

Fiqh for Minority (Fiqh al-Aqalliyyāt): Principle and Current Practice on Food and Mortgage Finance

Afief El Ashfahany^{a,b,1,*}, Muhamad Subhi Aprianthoro^{a,2}, Aminudin Ma'ruf^{c,2}

^a Universitas Muhammadiyah Surakarta

^b Country School of Graduate and Professional Studies, INCEIF University, Malaysia

^c Country Universitas Negeri Surabaya

¹ aea930@ums.ac.id; ² msa617@ums.ac.id; ² aminudinmaruf@unesa.ac.id

* Corresponding Author

<https://doi.org/10.23917/suhuf.v37i2.11207>

ARTICLE INFO

ARTICLE HISTORY

Received Month 06, 2025

Revised Month 10, 2025

Accepted Month 10, 2025

KEYWORDS

Fiqh for minorities

Fiqh al-Aqalliyyat

Muslim minority

Mortgage

Sharia compliance

ABSTRACT

This paper examines Fiqh al-Aqalliyyat (Fiqh for Minorities), focusing on food and mortgage finance, and questions whether the principle of darurah (necessity) central to this jurisprudence remains valid today. Through library-based research, it analyzes foundational concepts primarily drawn from Yusuf al-Qaradawi's work and contrasts them with contemporary realities. Over two decades since Fiqh al-Aqalliyyat emerged in 2003, halal food accessibility and Islamic finance options remain limited for Muslim minorities in non-Muslim-majority countries. While the fiqh offers legal concessions (rukhsah), it does not absolve Muslims of their duty to conduct muamalah (transactions) in line with Sharia. The study argues that establishing halal infrastructure and Sharia-compliant financial systems is a fard kifayah, a communal obligation. Neglecting this duty implicates the entire community in shared sin. Thus, the paper urges Muslim minorities to move beyond reliance on concessions and actively build halal alternatives. At minimum, raising awareness about halal standards and Islamic finance is an essential collective responsibility. This serves as a timely reminder that necessity should not become complacency.

This is an open-access article under the [CC-BY](#) license.



1. Introduction

The migration of a Muslim from their home country to a predominantly non-Muslim country impacts both their personal and social life. While previously, living in a Muslim-majority country made it relatively easy to practice Islamic teachings such as praying in mosques, hearing the call to prayer (adhan), buying halal meat, eating halal food that's clearly separated from the haram, finding a Muslim spouse, or even purchasing a house through a sharia bank in a non-Muslim country, all of that becomes more challenging [1], [2].

From this phenomenon, there arises a need for *ijtihād* in the form of adjustments or relaxation of existing *fiqh* (different from the usual *ijtihād*, which typically aims to find legal certainty on something not addressed during the Prophet's time). This later came to be known as *fiqh al-aqalliyyāt*, or the *fiqh* of minorities. There are two Muslim scholars considered pioneers in the development of *fiqh al-aqalliyyāt*. They are Yusuf al-Qaradawi, through his book *Fiqh of Muslim Minorities: Contentious Issues & Recommended Solutions* (English version), and Taha Jabir al-Alwani, through his book *Toward a Fiqh for Minorities: Some Basic Reflections* [3]. Both were published in 2003.

In his book, Yusuf al-Qaradawi approaches the subject in a practical manner, using a Q&A format to discuss issues commonly faced by Muslims living in non-Muslim countries. The questions he addresses are frequently asked and highly relevant. The book organizes them into four sections. The first deals with acts of worship, such as questions about holding Friday prayer before *zuhr* or after *asr* time. The second is about Muslim family *fiqh*, addressing matters like marriage and inheritance. The third concerns food and drink, including the use of vinegar derived from alcohol. The fourth covers social dealings, which include questions about congratulating non-Muslims on their holidays or buying a house through an interest-based bank. Taha Jabir al-Alwani, on the other hand, through his book *Toward a Fiqh for Minorities: Some Basic Reflections*, focuses more on the theoretical explanation regarding the need for *ijtihād* for Muslims living as minorities.

2. Literature Review

2.1. What Differentiates *Fiqh al-Aqalliyyāt* from General *Fiqh*?

Yusuf al-Qaradawi explains that *fiqh* has many branches. For example, medical *fiqh* is the branch of *fiqh* related to certain diseases and the legal considerations around their treatment. Then there is economic *fiqh*, which relates to the economy, central banking, finance, and zakat. Political *fiqh* is about efforts to establish an Islamic state, the judiciary, military affairs, and so on. Minority *fiqh*, just like these other branches, is a separate area of *fiqh* that requires its own focus due to its specific characteristics [4].

To really understand the differences between minority *fiqh* and general *fiqh*, we need to first establish what *fiqh* actually means. Yusuf al-Qaradawi quotes Imam al-Ghazali, who describes *fiqh* as: "Fiqh is a science that deals with worldly affairs, since it qualifies judges, muftis, and endowment guardians." Meanwhile, Taha Jabir cites Ibn Khaldun [5]: "Fiqh is the knowledge of God's rules (*ahkam*) regarding the behavior and actions of adult individuals whether those rules are obligatory, forbidden, recommended, disliked, or permissible. These rules are derived from the Qur'an and the Sunnah, and the tools God has provided to extract them. The process of formulating and articulating these rules using those tools is what we call *fiqh*."

