

LOCAL MUFTIS' DEALING APPROACH TO MARRIED WOMEN'S ISSUES EMBRACING ISLAM WITHOUT THEIR HUSBANDS IN THE UNITED KINGDOM

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Abstract: This article aims to examine the approach of the local mufti in addressing the situation where married women convert to Islam without their husbands' consent in the United Kingdom. This study employs a qualitative methodology, gathering data through interviews with local muftis and Islamic scholars in the UK. Minority Muslims are Muslim communities residing in non-Muslim countries, including Europe, America, China, and India. Their presence in these nations has brought forth various novel issues concerning religious practices and the Muslim way of life. Among these issues, marriage and family dynamics are significant. Therefore, although the prevailing view among most Islamic scholars and in Muslim-majority countries is to dissolve such marriages, the historical context and current reality of minority Muslim communities call for a different approach. Thus, the role of the local mufti, who is esteemed within the local Muslim community, becomes crucial in preserving the integrity of Islam while simultaneously embracing the Muslim community, particularly female converts. The findings reveal that this issue is interpreted differently compared to the situation in Muslim-majority countries. Therefore, the role of the mufti is crucial in issuing fatwas that consider the context of the Muslim minority community, ensure the well-being of women who have recently converted to Islam in the UK, and balance Shariah principles and social reality. Fatwas issued need to be carefully drafted to safeguard *the maslahah* (well-being) of female converts without disregarding the provisions of Shariah.

Keywords: *minority Muslims, women in Western countries, Muslims in the UK.*

Introduction

Minority Muslims are Muslim communities living in countries where much of the

population is non-Muslim, such as Europe, America, China, and India. They consist of the native population and individuals who

have migrated from Islamic countries, like the Arab lands.¹ Due to their small numbers, minority Muslims face different circumstances compared to Muslims living in countries where Islam is the majority religion. Political, economic, and social factors contribute to their distinct situation. They have limited influence in implementing Islamic laws in the country's legal system and encounter difficulties in promoting Islamic practices on a wide scale. These challenges give rise to new issues regarding religious practices and the Muslim way of life. As a result, they seek specific fatwas tailored to their unique circumstances, which are different from those applicable in Islamic countries. Furthermore, examining the impact of a woman's conversion to Islam without her husband's consent is crucial, particularly in the context of marriage and family matters.

Therefore, this article aims to analyze how the local mufti addresses the issue of married women converting to Islam without their husbands' consent in the UK. Islamic scholars play a crucial role in society, serving as spiritual authorities who guide the community in the right direction.² Although Islamic scholars and Muslim-majority countries typically require dissolving such marriages, the historical background and current realities of minority Muslim communities need a different approach.³ The role of the local mufti, who is trusted by the local Muslim community, is crucial in dealing with this issue to uphold the integrity of Islam and celebrate the Muslim

community, especially those who have embraced the faith (*muallaf*).

Literature Review

The Concept of Fatwa and the Role of Mufti

Generally, a fatwa refers to an explanation of Islamic law provided to individuals seeking guidance. According to this definition, a fatwa comprises three main components: 1) *mufti*: the person who clarifies the legal rulings based on their understanding of Islamic jurisprudence; 2) *mustafti*: the individual who poses questions about specific issues; and 3) *mustafti fih*: the particular matter that necessitates a fatwa.⁴ A fatwa issued to a *mustafti* can vary and is subject to change. Several factors contribute to these variations and modifications, including customs, the passage of time, geographical location, and current circumstances.⁵ These considerations aim to ensure that the issued fatwa aligns with the objectives of Shariah, promoting the welfare of the Muslim community while preventing or minimizing harm.

Within Islam, there are principles indicating the possibility of adapting laws or fatwa in response to changing times, such as the principle of "*la yunkar taghyir al-aḥkam bi taghyir al-azman*" (changes in laws due to the evolving times are not rejected) and "*taghayyur al fatwa bi taghayyur al-azman wa al-ahwal*" (changing fatwa based on changing times and circumstances).⁶ An illustration of a law change resulting from changing circumstances is observed during the reign of Caliph Umar Al-Khattab, when the enforcement of cutting off the hand as a punishment for theft was temporarily

¹ Al-Shaykhi, Salim bin Abd al-Salam. "Al-Aqalliyyat al-Muslimah wa Taghayyur al-Fatwa".nd. <https://www.e-cfr.org/blog/2020/10/23/>

² Mohd Sharif, Mohd Farid, dan Mohd Firdaus Abdullah. "Ibn Taymiyyah's 'Mardin Fatwa' and the Mongols: An Analysis." *KEMANUSIAAN: The Asian Journal of Humanities* 29, no. 1 (2022): 169–185.

