as well as those who gave them shelter and help—they are truly guardians of one another. As for those who believed but did not emigrate, you have no obligations to them until they emigrate. But if they

seek your help against persecution in faith, it is your obligation to help them, except against people bound with you in a treaty. Allah is All-Seeing of what you do (Surah al-Anfal: 72).

Evidence: Citizenship in Islam has two foundations: faith and residence in Dar al-Islam, and nomination of state leaders should be built on these principles. (Mawdudi, 1967).

Second evidence: Abdul Khaleq (1998)'s invocation of the previous historical backgrounds on which the work of the predecessors took place in the early days of Islam:

We do not find, in the era of the Prophethood, nor in the era of the Rightly Guided Caliphate, an example indicating that any of non-Muslim was elected as a member of the Shura Council, or a ruler over one of the countries of the state, or a judge, or a minister of a branch of the government, or an overseer over it, or a commander in the soldiers, or he was heard to give his opinion in the election of the caliph, even though he was not even during the era of the Prophet (SAS), devoid of non-Muslim participation in all these matters was their right, they would not have the Messenger of God (SAS), restricted them from some of this right (Abdul Khaleq, 1998).

Third evidence: is based on the idea that non-Muslim testimony is not acceptable according to the Sharia, so that disqualifies the non-Muslim from the right to vote in the national elections of Muslim states.

Fourth evidence: Non-Muslims do not believe in the rulings of Islam; they are not keen to apply the requirements of the Sharia, and on this principle, voting for them will be based on some considerations that are not compatible with Sharia leadership principles for assuming the purpose of governance (Mawdudi, 1967).

Since the second school of Fiqh is compatible with the situation of Islamic countries in the religious context that adopt an Islamic constitution, it appears that there is no conflict between the two schools of thought.

Regarding the first school, it is suitable for non-Islamic nations with a Muslim minority, like France, America, and Côte d'Ivoire, and Thailand, or Islamic nations with secular policies, like Egypt. The first theory that claims that non-Muslims are allowed to vote in Islamic states is the one representing the application of the Maqasid approach in the fatwa modification. This is because citizenship in the current era is founded on two key principles: patriotism and nationality. There is no consideration for religious or doctrinal affiliations, as both Muslims

and non-Muslims are recognized as citizens sharing the same nationality, enjoying equal rights provided by the state law. Nomination of a non-Muslim candidate by Muslim citizens within the contemporary secular system does not contradict the principles of Islamic leadership as long as the chosen person can achieve the purposes of Islamic governance. In the Quran it has been stated that: {Allah does not prohibit you from engaging kindly and justly with those who have neither fought against you nor expelled you from your homes. Indeed, Allah loves those who act justly} (Surah Al-Mumtahanah:8). The absence of such a reason serves as evidence for the acceptability of coexistence, which necessitates collaboration in promoting public welfare for the benefit of the nation which must be acknowledged by the policymakers in accordance with the main objectives of Sharia.

Based on the theory established by Al-Zuhayli, the ruling of Muslim participation in the national elections with non-Muslims can be divided into three sections:

1. Muslim participation with A Muslim party against non-Muslim parties, this is required by consensus
2. Muslim participation in a non-Muslim party against a Muslim party is forbidden by consensus.
3. Muslim participation in a mixed party against mixed parties. Meaning, no legal objection exists to necessity need, or apparent interest, if the intent is good and the intention is to support the Muslims in participating in the elections with non-Muslims in the face of a mixed party, whether Muslims or others. The scholars have permitted the salutation with the word "Salam" to a group of mixed people, including Muslims and non-Muslims, in application of the Prophet's hadith, "Actions are valid by intentions…" and adopting the principle that actions are evaluated according to their intentions. (Wahba Al-Zuhaili, 2013).

4. RESEARCH RESULTS AND DISCUSSION:

Based on the three categories established by Al-Zuhaili, the case of contemporary candidates during the national election can be divided into three categories, each of which has provisions related to the advantages and disadvantages of voting, as follows:

1. All the candidates are non-Muslims (non-Muslim parties).
2. All the candidates are Muslims (Muslim parties).

3. Muslim and non-Muslim candidates (Mixed parties).

In the first case, non-Muslims candidates against each other during the election, Muslim citizens are required to prioritize the least fanatical for Muslims. Furthermore, the most qualified for the position, while electing or voting, even if the least fanatical among the available candidates, is the least knowledgeable or able, to avoid discrimination in the society, which contradict the concepts of justice and promotion of public welfare. This is because preserving religion is the most important element of the five necessities of Sharia objective as mentioned in the theological framework. The fanatic leader is a danger to the community. Therefore, the most suitable one to be voted among non-Muslim candidates is the one who is the least harmful to Islam and accepts religious diversity. An example of this case is the 2021 election in America between the Democratic Party and the Republican Party, where the candidates of each party were non-Muslim, Donald Trump (as the representative of the Republican Party) and Joe Biden (For the Democratic Party). Another example is the 2022 French election between Emmanuel Macron and Marine Le Pen. The case applies to similar electoral facts around the globe.

Second case: Muslim candidates against each other during the election means all representatives of the parties are Muslim candidates. Muslim citizens are required to vote according to the Islamic leadership conditions by looking for the best person among the candidates in accordance with the following criteria: the Most quality, the strongest, honest, possessive of correct opinion, and similar morals and descriptions that are required to be available in a good leader in Islamic law, such as promotion public welfare and establishment of justice.