As for the term "minority," Taha Jabir defines it as a small group of people who differ from the majority in terms of race, language, or religion. Both scholars agree that *fiqh al-aqalliyyāt* is a distinct branch of *fiqh*, separate from the general body of Islamic jurisprudence. Yusuf al-Qaradawi uses the term *Fiqh of Minorities*, while Taha Jabir refers to it as *Fiqh for Minorities*. Minority *fiqh* is essentially *fiqh al-taysir*, or the *fiqh* of ease meant to help Muslims practice their religion amidst real constraints. According to Wahib [6], the method of legal reasoning (*istinbat*) used by Yusuf al-Qaradawi in developing minority *fiqh* involves two key approaches: *ijtihād tarjihi intiqai* and *ibda'i insyai*. *Ijtiḥād tarjihi intiqai* is about selecting the most relevant and lenient opinions from earlier scholars. This involves analyzing different classical positions on an issue, evaluating the strength of their evidence, and choosing the one most suitable for today's context. This is clearly different from *taqlid*, which simply means following a particular opinion without examining its sources. *Ibda'i insyai*, on the other hand, is about formulating new legal conclusions for contemporary issues that haven't been addressed before by classical scholars or reinterpreting old issues through a fresh lens offered by modern jurists [7].

Yusuf al-Qaradawi outlines the special characteristics of minority *fiqh* as follows: (1) It takes into account both the vast Islamic legal tradition and current realities; (2) It doesn't ignore the legal products and *fiqh* principles developed over 14 centuries; rather, it connects the universality of Islam

to the local communities, allowing the religion to respond to their real-life challenges; (3) It maintains balance between the textual sources of sharia and the higher objectives of sharia (*maqāṣid al-sharī'ah*); (4) It refers to subsidiary issues that are linked to main issues. If there's any contradiction between the two, it's resolved through prioritization and balance; (5) Fatwas are dynamic they can change depending on time, place, situation, and local customs ('urf); (6) It involves *fiqh al-awlawiyyāt* (the jurisprudence of priorities), especially in complex parallel situations such as maintaining a Muslim identity while interacting and coexisting with non-Muslim communities.

2.2. Sources of Law in Minority Fiqh: Maqāṣid al-Sharī'ah

When it comes to the sources of law in minority *fiqh*, the primary sources remain the same as those in general *fiqh*, namely the Qur'an and the Sunnah, followed by *ijmā'*, *qiyās*, and other recognized sources such as *istiḥsān*, *istiḥāb*, and *maṣlaḥah mursalah*. All these sources are applied appropriately in the process of legal derivation (*istinbāt al-ḥukm*). Furthermore, Sahidin [8] explains that in deriving legal rulings, Yusuf al-Qaradawi adopts the principles of *maqāṣid al-sharī'ah*. In practice, when there are conflicting indications among sources apart from the Qur'an, such as *ḥadīth*, *ijmā'*, *qiyās*, *istiḥsān*, or *istiḥāb*, the issue is referred back to the Qur'an, guided by its overarching objectives (*maqāṣid*).

Maqāṣid al-sharī'ah are categorized into three levels: *ḍarūriyyāt*, *ḥājjiyyāt*, and *taḥsīniyyāt*. *Ḍarūriyyāt* (primary necessities) consist of five essentials: protection of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), and wealth (*ḥifẓ al-māl*), collectively referred to as *al-ḍarūriyyāt al-khams* (according to Imam al-Ghazālī). *Ḥājjiyyāt* (secondary needs) refer to necessities that remove hardship and difficulty, while *taḥsīniyyāt* (tertiary needs) pertain to the promotion of good habits and the prevention of bad ones, often linked to *akhlāq karīmah* (noble character).

According to al-Shāṭibī, there are three stages in understanding the true *maqāṣid of the Sharī'ah*. The first is understanding the commands and prohibitions in the Qur'an. If they possess only one definitive meaning (either a command or a prohibition), then the intention behind them is clear. However, if the meaning is conditional, such as the prohibition of trade in Surah al-Jumu'ah, then it is context-specific, limited to the time of Friday prayer to prevent neglecting the remembrance of Allah. The second stage involves understanding the *'illah* (effective cause) of a prohibition. If the *'illah* is explicitly stated in a verse or *ḥadīth*, then observing or avoiding it fulfils the legal objective. If the *'illah* is not mentioned, the appropriate response is *tawaqquf*, refraining from judgment and deferring to Allah, who knows best the wisdom behind the command. The third stage concerns the silence of the Lawgiver (Allah) regarding certain matters. This silence may indicate either the absence of a motive that warranted revelation, allowing room for the community to identify benefits on its own, such as the compilation of the Qur'an after the Prophet's death or a deliberate choice that reveals the comprehensive nature of the ruling as Allah ordained, without need for addition or omission. An example is the case of *sujūd al-shukr* (prostration of gratitude), which Imam Mālik did not consider legislated, despite the presence of many moments of gratitude in the Prophet's life, showing that gratitude can take multiple forms.