³ Hilmi Ridho, Hamim Maftuh Elmi, and Muhammad Sibawaihi, "Fiqh Al-Aqalliyyat: Jurisprudence For Muslim Minorities As A Guide To Living In Non-Muslim Countries," *Syariah: Jurnal Hukum Dan Pemikiran* 23, no. 1 (2023).

⁴ Mansur ibn Yunus al-Buhuti, *Sharḥ al-Muntahā al-Ṭirādāt* (Beirut: Dār al-Fikr, 1993).

⁵ Yūsuf al-Qaradāwī, *Mujibat Taghyīr al-Fatwā* (Cairo: Dār al-Shurūq, 2008).

⁶ Muḥammad ibn Abī Bakr ibn Qayyim al-Jawziyyah, *I'lām al-Muwaqqi'īn 'an Rabb al-'Ālamīn*, vol. 3 (Beirut: Dār al-Kutub al-'Ilmiyyah, 1991).

suspended due to a drought. This decision acknowledged that extreme circumstances and urgent needs drove individuals to commit theft during that period. Refraining from implementing the punishment during such conditions could minimize potential adverse consequences.⁷

Hence, the appointed mufti must possess the basic characteristics of a mufti, such as knowledge of the Quran, Sunnah, Ushul al-Fiqh, and other related areas. Additionally, they must also understand the current realities and societal conditions. This ensures that the fatwa they issue is practical and in line with Shariah requirements. The role of a mufti is crucial, as they serve as a local point of reference for the community regarding matters concerning Islamic law.

Differences between Fatwa Issuance in the Muslim Majority and Minority Countries

The difference between fatwas in Muslim majority countries and Muslim minority countries is found in two aspects: the authority and position of the fatwa in the law, and both in terms of legal implications and government enforcement. The first difference is that the fatwa issued has a variation in the authority of Muslim compliance between Muslim-majority and minority countries. In Muslim-majority countries, a fatwa issued by any organization or institution, such as the Mufti Department, the Fatwa Council, or the Shariah Court, has authority over a Muslim. These fatwas are legislated and have the authority to determine the practices of a Muslim. This can be seen based on the words of Allah: "O you who believe, obey Allah, obey the Messenger and those in authority among you" (al-Nisa', 4: 59).

According to al-Jassas, Muslim rulers have the right to issue fatwas and enact binding laws if they are based on Shariah. In

contrast, in Muslim minority countries, a fatwa is not authoritative on the practices of an individual Muslim.⁸ However, fatwas are more religious and non-binding advice issued by a specific fatwa body or institution. This shows that minority Muslims are more flexible in choosing a fatwa for their practices compared to the majority Muslims, who are more tied to authoritative parties or institutions. Minority Muslim practices are more based on *rukhsah* laws compared to the majority Muslims who must practice with *'azimah* laws. This flexibility for minority Muslims is based on the words of Allah: "So fear Allah as much as you are able." (al-Taghabun, 64: 16). This verse shows that since the ruler is a non-Muslim for a minority Muslim who limits the freedom of certain practices that Allah has commanded as a Muslim, then Allah allows the practice according to the ability or the degree of freedom given by the non-Muslim ruler. Imam al-Qarafi indicates this in his book *al-Furuq*, namely that the law can change according to time, place, customs, and intentions.⁹ This change in law means that the need for fatwas in the context of a minority Muslim country needs to take into account the local reality and the ability of Muslims to practice the law.

The practice of fatwas that considers the reality of life, as Al-Qaradawi terms it, is *Fiqh al-Aqalliyyat*, which refers to the jurisprudence of Muslim minorities.¹⁰ From the aspect of legal implications and enforcement, fatwas in Muslim-majority countries are also different from those in Muslim minority countries. The laws of the country bind Fatwas in Muslim-majority countries. The Hadith of the Prophet s.a.w states: "The ruler is a guardian for those who

⁷ Abdullah ibn Qudāmah, *Al-Mughnī* (Cairo: Maktabah al-Qāhirah, 1968).

⁸ Al-Jaṣṣās, *Aḥkām al-Qur'ān*, vol. 2 (Beirut: Dār al-Kutub al-'Ilmiyyah, 1994), 257.

⁹ Al-Qarāfi, *al-Furūq*, vol. 4 (Beirut: Dār al-Kutub al-'Ilmiyyah, 1998), 69.