Third case: Mixed parties and mixed candidates-Muslim candidates against non-Muslim. Candidates within mixed parties during the election means that some members and representatives of the parties are Muslim and others are not. The selection of candidates is between a Muslim and a non-Muslim. In this case, the priority should be given to the Muslim candidate in case of the existence of equality of qualification and preservation of religious diversity. In addition, this case should primarily be referred to the leadership objective that has been mentioned in the theological framework. This means the Muslim citizens should look for someone capable of achieving the establishment of justice and promoting public welfare within the community

with his ability to manage the affairs of the state, because the legitimate aim of Islamic governance is to preserve people's rights, including the five necessities of Maqasid al-Shari'ah (Religion, life, intellect, wealth, and offspring).

This principle is applicable in contemporary secular countries because there is no difference between the leadership of a Muslim and a non-Muslim in those countries; all the leaders run the state within the framework of a specific political system. They cannot make a major change most of the time, either for the sake of the party the candidate belongs to or because of the power of colonialism and their interventionism. In light of these circumstances, it may be permissible for the voters to vote for a non-Muslim if his presidency results in a greater benefit than that of a Muslim. However, as long as a Muslim cannot change anything on his own volition and his presidency does not result in any benefit for Islam and Muslims, choosing a non-Muslim based on his ability is the best option. These analyses are built on various Jurisprudential approaches:

The first case is based on the rule of committing the lesser of the two evils if they are equal. Electing a non-Muslim is basically not acceptable. But, choosing the least fanatical of Islam and Muslims is the least corrupt. The second case is based on the principle of periodizing the best between two interests. The third case contains two details, which are that the general considered principle is to give a vote for a Muslim over a non-Muslim. It is not permissible to abandon that, except for necessity or urgent need, and this process is a form of ijtihad. It is based on the application of Sharia objectives for the well-being of the community.

The legitimate objective of an Islamic leadership lies in achieving justice and equality in human society, and preserving the Western system from social chaos. Accordingly, if a Muslim in this era is certain in an unconstitutional Islamic state that the objectives of the Sharia will be achieved by establishing justice and equality in the presidency of a non-Muslim rather than a Muslim, it is permissible for him to vote for the non-Muslim candidate for the sake of public interest to avoid conflict. The conditions of the presidency refer to the current policy of states, not based on the classical ruling in the Fiqh books, which divided states into Islamic and non-Islamic.

The system of state governance in this era has changed from religious concepts to national affiliations and citizenship, and it is currently established on interests. Therefore, the reconsideration of some provisions related to the

Muslim minority in accordance with Maqasid is a necessary matter and a religious demand, which requires scholars and muftis all over the world to exert more efforts and endeavors to research further. The establishment of justice and the fulfillment of the rights of people are among the reasons for the survival of states, their superiority, and their dominance. Sheikh Al-Islam Ibn Taymiyyah stated in his message (Al-Hisbah) that the reward in this world is agreed upon by the people of the earth, because people do not dispute that the consequence of injustice is dire, and the consequence of justice is generous. Thus, it is narrated that God supports the just state, even if it is infidel, and does not support the unjust state, even if it has faith (Ibn Taymiyyah, 2010). The features of a successful presidency in Islam depend on establishing public interest, justice, and equality in the community.

5. CONCLUSION AND RECOMMENDATIONS

The case of minority Muslims varies from that of the majority; their participation plays a crucial role in shaping the political situation in the contemporary era. It is a way to protect their right, establish justice, and promote public welfare in society. The research concludes that Sharia's objective in state governance relies on two principles, which are: the establishment of Justice and promotion of public interest (al-Maslaha). These principles should be prioritized by the leaders and must be the key factors for voting for any candidates during the national elections, besides the highlighted conditions of Islamic leadership.

Through the research, it became clear that consideration of the Maqasid al-Shari'ah approach in adapting modern Fatwa in democratic contexts for Muslim minorities is a necessary matter for achieving their political engagement in state policy. To achieve the pubic interest, policymakers' concern must be the attachment of Fatwa to the factual reality based on the contemporary situation due to the outcome of the objective of Sharia. This approach is in line with what was proven by Ibn Taymiyyah's actions against the Tatars. Ibn al-Qayyim said:

I heard Sheikh al-Islam Ibn Taymiyyah (R) saying: I and some of my companions passed by some people during the time of the Tatars who were drinking alcohol, and the one who was with me denounced them, so I denounced him and said to him: Allah only forbade alcohol because it hinders Remembrance of Allah and prayer. These people are prevented by alcohol from killing souls, captivating offspring, and taking money, so leave them (Ibn Al-Qayyim, 2010).

This clearly shows his ability to apply the Maqasid Approach to a real-life situation, which made him prioritize public welfare over the basic ruling of alcohol; the preservation of souls and society's wealth and dignity over some individual mind's intoxication is based on the proper observation of Sharia objective. It demonstrates how contemporary Muslim scholars, jurists, and fatwa-issuing bodies should employ the framework of Maqasid al-Shari'a in their reasoning to adapt new rules for the minority Muslims around the globe, because the matter is not just related to the rules, but the reasons and situations.

Based on the above findings and discussion, the researchers recommend the following:

1. Muslims scholars and fatwa-issuing bodies should take into consideration the outcome and situation of Minority Muslims and link them with the reality of their countries before issuing the appropriate ruling (Fatwa) for them in democratic contexts, to avoid conflict between the adapted rules and the reality of their lives. This might result in hardship and calamity for Muslim communities.
2. To avoid conflict in the community, Muslims Scholars should overlook some leadership conditions considered in the classical Fiqh books under the principles of Imamah for assuming the voting of a leader, which are difficult to consider in most of the current countries due to the political system.
3. Muslims should nominate the leader based on capacity and qualifications, and disregard religious affiliations as long as candidates can't make a big change for the religion and belong to mixed parties.
4. Muslim citizens are required to vote for the least fanatical to Islam and choose the appropriate personality based on justice, honesty, and strength.
5. The five necessities of Sharia objectives should be the main goal and map of the selected candidates in the national election.

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