These three levels of analysis indicate the need to balance between the *ẓāhir* (literal) text and the intended meaning or context (*siyāq*). Relying solely on literal interpretations may render the Qur'an and Sunnah unable to address emerging human issues. Conversely, relying entirely on context opens the door to unchecked interpretations that reduce religion to moral values without a formal identity [9].

Furthermore, Mun'im [7], explains that Yusuf al-Qaradawi utilizes 41 legal maxims (*qawā'id fiqhiyyah*) in deriving rulings within the context of *fiqh al-aqalliyāt*. Some of the principles he employs include: *al-umūr bi maqāṣidihā* (matters are judged by their objectives), which means that rulings are determined by the underlying intention; *al-'ādah muḥakkamah* (custom is given legal consideration), which allows cultural norms to inform rulings if not in contradiction with Sharī'ah; *dar' al-mafāsīdawlā min jalb al-maṣāliḥ* (preventing harm takes precedence over bringing benefit); *al-mashaqqah tajlib al-taysīr* (hardship brings ease); *idhā dāqa al-amr ittasa'a* (when matters become

tight, they expand); *al-aṣl fi al-ashyā' al-ibāḥah* (the original ruling of things is permissibility); *al-aṣl fi al-'ādiyāt wa al-mu'āmalāt al-naẓar ilā al-'ilal wa al-maṣāliḥ* (in social dealings and customs, rulings are based on causes and public interests); and *al-yaqīn lā yazūl bi al-shakk* (certainty is not overruled by doubt). These maxims reflect a flexible and contextual approach that remains rooted in the ethical and textual framework of Islamic law.

3. Results

3.1. Fatwa on Fiqh al-Aqalliyyat Regarding Halal and Its Current Practice

There are at least two things related to the halal industry and Islamic finance based on Yusuf Qardawi's book *Fiqh of Muslim Minorities*. The first is a fatwa related to food and beverages, particularly questions about the ruling on vinegar made from alcohol and enzymes derived from pigs. Are they halal or haram? Yusuf Qardawi's opinion is that they are halal because alcohol that has transformed into vinegar has become a completely different substance, as it has lost its intoxicating properties. The same applies to enzymes derived from pigs; if the impure nature of pig or dog has changed into salt or something else, then its ruling also changes. He stated that we cannot judge something based solely on its origin, for example, judging alcohol based on its origin from grapes, even though grapes are halal. Because alcohol has an intoxicating nature, it becomes haram. However, when alcohol turns into vinegar, and its intoxicating nature is gone, then it becomes halal.

The same reasoning applies to jelly made from pig bones or toothpaste derived from pigs. In such cases, the substance from pigs has undergone a chemical transformation so that its substantial characteristics are no longer present. The same also applies to the skin of animals that die naturally if their skin dries under the sun, the initial ruling of haram can become halal. The same ruling applies (skin becomes halal) if tanning is applied (using certain chemicals) to dry out the skin. That, too, is permissible, similarly with jelly.

Rasam et al. [10] explained that in Japan, Muslims often ask about a cooking ingredient called mirin. Mirin is a liquid seasoning commonly used in Japan, made from fermented glutinous rice using alcohol. The opinion that prohibits it argues that it contains alcohol, while the opinion that permits it argues that mirin was never intended as an intoxicating drink (*khamr*) from the beginning, but rather as a cooking ingredient meant to remove the fishy smell, enhance flavour, and give vegetables a glossy appearance. In this context, the use of mirin in Japan, according to Rasam et al. [10], is allowed because Japan is a country where Muslims are a minority, and the application of sharia is done gradually.

Mirin itself has three types: Hon Mirin (12 - 14% alcohol content), Shio Mirin (contains alcohol with added salt), and Mirin-fu chomiryo (sweet in nature, with very low alcohol content, 0 - 1%). In my personal opinion, the more appropriate type of mirin that can be permitted is Mirin-fu chomiryo because it contains a very low level of alcohol (0 - 1%) and is non-intoxicating. Mirin-fu chomiryo is similar to jelly derived from pigs, where the long process of gelatin production purifies the pig-derived substance, just as the alcohol in mirin transforms completely from an intoxicating substance into something sweet.

