

Conference, Symposium, and Panel Reports

The AMSS (UK) Fifth Annual Conference: Fiqh Today: Muslims as Minorities

Traditional *fiqh* is facing a new challenge: formulating a suitable *fiqh* for minority Muslim communities. In this spirit, the Association of Muslim Social Scientists (AMSS [UK]) in conjunction with the International Institute of Islamic Thought, The Muslim College, and Q-News Media, convened its fifth annual conference, “Fiqh Today: Muslims as Minorities,” at the University of Westminster (London) during February 21-22, 2004.

Anas Al-Shaikh-Ali, AMSS (UK) Executive Committee Chair, set out the vision in his opening remarks: A genuine *fiqh* for minority Muslims requires a collective engagement between social scientists and Shari`ah scholars “in the wider public arena.” He challenged participants to work for a “comprehensive methodology of minority *fiqh*” drawing on the past, but not being afraid to be innovative.

Keynote speaker Mustafa Ceric, Grand Mufti of Bosnia-Herzegovina, maintained that while he did not believe in a minority *fiqh per se*, he readily accepted the position that Muslims living as political minorities often are better able to fulfill their religious obligations than Muslims elsewhere. He posited a vision of Muslims in Europe that recognized their unique historic position and contribution to Europe, which he sees as a place of interaction rather than of confrontation. After discussing the interdependence of cultures and the need for balance and tolerance, he considered present diagnoses of the intellectual pathologies of Muslim and European societies and concluded by challenging Muslim minorities to see themselves as driving Islam’s civilizational wheel. He also called on Europe to institutionalize Islam and for Muslims in Europe to come together within a universal worldview.

Al-Shaikh-Ali awarded the AMSS (UK) 2003 Lifetime Achievement Award posthumously to Edward Said. Michel Abdul Messih, QC, eminent lawyer, Palestinian activist, and close friend of Said, accepted it on his behalf. Zaki Badawi spoke of how Said’s works changed academia and

prevailing colonial discourses on Islam, Muslims, and the Middle East. The AMSS Chair also presented the 2003 Building Bridges Award to Karen Armstrong for her work in promoting interfaith dialogue and understanding. Fareena Alam, managing editor of *Q-News Magazine*, highlighted Armstrong's objective portrayal of Islam, especially after 9/11. Armstrong called on participants to challenge intolerance by launching a compassionate offensive to fight misunderstanding in a creative way.

The conference opened with presentations from Louay Safi (executive director, ISNA Leadership Development Center; former president, AMSS [USA]) and Dr. Mohamed Mestiri (professor of *Usul* and Contemporary Islamic Thought, Institut des Sciences Islamiques, Paris). Safi's paper, "The Creative Mission of Muslim Minorities in the West: Synthesizing the Ethos of Islam and Modernity," explored how minority *fiqh* can help Muslims deal with the West's ethos by applying the *maqasid al-Shari'ah*, which develops a normative order capable of enhancing human life and advancing the human condition by keeping legislation in the hands of civil society instead of the majority. Mestiri drew on the experience of Muslims in France to present "From the *Fiqh* of Minorities to the *Fiqh* of Citizenship." Classical *fiqh* saw minorities as fully associated members of a citizenship charter. Within the democracies, majorities and minorities were flexible concepts. We must embrace citizenship, see minority *fiqh* in light of these new civic realities, and realize that promoting Islam in existing plural space connects the spiritual teaching to its essential universalism and humanism.

Zaki Badawi discussed "General Principles of *Fiqh*," which he termed the "maxims guiding the law." He criticized collective (committee) *ijtihad* because the collective proclaims its correctness over others, whereas the work of individual scholars is closer to the spirit of *fiqh*, which derives laws via debate, acceptance, and synthesis. Secular modes of organization, which allow for pluralism and debate, are needed, because the moral maxims governing the *fiqhi* rulings are more important than the rulings. Taha Jabir al-Alwani (president, Graduate School of Islamic and Social Sciences; president, Fiqh Council of North America) sent a videotaped presentation of his paper "Minority *Fiqh*: Between Macro- and Micro-*Fiqh*," in which he called for the new realities of minority Muslim communities not to be compared with the past.