¹⁰ Yūsuf al-Qaradāwī, *Fiqh al-Aqalliyyāt al-Muslimah* (Cairo: Maktabah Wahbah, 2001)

have no guardian".¹¹ Ibn Qudamah believes that if the ruler is the guardian of those who have no guardian, then it is more important for the ruler to manage the public interest, including issuing binding fatwas to safeguard the interests of Muslims.¹² For example, in the implementation of fatwas, the ruler is responsible for marriage for those who do not have guardians and is also responsible for determining fatwas that become the basis and policy in the country's laws, especially in Muslim-majority countries. Fatwas are enforced through the legal system. Similarly, Ibn Khaldun emphasizes that a country is responsible for compiling fatwas to meet the public interest and ensure the unity of Muslims.¹³ Therefore, if the ruler establishes a law that aligns with Islamic law, including fatwas, then Muslims are obligated to obey it. Muslims cannot violate the law because it will damage the public interest.¹⁴ This can be seen in fatwas in Muslim-majority countries being issued by institutions that are authoritative and official by the government and have legal power, such as the National Fatwa Council in Malaysia, Dar al-Ifta' in Egypt, and so on.

In contrast, in Muslim minority countries, the fatwa does not have official legal force because the country may be based on a secular, liberal, socialist, or other system that is different from the Islamic system. Fatwas are not binding on the practices of minority Muslims, as they serve as a guide in choosing which fatwas can be practiced according to the circumstances of the Muslim. The Prophet s.a.w. Said, "One

should not cause harm, and one should not retaliate with harm".¹⁵ This hadith shows that harm must be avoided in a situation where Muslims do not have full authority over the legal system in a non-Muslim majority country, provided that if a fatwa is implemented, it causes a Muslim to be in difficulty, punished, or pressured by a non-Muslim ruler. Imam al-San'ani explained that this hadith is a fiqh method to avoid harm. He stated that the prohibition in this hadith is haram in nature, meaning that one cannot harm oneself or others, and if harm occurs, it must be removed.¹⁶ If the flexibility of fatwa is not available for minority Muslims, then it can cause difficulties in practice or environmental discrimination against Muslims in non-Muslim majority countries. In fact, from the perspective of the maqasid Shariah, as derived from this hadith, rejecting *mafsadah* (harm) is more important than achieving *maslahah*¹⁷ when there is a conflict between the *maslahah* of the lives of minority Muslims and *mafsadah* (harm) that can disrupt the peace and order of their daily lives. This coincides with al-Qaradawi's view that fatwas in non-Muslim countries must be adapted to the situation of Muslims there without obliging them to do something beyond their ability or burdening them with things they cannot do.¹⁸ For example, they practice the law of *rukhsah*, which allows for the use of the conventional loan system in an emergency, as there is no alternative to the Islamic banking system according to Islamic law. Therefore, fatwas in Muslim minority countries are guidelines so that Muslims can practice Islam without

¹¹ Ahmad ibn Hanbal, *Musnad Imām Ahmad ibn Hanbal*, vol. 42 (Beirut: Mu'assasah al-Risālah, 2001), 199–200, no. 25326.

¹² Ibn Qudāmah, *al-Mughnī*, vol. 9 (Riyadh: Dār 'Ālam al-Kutub, 1997), 328.

¹³ Ibn Khaldūn, *The Muqaddimah*, (Beirut: Dār al-Fikr, 1999), 291.

¹⁴ Ibn Taymiyyah, *Majmū' al-Fatāwā*, vol. 20 (Madinah: Majma' al-Malik Fahd, 1995), 10.

¹⁵ Mālik ibn Anas, *al-Muwatta'*, vol. 2 (Beirut: Mu'assasah al-Risālah, 1991), 452, no. 2860.

¹⁶ Al-Ṣan'ānī, *Subul al-Salām*, vol. 3 (Beirut: Dār al-Fikr, 2001), 153.

¹⁷ Yahyā ibn Sharaf ibn Murī al-Nawawī, *Al-Minhāj Sharḥ Ṣaḥīḥ Muslim*, ed. Khalīl Ma'mūn Shīḥā, 4th ed. (Beirut: Dār al-Ma'rifah li al-Ṭibā'ah wa al-Nashr, n.d.).

¹⁸ Yusuf al-Qaradawī, *Fiqh al-Aqallīyyāt al-Muslimah* (Cairo: Maktabah Wahbah, 2001).

causing conflict with the authorities and making their lives difficult.