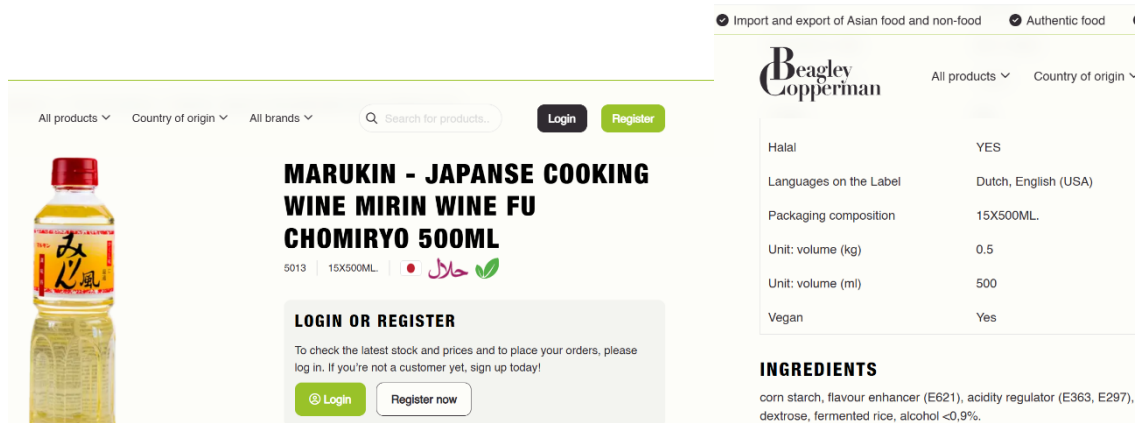


Fig.1. Example of Mirin-fu chomiryo

3.2. Fatwa on Fiqh al-Aqalliyyat Regarding Mortgage and Its Current Practice

Yusuf Qardawi's next fatwa concerns finance, specifically a question regarding the permissibility of purchasing a house through an interest-based bank in a non-Muslim majority country. His response to this issue was quite extensive. He began by explaining the position he had held for the past twenty years that it was not allowed. However, he later stated that his view had changed. He introduced a key concept called *fiqh* of reality, arguing that many jurists (fuqaha) make mistakes not because they misunderstand the texts or legal structures, but because they fail to properly grasp the reality on the ground.

Yusuf Qardawi outlined several points to consider in this context. First, under Rule 78, in a typical mortgage scheme, the greater portion of the early payments goes toward interest, while the portion for the principal increases over time. Second, the loan duration may extend up to thirty years, during which the interest rate can increase or decrease depending on the remaining loan period, sometimes even doubling toward the end. Third, the monthly instalments paid are often equal to the cost of renting a home. Fourth, at the end of a mortgage, the house becomes the buyer's property, while rental payments do not lead to ownership. Fifth, interest paid on the loan is often tax-deductible, which benefits many people, while rent payments are not. Sixth, renters are not responsible for expenses such as heating, electricity, property taxes, cleaning, or renovations, whereas homeowners must bear all of these costs.

He also highlighted the potential risk of allowing *riba*-based house purchases without limits, which could undermine the development of Islamic financial institutions in this area. He explained that it is nearly impossible for Muslims in such countries to own homes except through three ways: paying in full or through informal cooperation between individuals (which is rare), purchasing through Islamic financing companies (which is difficult due to limited capital and the high cost of *Murabahah* compared to *riba*-based interest), or through conventional interest-based banks. Moreover, in many Western countries, homeowners often refuse to rent their properties to families with many children, a common feature among Muslims. Some families are even forced to leave due to the number of children, frequent guests, or negative attitudes from non-Muslim neighbours, making it harder to relocate. In parts of Europe and America, rental contracts often limit tenants to a maximum of four children, while many Muslim families have more than that.

He also pointed to the ambiguity in mortgage contracts. Although formally labelled as a house purchase agreement, the buyer does not receive cash but the house itself. Some scholars argue that the *riba* involved is merely in form, while the essence of the transaction resembles *Bai' al-Ajal*, where a higher price is agreed upon in return for deferred payment. In some cases, buyers purchase a two-unit apartment via the bank, live in one unit, and rent out the other. The rental income is then used to cover the mortgage, and once the loan is paid off, both units become the buyer's property.

Yusuf Qardawi then explained that there are several privileges when a Muslim owns a house, such as tax reductions granted to those who pay mortgage instalments, economic benefits from owning

a property, and greater stability. Additionally, there are other advantages, such as the ability to choose a residence near schools and mosques, as well as ensuring a safer and more comfortable environment for Muslim children to grow up in, without disturbing surrounding neighbours.

Yusuf Qardawi later quoted the opinion of Rashid Rida, who stated that it is permissible to receive money from non-Muslims in a non-Muslim country (Dar al-Harb), as long as that money is not obtained through theft or betrayal. This view was then challenged by those who argued that if receiving money obtained through *riba* is permitted, then logically other major sins like zina (adultery) and murder should also be allowed. In response, Qardawi explained that the sin of *riba* is not on the same level as zina or murder, as each has its own degree of severity. He then questioned: if Muslims are required to fulfil all obligations while living in such countries, is it not fair that they also benefit from what is allowed and agreed upon by the state? In other words, do people really think that Allah, the Almighty, requires Muslims to pay so that others (non-Muslims) may profit? Does Allah require Muslims in such a situation to live under oppression?