Addressing the "Islamic Juristic Views on the Political and Legal Status of Muslims in non-Muslim Countries," Bustami Khir (Birmingham University) explored the Hanafi, Shafi'i, and Maliki understandings of *wilayat al-ulama'* as a way of providing leadership, legal, and spiritual

guidance to Muslim-minority communities. In the past, people used this principle to negotiate degrees of Islamic governance and institutionalization within non-Muslim contexts that would not be possible today. Tahir Mahdi (Université de Valenciennes) focused on “Minorities and *Maqasid al-Shari’ah*.” Muslims should use *ijtihad*, cease to see themselves as disadvantaged or allow themselves to be minoritized, and must accept that they are Muslim citizens of Europe. Classical Islamic jurisprudence is a source of inspiration, not always of application. Revisiting exclusionary legal and community processes, pertaining namely to women, is a critical first step to recapturing legal creativity.

On the second day, Soumaya Pernilla Ouis (The Swedish Islamic Academy) used her “Marriage Strategies among Young Muslims in Europe” to show the problematic nature of applying gender-relations *fiqh* in European settings. Young Muslims have increasingly complex conceptions of marriage that require more focus on individual choice and less emphasis on having children and extended families. Muslim women marrying non-Muslim men and gender segregation ought to be among the first issues addressed. Political theorist Ahmad Al-Katib addressed the “Problem of Sexual Relations among Muslim Youth” by examining *fiqhi* marriage options and assessing their relative advantages. Of note are early marriage, marriage with the intention to divorce, and temporary marriage. In short, *halal* options are necessary.

Charles Le Gai Eaton, speaking on minority *fiqh* in the context of shifting and contested identities, called for developing a relevant framework for Islamic expression that is consistent with Islamic civilization’s ethos and *fiqh*’s protective framework. He noted that expression must reflect the context without rejecting the system that has sustained, preserved, and developed the sacred law, and warned of the dangers of relativism and secularism.

Asmat Ali, (Ph.D. candidate, Birkbek College, University of London) analyzed “Pluralism: Islamic and Non-Islamic Laws – A Problem of Definitions.” She explored the term *Islamic law* within the Qur’an, sought to redefine it within the broader Qur’anic message of pluralism, and saw it as an extension of the same universal theology but not as superseding previously revealed laws. She also stated that the Qur’an primarily addresses legal theory and not positive law, which is time-space bound. Dilwar Hussein (research fellow, The Islamic Foundation, Leicester) examined the process of normalization of Islam in Europe and distinguished it from the secularization of Muslims. The impact of globalization and the

question of how distinct one geographic frame is from another needs to be answered if the minority *fiqh* project is to remain legitimate.

The final session examined directly relevant models of Islamic law. Barrister Ahmad Thomson (member, Gray's Inn; deputy-chairman, Association of Muslim Lawyers) presented "Incorporating Muslim Personal Law into UK Domestic Law." He sees the growth of such a system as organic and based on precedents utilizing the legally binding mechanisms of arbitration. These existent legal avenues could eventually create a system of qualified adjudicators. Ihsan Yilmaz expressed concern over the growth of "Micro-*Mujtahids* and the *Fiqh al-Aqalliyat*" and the subsequent fragmentation of Muslim legal discourse as individuals undertake *takhayyur* (choosing/combining schools of thought and rulings). Understanding that laws, as well as their derivation and interpretation, belong in the civic realm means that any legal chaos must also be managed in that realm. Yilmaz sees faith-based movements and their leaders as lending legitimacy to praxis through *ijtihad* committees mainstreaming new legal conceptions and thereby making *ijtihad* viable.

In his closing remarks, Al-Shaikh-Ali thanked the speakers and participants and stressed that the association seeks to combine theory with practical application. He mentioned that the AMSS has produced a position paper, *Muslims on Education*, that will be published in March 2004. He added that following discussions held during this conference, the AMSS EC will consider commissioning research that will focus not only on current issues facing the Muslim community in Europe, but also other possible issues and challenges that may arise in the future. Such studies will then be put to *fiqh* councils and individual *fuqaha'* for their urgent consideration and discussion with social scientists.

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