Hence, the difference between fatwas in Muslim-majority countries and Muslim minority countries lies in the authority and implications of fatwa enforcement. In Muslim-majority countries, a fatwa issued by official government institutions, whether fatwa councils or judicial bodies, often has the status of law that binds Muslims. This is in line with the principle of *siyasaḥ syar'iyah*, namely "*tasarraḥ al-Imam 'ala ra'yah manut bi al-maslahah*" and the principle of fiqh method, namely "*hukm al-hakim yarfa' al-khilaf*". On the other hand, in Muslim minority countries, the fatwa is not binding. Still, it serves as a guide to choosing an action because Muslims are in a non-Islamic legal system that does not require compliance with Islamic law. This requires a fatwa from a mufti or a panel of judges. The practice of ordinary Muslims, according to any fatwa, is to be more flexible in Muslim minority countries to avoid difficulties, without completely ignoring the basic principles of Sharia, based on the principles of the fiqh method, such as "*al-darar yuzal*", "*idha daqa al-amr ittasa'a*", and "*al-darurat tubih al-mahzurat*". However, the flexibility of fatwa is not permanent or temporary, based on the fiqh principle of *al-darurah tuqaddar biqadariha*, which is the emergency or *rukhsah* that is practiced, measured based on the needs of individual Muslims, and the *rukhsah* cannot exceed the required amount.¹⁹ Consequently, the implementation of fatwa in minority Muslim countries relies on individuals and is not legally enforced. Nonetheless, a fatwa remains significant for Muslims worldwide as a guiding principle in their lives.

In the UK, most mosques play a role in providing fatwa services, which are overseen by an appointed imam with a strong Shariah background. Among them are members of the European Council for Fatwa and Research (ECFR). The ECFR is an institution that brings together scholars from across Europe to discuss issues related to Islamic law and collectively issue a fatwa to meet the needs of Muslims in Europe. The research findings and fatwa issued by this institution serve as a point of reference for many imams and Islamic scholars in the UK when addressing community issues. It is because the issued fatwa is more applicable to the realities faced by Muslims in Europe, which differ from the circumstances faced by Muslims elsewhere.

Women Embracing Islam Without a Husband: Perspectives of Islamic Scholars

Examining the views of Islamic scholars on the topic of a wife embracing Islam without her husband, it is generally understood that Islamic law prohibits any woman from being married to a non-Muslim man. Therefore, this principle applies to cases where wives embrace Islam while their husbands do not. Scholars of the past have deliberated on this issue. Generally, the Hanafi, Maliki, Shafi'i, and Hanbali schools of thought forbid such couples from cohabiting.²⁰

However, scholars hold differing opinions regarding the duration of marriage dissolution. According to the Zahiri school of thought, the marriage between the husband and wife should be immediately dissolved when the wife chooses to become a Muslim.²¹ On the other hand, the majority of scholars, including those from the Maliki, Shafi'i, and Hanbali schools of thought,

¹⁹ Syamsul Wathani, Habib Ismail, and Akhmad Mughzi Abdullah, "Reconstruction of Women's Fiqh: An Analysis of Muhammad Shahrūr's Contemporary Reading in a Hermeneutic Perspective," *Journal of Islamic Law* 3, no. 2 (2022), <https://doi.org/10.24260/jil.v3i2.860>.

²⁰ ECFR, *Al-Qarārāt wa al-Fatāwā al-Ṣādirah 'an al-Majlis al-Ūrūbī li al-Ifṭā' wa al-Buḥūth* (Muassasah al-Rayān al-Nashirun, 2010), <https://www.ecfr.org/blog/2017/11/04/8th-ordinary-session-european-council-fatwa-research/>.

²¹ Alī ibn Aḥmad Ibn Ḥazm, *Al-Muḥallā bi al-Āthār* (Beirut: Dār al-Āfāq al-Jadīdah, n.d.).

allow these couples to remain together until the completion of the *iddah* period.²²

Many classical scholars were interested in the distinction between Dar al-Harb (a non-Muslim country) and Dar al-Islam (a Muslim country). For example, in the Hanafi school of thought, this issue is divided into two scenarios: Dar al-Harb (the House of War) and Dar al-Islam (the House of Islam). If such a case occurs in Dar Harb, they believe the marriage should be promptly dissolved. However, if it happens in Dar al-Islam, the matter should be brought before a judge. The judge will then propose that the husband convert to Islam. If the husband agrees, the couple can continue their marriage. Conversely, if he refuses, the marriage will be dissolved.²³ In addition to scholars from the four schools of thought, other perspectives are worth examining. One such perspective comes from Ibn Taymiyyah and Ibn Qayyim, who propose that marriages of this nature should be temporarily suspended, allowing the husband and wife to separate for a while until the husband converts to Islam, without necessitating the dissolution of their marriage.²⁴

In the modern era, Islamic family laws have been established in Islamic countries. In nearly all Islamic countries, if one spouse converts to Islam without the other, their marriage must be dissolved because Islamic law does not recognize marriages between individuals of different religions.²⁵ However,

the situation is different in minority Muslim countries where there are no Islamic family laws and Shariah Judicial Institutions. Most Western countries, guided by secular legislation, do not prohibit couples of different faiths from marrying. When addressing the circumstances faced by minority Muslims, which differ from those of majority Muslim situations, contemporary scholars like Al-Qaradawi and Al-Judai allow such couples to live together under certain conditions.²⁶ These scholars derive their opinions from the actions taken by Caliphs Umar and Ali, as well as the views of al-Zuhri regarding similar issues that occurred during their time.