Yusuf Qardawi also cited the opinion of Sheikh Mustafa al-Zarqa, who allowed Muslims to borrow money from interest-based banks when asked by Muslims living in America and Canada. His reasoning was rooted in the views of Imam Abu Hanifa and his student Muhammad, regarding Muslims who enter Dar al-Harb (non-Muslim territory) with permission. According to Abu Hanifa and Muhammad, a Muslim who enters Dar al-Harb with the consent of its people may receive property willingly given to them, even if it comes from sources forbidden in Islam, like *riba*, as long as it was not acquired through betrayal. However, they are not allowed to give *riba*, since the wealth of al-Harbi (non-Muslims in war territory) is not protected in the same way. Because the Muslim enters the country with permission, they may not take anything without the host's consent.

The prohibition of giving *riba* was initially to protect the Muslims. But if the situation is reversed and it turns out that taking loans and giving *riba* actually brings more benefit to the Muslim community, then the ruling should also be reversed. In this case, taking a mortgage with interest is more beneficial than renting, since at the end of the rental period, the renter walks away with nothing, while the homeowner gains full ownership. Yusuf Qardawi then gave three supporting comments, all of which essentially backed Sheikh Mustafa al-Zarqa's fatwa. He agreed that if giving *riba* in a non-Muslim country results in greater benefit for the Muslim community, then it is permissible.

4. Discussion

4.1. A Critical Analysis of the Permissibility of Bank Mortgage Interest

Saeed [11] explains the permissibility of purchasing a house through an interest-based bank for Muslims living in non-Muslim countries, based on a fatwa issued by the European Council for Fatwa and Research (ECFR), which is limited by a condition of necessity as follows: first, the house being purchased must be for the need of the buyer and their family (meaning not for someone else); second, the buyer does not already own another house; third, the buyer does not have any other financial surplus that would allow them to purchase a house without a mortgage. The fatwa also emphasizes the prohibition of interest-based loans, thereby encouraging alternative forms of financing that are free from *riba* [11].

The study by Ibrahim et al. [12] also affirms that owning a house is an urgent and fundamental need, a necessity, not merely a desire or *hajiyyat*. To what extent does this necessity status apply, and to what degree does it permit a Muslim to take on a mortgage? Zakariyah [13] explains that the principle of *rukhsah* is a right granted to Muslims when facing an emergency situation, based on weighing the benefits and harms of an action (such as taking a mortgage). However, the extent to which *rukhsah* is applied must return to proportionality and should not be excessive. In this regard, a Muslim must be honest about what constitutes excess (i.e., not continuously using *rukhsah* when the emergency condition no longer applies).

In a study on mortgages, Dina M. [14] outlines four categories of scholars in viewing mortgages within the framework of minority *fiqh*. The first is the literalist/traditionalist scholars, who view

Muslim life in the West as a test, refusing compromise or adaptation, leading to a tendency of isolation. The second is institutional scholars, such as ECFR, who use the concept of *darura* as a temporary solution. The third is adaptive scholars like Alwani, who attempt to align Islamic law with the Western context, with the aim of integration as a means to strengthen the Muslim identity, not merely as a temporary solution, but to support a permanent Muslim presence in the West. The fourth category is partnership-oriented scholars such as Ramadan, who view Muslims as equal Western citizens and emphasize long-term solutions, economic independence, and integration as an end in itself, not merely a means. In this case, Ramadan stresses that the Muslim community must not rely on emergency situations, since they are only short-term solutions. What is needed is a radical shift toward economic independence for the Muslim community, not only minority *fiqh*, but also a *fiqh* for the West.

The study by Brekke & Larsen [15] in the Nordic countries found that when Muslim professionals (who have stable jobs and enough income to take a mortgage) do take out a mortgage from an interest-based bank, they feel it is something not quite right. However, when they do not own a house (or are just renting), these Muslims face many problems, such as living in immigrant-dense neighbourhoods with numerous social issues. These Muslim professionals worry that their children might be negatively affected by such environments.

The study by Whyte [16] explains that due to the non-binding nature of fatwas, Muslims in Australia engage in fatwa shopping, seeking out fatwas that permit taking a mortgage from interest-based banks by referring to the fatwa issued by the ECFR. This occurs because Darul Ifta, on its official website, does not permit taking mortgages under interest-based banking.

4.2. Is the Emergency Status Still Applicable?

This question arises because Yusuf Qardawi, in his book, wrote that fatwas take into consideration the fact that legal rulings may change depending on time, place, circumstances, and ‘Urf (local customs). Thus, a fatwa accounts for the significant differences between the present and the past; between Muslim countries where the practice of Islamic obligations is possible freely and non-Muslim countries that, in reality, lack the faith practices, values, rituals, and Islamic conventions [4].

This critical analysis comes in the form of a question: more than twenty years after Yusuf Qardawi’s Fiqh of Minorities fatwa was released, are Muslims in non-Muslim countries still facing the same difficulties, particularly in borrowing from conventional banks to buy a house? Or have conditions changed? Before answering, let’s look at the data on the development of Islamic finance from 2003 to 2025 in non-Muslim countries such as the United States, Canada, Europe, and others.

As an example, in the United States, although still small in proportion compared to conventional finance, Islamic finance has grown rapidly. In 2005, only nine institutions offered Islamic finance in the US [17], which grew to 36 by 2017 [18] and reached 43 by 2024 [19]. Specifically, access to halal mortgages has been growing in the United States. Until 1997, no financial institution was willing to offer halal mortgages, but by 2024, more than 25 banks had made them available [20].

In addition, the facts, according to a study by Tahsin [21], show that minority groups have a lower loan acceptance rate compared to non-minorities in the US. This serves as a proxy indicating that Muslims who are categorized as a minority are less likely to obtain loan approval.

This demonstrates that, in general, minority groups are still at a disadvantage compared to the majority in countries like the US when it comes to accessing loans.

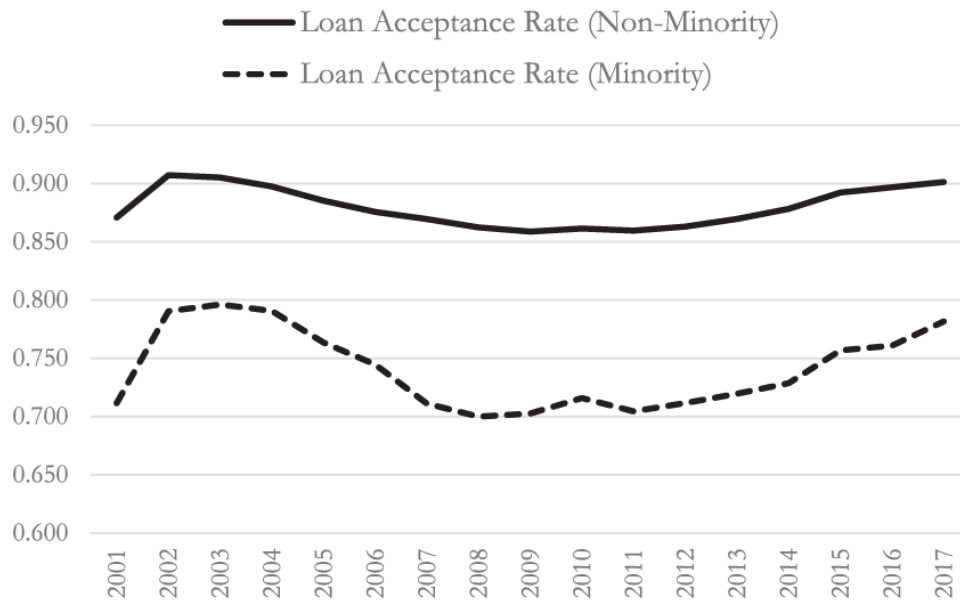


Fig.2. Loan Acceptance Rates from 2001 to 2017 plots the average loan acceptance rates for minority and non-minority African-Americans and Hispanics, and non-Hispanic Whites are classified as non-minority [21].

The same situation also applies in Australia, where there are no definitive statistics indicating how many Australian Muslims obtain home financing through either conventional or Islamic means. In cities like Sydney, many Muslims are open to conventional mortgages due to pressing housing needs. Furthermore, the lack of awareness among Australian Muslims regarding Islamic finance terminology has contributed to conventional mortgages becoming a normalized part of life for many in the community [22].

Unlike the US, the UK has been accommodating Islamic law in financial practices since 2000. There are around 3 million Muslims in the UK, and it is the most successful country in Europe in articulating sharia-compliant finance, with more than 20 banks offering Islamic financial products and Islamic windows from their conventional banks [23]. Some European countries, such as Luxembourg, have also experienced rapid development in Islamic finance, especially in Sukuk. However, this progress occurs because, by nature, Luxembourg is a country focused on finance.

Based on this explanation, field data still shows that Islamic finance in Western countries such as the US and Australia remains a challenge. Although it is beginning to grow, limitations are still felt by Muslims living there. Therefore, it can be concluded that the majority of Muslims in Western countries who still do not have access to Islamic financial services near their residence or in a reachable area are still experiencing a state of emergency. Hence, the minority Muslim fatwa from the ECFR and Yusuf Qardawi can still be used as a basis for the permissibility of taking a mortgage from a conventional bank, with consideration of the points already explained, such as not already owning a home, only purchasing one home for personal use, and not for commercial purposes. However, for countries such as the UK, where Islamic finance has progressed further, it is advisable for Muslims there to strive to seek halal home financing first if possible. But if indeed no such option exists at all, say, in certain parts of the country, then the emergency status still applies.

4.3. Strong Recommendation for Muslim Minorities in Non-Muslim Majority Countries

However, efforts to expand the reach of Halal products as well as Islamic finance in non-Muslim majority countries must be taken seriously; otherwise, truly sharia-compliant products and financing may never be achieved. For instance, Muslim academics in universities across Western countries could work to find common ground that integrates Islamic law with Western legal systems,

particularly in finance. Likewise, Muslim politicians could push for legal frameworks in the West that accommodate Islamic principles. Muslim entrepreneurs must also take seriously the need to produce halal products on a larger scale, so that economies of scale can be achieved. By doing so, the Muslim community who prioritize halal products will be able to access them at fair and reasonable prices.