Method

This study analyses the role of muftis in issuing fatwas on the issue of women converting to Islam without their husbands in the UK. The focus is on how muftis adapt fatwas to the context of minority Muslim communities and the challenges faced in ensuring Shariah compliance and the well-being of female converts. The UK was chosen as the study location because it has one of the most significant minority Muslim populations in Europe, making it an appropriate place to examine the dynamics of fatwa issuance in this context.²⁷ By examining the perspectives of muftis and academics in the field of Shariah, this study seeks to understand the fatwa approach used and its implications for the Muslim community in the country.

²² Yūsuf ibn ‘Abd Allāh Ibn ‘Abd al-Barr, *Al-Isti‘āb fī Ma‘rifat al-Aṣḥāb* (Beirut: Dār al-Jayl, 1992), Muḥammad ibn Idrīs al-Shāfi‘ī, *Al-Umm* (Riyadh: Dār al-Wafā’, 2001), ‘Abdullah ibn Aḥmad Ibn Qudāmah, *Al-Mughnī* (Riyadh: Dār al-‘Ālam al-Kutub, 1997).

²³ Burhān al-Dīn al-Marghīnānī, *Al-Hidāyah Sharḥ Bidāyat al-Mubtadī*, ed. Aḥmad Jād (Cairo: Dār al-Ḥadīth, 2008).

²⁴ Muḥammad ibn al-Qayyim, *Zād al-Ma‘ād fī Hadyi Khayr al-‘Ibād*, ed. Usāmah bin Muḥammad Jamāl (Cairo: Abū Bakr al-Ṣiddīq, 2005).

²⁵ Samuri, Mohd Al Adib, dan Azlan Shah Nabees Khan. “Legal Implications of Conversion to Islam on Civil Marriage: Narrative of Converts in Malaysia.”

Islamiyyat: The International Journal of Islamic Studies 42, no. 2 (2020): 103–111.

²⁶ Yusuf al-Qaradawi, *Min Hudā al-Islām: al-Fatāwā al-Mu‘āshirah* (Cairo: Dār al-Qalam, 2005); Aḥmad al-Judā‘ī, *Aslama Iḥdā Zawjayni wa Madā Ta’tḥirihā ‘alā ‘Aqd al-Nikāḥ fī Daw’ al-Kitāb wa al-Sunnah* (Beirut: Dār al-Rayyān, 2008).

²⁷ Pew Research Center, “The Future of the Global Muslim Population: Region – Europe,” *Pew Research Center*, January 27, 2011. <https://www.pewresearch.org/religion/2011/01/27/future-of-the-global-muslim-population-regional-europe/>

A qualitative approach was used to achieve the study objectives. This approach allows for a deeper understanding of the fatwa issuance process through text analysis and systematic thematic classification.²⁸ The study data were obtained from two main sources: secondary and primary. Secondary data were collected from academic sources, including journals and theses, as well as non-academic sources, such as articles and media reports.²⁹ However, secondary data has several limitations, including the possibility that it is outdated, biased, incomplete, or collected for different purposes.³⁰

To overcome these limitations, this study also used primary data through interviews. The interview method was chosen because it allowed the researcher to obtain direct perspectives from those involved in issuing fatwas on this issue, something that could not be obtained through library research alone.³¹ Seven individuals were interviewed, consisting of muftis and imams in the UK, as well as academics in the field of Shariah. Respondents were selected based on their role as the primary reference in society for addressing issues related to *muallaf* women and marriage in the context of Muslim minority countries. All respondents have academic backgrounds in the field of Sharia, ensuring the validity of the views presented in this study.

The list of informants is as follows:

Informant	Background
Informant 1	Imam/ mufti (Leeds)
Informant 2	Imam/ mufti (London)
Informant 3	Imam/ mufti (Edinburgh)
Informant 4	Imam/ mufti (London)
Informant 5	Imam/ mufti (Aberdeen)
Informant 6	Academician (Aberdeen)
Informant 7	Academician (Cardiff)

Source: Author 2025

To maintain the accuracy of the data, all interview sessions were recorded using an audio recorder, and the words were transcribed verbatim as spoken. To ensure the reliability of this study, the facts and specific information provided by the interviewees were carefully reviewed to avoid any unintentional errors. Following that, the data was analyzed using thematic analysis, which revealed several significant themes. This process began with repeated readings of the interview transcripts to gain a comprehensive understanding of the data content. Initial codes were identified by marking segments of the data that showed significant meaning related to the study objectives. These codes were then grouped based on existing similarities and differences, forming initial themes that reflected recurring patterns of information.