In the terminology of *fiqh*, such efforts may be categorized as *fard kifayah*, communal obligation. If no effort at all is made by the Muslim community, then the entire community bears the sin (similar to the funeral prayer, where the obligation is lifted if some members fulfil it).

In addition, the effort to continuously raise awareness about Islamic finance among Muslims in these countries is also *fard kifayah*, because raising awareness is not bound by location or regulation. At the very least, this can be seen as the weakest level of faith in Islamic finance, where if one cannot act with the hand (through action or policy), then one should act with the tongue, by educating fellow Muslims in non-Muslim countries about Islamic finance, and affirm it with the heart. This is in line with the hadith of the Prophet: "If one cannot change it with his hand, then with his tongue; and if not with his tongue, then with his heart, that is the weakest level of faith."

5. Conclusion

This paper aims to explain the concept of Fiqh al-Aqalliyat (Fiqh for Minorities) and examine its current application. Fiqh for Minorities shares the same foundational sources as mainstream Islamic jurisprudence but possesses distinct characteristics that make it a specialized branch of *fiqh*. The legal foundation of *Fiqh al-Aqalliyat* lies in balancing textual sources (*nusus*) with the objectives of Islamic law (*maqasid al-shariah*). In practice, the application of Fiqh al-Aqalliyat can be seen in various areas. For instance, in the realm of food, there are fatwas allowing the consumption of vinegar derived from alcohol or gelatin sourced from pork on the basis that their substance has undergone a complete transformation (*istihalah*), rendering them pure and permissible. A contemporary example of this can be found in Japan, where the use of mirin-fu chomiryo (a sweet cooking condiment with minimal alcohol content) is permitted because its alcohol has transformed into a sweet substance.

Another key example is the permissibility of taking out conventional mortgage loans, which, when compared to renting, are often more beneficial for Muslims in terms of both economic and non-economic considerations. However, this raises an important question: more than two decades later, does the state of necessity (*darurah*) still apply? Therefore, this serves as a wake-up call for Muslim minorities to earnestly strive toward providing halal alternatives. This responsibility falls under the category of *fard kifayah*, a communal obligation that, if left unfulfilled by any, results in sin for all.

Author Contribution: In this collaborative work, Afief El Ashfahany conceived the core idea and framework, Muhamad Subhi Apriantoro was responsible for the library research and data synthesis, while Aminudin Ma'ruf oversaw the theological analysis and manuscript refinement.

Acknowledgement: Not related.

Conflicts of Interest: The authors declare no conflict of interest.

References

- [1] A. Abubakar Muhammad, A. Ibrahim, A. A. Yakub, H. Khan, and N. Hamzah, "The Role of Islamic Finance in Promoting Economic Justice and Financial Inclusion among Marginalised Communities," *Suhuf Int. J. Islam. Stud.*, vol. 37, no. 1 SE-Articles, pp. 58–68, May 2025, doi: <https://www.doi.org/10.23917/suhuf.v37i1.10167>.
- [2] M. N. Maarif, S. Munir, H. Towpek, and I. Zulqarnain, "Optimization of Welfare State Policy for the Development of Halal Industry in the Framework of Sharia Economy," *Suhuf*, vol. 37, no. 1, pp. 1–15, May 2025, doi: <https://www.doi.org/10.23917/suhuf.v37i1.9195>.
- [3] N. Nurhayati, "Fikih Minoritas: Suatu Kajian Teoretis," *AHKAM J. Ilmu Syariah*, vol. 13, no. 2, Aug.

- 2013, doi: <https://doi.org/10.15408/ajis.v13i2.932>.
- [4] Y. Qardhawi, "Fiqh of Muslim Minorities contentious issues & recommended solutions (english version)," 2003, *Al Falah Foundation*.
 - [5] T. J. Al-Alwani and A. A. Shamis, *Towards a Fiqh for Minorities: Some Basic Reflections*. in Occasional papers. International Institute of Islamic Thought, 2010. [Online]. Available: <https://books.google.co.id/books?id=NZrkD0gkY90C>
 - [6] M. Wahib, "Implementation of the Minority Fiqh Concept for the Papuan Muslim Community/Implementasi Konsep Fikih Minoritas Bagi Komunitas Muslim Papua," *Jure J. Huk. dan Syar'iah*, vol. 13, no. 1, Jul. 2021, doi: <https://doi.org/10.18860/j-fsh.v13i1.11930>.
 - [7] Z. Mun'im, "Peran Kaidah Fikih dalam Aktualisasi Hukum Islam: Studi Fatwa Yusuf Al-Qaradawi tentang Fiqh Al-Aqalliyat [The Role of Legal Maxims in the Actualization of Islamic Law: A Study of Yusuf Al-Qaradawi's Fatwa on Fiqh al-Aqalliyat]," *Al-Manahij J. Kaji. Huk. Islam*, vol. 15, no. 1, pp. 151–172, (Indonesia), Jun. 2021, doi: <https://doi.org/10.24090/mnh.v15i1.4546>.
 - [8] A. Sahidin, "The Implementation of Maqāṣid al-Sharī'ah in Shaykh Yusuf al-Qaradawi's Fiqh al-Aqalliyāt," *J. Huk. Islam*, vol. 19, no. 2, pp. 295–312, Dec. 2021, doi: <https://doi.org/10.28918/jhi.v19i2.4997>.
 - [9] K. Aibak, *Metodologi Pembaharuan Hukum Islam*. Pustaka Pelajar, 2008.
 - [10] Z. Rasam, M. L. Zuhdi, and Shobichatul Aminah, "Fiqh Aqalliyah as a Legal alternative to Halal Standardization in Japan as a non-Majority Muslim Country," *Indones. J. Islam Muslim Soc.*, vol. 14, no. 1, pp. 177–202, Jul. 2024, doi: <https://doi.org/10.18326/ijims.v14i1.177-202>.
 - [11] A. Saeed, "13 Reflections on the Development of the Discourse of Fiqh for Minorities and Some of the Challenges it Faces," in *Applying Sharia in the West: Facts, Fears and the Future of Islamic Rules on Family Relations in the West*, M. Berger, Ed., Leiden University Press, 2013, pp. 241–256. doi: <https://doi.org/10.1515/9789400601055-014>.
 - [12] B. Ibrahim, M. A. M. Yusuf, and F. Khairi, "The Importance of Considering the Desire (Hajat) and Emergency (Darurat) in Fatwa Related to Basic Needs of Muslim Minority," *Int. J. Acad. Res. Bus. Soc. Sci.*, vol. 8, no. 10, Oct. 2018, doi: <https://doi.org/10.6007/IJARBS/v8-i10/4744>.
 - [13] L. Zakariyah, "Legal Maxims and Islamic Financial Transactions: A Case Study of Mortgage Contracts and the Dilemma for Muslims in Britain," *Arab Law Q.*, vol. 26, no. 3, pp. 255–285, 2012, doi: <https://doi.org/10.1163/15730255-12341240>.
 - [14] D. Taha, "Muslim Minorities in the West: Between Fiqh of Minorities and Integration," *Electron. J. Islam. Middle East. Law*, vol. 1, pp. 1–36, May 2013, doi: <https://doi.org/10.5167/uzh-7759310.5167/uzh-77593>.
 - [15] T. Brekke and M. Larsen, "Allah, Villa, Volvo: Muslim Professionals in the Nordic Countries and Their Financial Attitudes and Practices," *Open Libr. Humanit.*, vol. 6, no. 2, Jul. 2020, doi: <https://doi.org/10.16995/olh.570>.
 - [16] S. Whyte, "Whither Minority Jurisprudence?," *Aust. J. Islam. Stud.*, vol. 2, no. 3, pp. 55–75, Oct. 2017, doi: <https://doi.org/10.55831/ajis.v2i3.59>.
 - [17] S. Chiu, R. Newberger, and A. Paulson, "Islamic Finance in the United States: A Small but Growing Industry," 2005, *Federal Reserve Bank of Chicago, Chicago*. [Online]. Available: <https://www.chicagofed.org/publications/chicago-fed-letter/2005/may-214>
 - [18] JIC, "Begini Terobosan Pelaku Industri Keuangan Syariah di Amerika Serikat [Innovative Developments by Islamic Finance Industry Practitioners in the United States]," Jakarta Islamic Centre. Accessed: Aug. 20, 2025. [Online]. Available: <https://islamic-center.or.id/begini-terobosan-pelaku-industri-keuangan-syariah-di-amerika-serikat/>
 - [19] M. Z. Mughal, "The Development of Islamic Finance in the USA: A Journey of Growth and Opportunity," Financial IT. Accessed: Aug. 20, 2025. [Online]. Available: <https://financialit.net/blog/islamicfinance-usa/development-islamic-finance-usa-journey-growth-and-opportunity>
 - [20] F. Company, "Halal Mortgage are Becoming popular in America," Fast Company. Accessed: Aug.

- 20, 2020. [Online]. Available: <https://www.fastcompany.com/91191616/halal-mortgages-america-islam-muslims-explained>
- [21] S. Tahsin, "Home price growth and minority access to mortgage credit," *J. Econ. Bus.*, vol. 120, p. 106056, May 2022, doi: <https://doi.org/10.1016/j.jeconbus.2022.106056>.
- [22] R. Jeffrey, G. Pires, and P. J. Rosenberger III, "Home loans and Muslims – an Australian perspective," *J. Islam. Mark.*, vol. 15, no. 9, pp. 2181–2197, Jun. 2024, doi: <https://doi.org/10.1108/JIMA-12-2023-0392>.
- [23] K. Górak-Sosnowska, M. Pachocka, and J. Misiuna, *Muslim Minorities and the Refugee Crisis in Europe*. Warszawa: SGH PUBLISHING HOUSE, 2019.