These themes were continuously reviewed and refined to ensure their coherence with the overall data and their accuracy in representing the informants' views. Cross-checking and fact-checking steps were also conducted on vital information to enhance the reliability of the findings. Once the final themes were finalized, each theme was elaborated on in detail and supported with

²⁸ Hsiu-Fang Hsieh and Sarah E. Shannon, "Three Approaches to Qualitative Content Analysis," *Qualitative Health Research* 15, no. 9 (2005): 1277–1288.

²⁹ Mark Saunders, Philip Lewis, and Adrian Thornhill, *Research Methods for Business Students*, 8th ed. (Harlow, United Kingdom: Pearson Education, 2019), 345.

³⁰ Joop J. Hox and Hennie R. Boeije, "Data Collection, Primary versus Secondary," in *Encyclopedia of Social Measurement*, vol. 1, ed. Kimberly Kempf-Leonard (San Diego: Elsevier, 2005), 593–599.

³¹ John W. Creswell and Cheryl N. Poth, *Qualitative Inquiry and Research Design: Choosing Among Five Approaches*, 4th ed. (Thousand Oaks, CA: SAGE Publications, 2018).

verbatim quotes from the interviews to strengthen the transparency and consistency of interpretation. This procedure enabled the systematic construction of valid, data-driven main themes, in line with the principles of rigor in qualitative research.³²

Results and Discussion

Religious Freedom

The study's findings suggest that, in general, marriages of women who were originally non-Muslim and later embraced Islam without their husbands should be dissolved. This dissolution can occur voluntarily or through a court order. The rationale behind this is clear: Islam does not allow a Muslim wife to continue living with a non-Muslim husband due to differences in lifestyle, including potential conflicts arising from divergent religious practices. Moreover, the upbringing and education of children may be affected when both parents follow different religions. Imam al-Ghazali viewed marriage as a form of ownership wherein a wife belongs to her husband and should obey his wishes if they do not contradict her loyalty to Allah. Additionally, Imam al-Ghazali emphasized the importance of women fulfilling their responsibilities and capacities within their capabilities. However, despite the obligation of a married woman to her husband, if a woman embraces Islam without her husband, their marriage should be dissolved.³³

Informant 5 shares an intriguing viewpoint that emphasizes the fundamental aspect of

religious freedom before examining marital status.

"Islam does not impose conversion on non-Muslims. Instead, it is a matter of personal choice. If a woman chooses to become a Muslim, it is her decision. If her husband decides to embrace Islam, it is also his choice. However, if she does not wish to become a Muslim, that is also her prerogative. No one should be compelled or forced to convert, as this principle aligns with the essence of Islam".

(Informant 5)

Therefore, addressing this issue requires a comprehensive assessment beyond mere marital status. This is because the issue at hand is different from what scholars prohibit, which is Muslim women actively seeking non-Muslim husbands. Instead, the issue pertains to situations where the husband and wife, originally non-Muslim, had a successful marital relationship. Correspondingly, the wife chooses to embrace Islam.³⁴

Gradual Da'wah Approaches and *Maṣlahah*

When dealing with this matter in the context of minority Muslims in the UK, a pragmatic approach becomes crucial to prevent harm to all parties involved. In this regard, the principle of *tadarruj* (gradual) in dakwah is of great importance, where the wife should be given time and not be immediately separated without considering the consequences of such separation, as highlighted by Informant 3:

"We are not stating that a wife can be with her non-Muslim husband, and we are not saying that it is forbidden, but we provide her with an opportunity."

(Informant 3)

³² Lorelli S. Nowell, Jill M. Norris, Deborah E. White, and Nancy J. Moules, "Thematic Analysis: Striving to Meet the Trustworthiness Criteria," *International Journal of Qualitative Methods* 16 (2017): 1–13, <https://doi.org/10.1177/1609406917733847>; Virginia Braun and Victoria Clarke, "Using Thematic Analysis in Psychology," *Qualitative Research in Psychology* 3, no. 2 (2006): 77–101, <https://doi.org/10.1191/1478088706qp063oa>.

³³ Amini Amir Abdullah, *Pembelaan Hak Kelompok Minoriti dan Golongan Wanita Islam* (Serdang: Penerbitan Universiti Putra Malaysia, 2014).

³⁴ Yusuf Al-Qardawi, *Min Hudā al-Islām: al-Fatāwā al-Mu'āṣirah* (Cairo: Dār al-Qalam, 2005).

This perspective is supported by Informant 2:

"We might permit some newly converted Muslim women in this regard. However, we do not issue a general fatwa declaring that it is permissible for a new Muslim woman to continue living with her non-Muslim husband."

(Informant 2)

Therefore, based on the interviews with the informants, it can be inferred that there exists a disparity between theoretical discussions, where Islam prohibits a Muslim wife from cohabiting with a non-Muslim husband, and the reality, where a harmonious approach is vital in addressing this issue.

The informants agree that if a married woman chooses to embrace Islam without her husband, both of them should be given space to adjust. This tolerance has a more positive impact. Love between people is above all else, even though they are far away and have different beliefs.

Informant 3 mentions:

"Maybe at this time, she is not a Muslim, but she will become a friend of Islam. Close to Islam. Islam is a religion of mercy; a religion that values family and does not allow suffering to occur."

(Informant 3)

Meanwhile, Informant 4 acknowledges that sometimes non-Muslim husbands in the West are more accepting:

"Sometimes non-Muslim husbands are better and give more freedom than Muslim husbands, so they will support their wives in practicing their religion."

(Informant 4).

Nevertheless, the interviewed individuals agreed that Islamic principles are clear and straightforward. However, addressing this issue in the context of minority Muslims can be somewhat complex. They even considered it a new issue, as expressed by Informants 1 and 2:

"This is a new issue that never occurred during the time of the Prophet."

(Informant 1)

"This issue differs from traditional discussions."

(Informant 2)

Hence, the phenomenon of women in the Western world converting to Islam without the presence of their husbands is a contemporary issue that did not exist in the early generations of Islam. Moreover, the discussions presented by classical Hanafi scholars, from the perspectives of both non-Muslim and Islamic states, appear to be incompatible with the realities faced by minority Muslim communities today. Informant 3 provides a more detailed explanation, stating that there is no explicit evidence from the Quran or Sunnah that addresses this issue.

Although Islamic principles clearly state that a Muslim woman cannot be married to a non-Muslim man, this particular situation is different because the couple initially belonged to a non-Islamic faith, when later, the wife chooses to embrace Islam without her husband. Therefore, this issue remains open to discussion and interpretation.³⁵

Informant 4 highlights that this issue is closely related to minority Muslims, describing them as a new phenomenon within the context of Islam. According to

³⁵ Muhammad Shahrul Ifwat Ishak and Nur Syahirah Mohammad Nasir, "The Principle of Maalat Af'al and Its Application in Dealing with the Issue of Women Converting without Their Husbands: A Case Study in the UK," *Islamiyyat* 44, no. 1 (2022): 221–230.

Informant 4, the situation falls under the scope of *fiqh al-Aqaliyyat*, which pertains to Islamic jurisprudence concerning minority Muslims.³⁶ The unique circumstances faced by minority Muslim communities necessitate special considerations, as they differ from those of majority Muslim countries. While Islamic principles and Shariah laws are generally timeless and unaffected by changing times, their practical application must take into account contemporary changes and the surrounding environment. Thus, the fatwa is a Shariah ruling and a solution for Muslims who face difficulties in applying or practicing some religious affairs.³⁷

Some non-Muslim majority countries like Europe offer many opportunities for Muslims, in comparison to Muslim majority countries.³⁸ From another perspective, Muslim communities in non-Muslim majority countries play a significant role in promoting Islam and the image of Islam. Unsurprisingly, Islam has been recognized as the fastest-growing religion in the Western world.³⁹

Familial Implications

Most informants agree that the most significant positive impact is on the institution of the family. As claimed by Informant 3:

"Why should we create problems with her family or herself? She suffers emotionally because she loves her husband, and her husband loves her."

(Informant 3)

The same viewpoint is shared by Informant 5:

"If her choice is to embrace Islam, according to scholars or ordinary people, she has to violate the marriage contract. Then, her family will be broken, and the children may be treated according to the country's laws. Supposedly, they will be given to their mother because they are still young, but some laws may give rights to the husband because he starts causing problems."

(Informant 5)

Similarly, Informant 6 states:

"A family needs to live together: children with their parents, and not to differentiate between them. So, the most important thing is the family, and also to attract the husband. If he sees his wife, who is a practicing Muslim, being good and remaining a righteous wife, and there is an opportunity for him to explain Islam and show the beauty of Islam, perhaps in the end, he will also become a Muslim. Love can change things."

(Informant 6)

Informant 7 supports this situation:

"As long as the husband does not harm his wife, respects her religion, and does not inconvenience her, and the wife desires her husband to embrace Islam, then why should we rush to ask her to leave her husband?"

(Informant 7)

This opinion is supported by historical precedents, particularly the decision of 'Umar ibn al-Khaṭṭāb, which permitted a

³⁶ Taha Jabir Al-Alwānī, *Towards a Fiqh for Minorities: Some Basic Reflections* (London: International Institute of Islamic Thought, 2010).

³⁷ El-Mesawi, Mohamed El-Tahir, Muhammad Said Almujaheed, dan Halim Merzagui, "Fiqh al-Aqaliyyat al-Muslimah: Dirasah fi al-Ma'na wa al-Mashru'iyah," *Journal of Islamic Studies and Thought for Specialized Researches* 3, no. 2 (2017): 1–22; Al-Hajri, 2017

³⁸ Salim bin Abd al-Salam Al-Shaykhi, "Al-Aqaliyyat al-Muslimah wa Taghayyur al-Fatwa". January 18, 2010. <https://www.e-cfr.org/blog/2020/10/23/>

³⁹ Salima Koroma and Carlos H. Martinelli, "How Islam Became the Fastest-Growing Religion in Europe," *Time*, January 8, 2015, <https://time.com/3671514/islam-europe/>.

woman from al-Ḥirah who had converted to Islam to decide whether to remain with or leave her non-Muslim husband. Similarly, due to the sanctity of the initial marriage contract, 'Alī ibn Abī Ṭālib is said to have maintained that a Christian or Jewish husband still retains conjugal rights with his newly converted Muslim wife.⁴⁰

However, some informants express concerns about whether there is any way out of this issue. As mentioned by Informant 3:

"If the marriage continues between them, perhaps the husband will interfere in the wife's religious affairs and disrupt her, especially concerning the children. Therefore, Islam emphasizes the freedom to practice one's religion. After all, the position of the wife is under the care of her husband." (Informant 3)

Similarly, Informant 4 tends to see the need for a sacrifice to become a Muslim.

"Becoming a Muslim is part of the sacrifice. Living with a non-Muslim husband can bring harm to the wife. She needs to sacrifice for the sake of religion." (Informant 4)

Conclusion

In conclusion, maintaining marriage between a Muslim woman and a non-Muslim husband is contrary to the principles of Shariah, as discussed by classical scholars. However, in the modern context, especially in countries where Muslims are a minority, such as the UK, this issue requires special consideration. Empirical studies have shown that, in some cases, maintaining a marriage for a specific period can provide an opportunity for the non-Muslim husband to convert to Islam. Therefore, the approach to

this issue needs to be different from the classical discussion since the situation of Muslims in non-Muslim majority countries is not the same. In addressing this situation, *muftis* play a crucial role in issuing fatwas that take into account the social context, current needs, and the well-being of Muslims. A *tadarruj* (gradual) approach can be used to help women converts adapt to the demands of Shariah without putting undue pressure.⁴¹ Therefore, if the *mufti* allows couples to continue living together for a specific period, the decision must be based on clear conditions, such as guaranteeing the woman's religious freedom, ensuring continued da'wah efforts, and educating the children as Muslims. The fatwa issued should be flexible and consider Islam's principles of *maslahah* (welfare) and *raf' al-haraj* (removing hardship).

In addition, Shariah aims to protect the interests of all groups, whether majority or minority Muslims. Therefore, decisions taken must strike a balance between Shariah principles and social reality to avoid harm. This approach aligns with *maqasid al-Shariah* (the objectives of Shariah), which emphasizes the importance of wisdom and justice in implementing the law.⁴² Therefore, in determining any law related to this issue, muftis, religious policymakers, and authorities must consider this aspect comprehensively.⁴³

⁴⁰ ECFR, Al-Qarārāt wa al-Fatāwā al-Ṣādirah 'an al-Majlis al-Ūrūbī li al-Iftā' wa al-Buḥūth 2010; Al-Qardawi, Min Hudā al-Islām.

⁴¹ Nur Syahirah Mohammad Nasir et al., "Isu Perkahwinan bagi Wanita Muallaf tanpa Disertai oleh Suami di Great Britain pada Perspektif Maqasid Syariah, *Global Journal Al-Thaqafah*, 2024, 291-302, <https://doi.org/10.7187/GJATSI22024-19>.

⁴² Muhammad Saad bin Ahmad Al-Yubi, *Maqasid Al-Shari'ah Al-Islamiyyah wa 'Alaqatuha bi Al-Adillah Al-Shar'iyyah* (Riyad: Dar al-Hijrah, 1998).

⁴³ Ishak and Nasir, "The Principle of Maalat Af'al," 228.

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