Presently, more than one third of the world’s Muslims are living as minorities in non-Muslim countries, a fact which has posed challenges not only for the host countries but also for the Muslims themselves. The Muslims must be governed by Islamic law, often that of the country of origin. Home countries are in a position to play the role dictated by Islamic law in the event that Muslim minorities are not satisfied with the growing numbers of Muslims in their country, also applies to the current debates on the subject and the growing anxiety of Muslims about their minority status in Islamic law. Responding to this criticism, Taha Jabir Al-wani explains that fiqh al-aqalliyat constitutes an autonomous field of jurisprudence: ‘While Muslims in Muslim countries are in a position to play the role described above, other serious questions are raised for the future of the Muslim minorities.

Modern Muslim jurists disregard this methodological complication and treat the situation of Muslim minorities as exception- al cases that require special considerations. One of the main tasks of jurists relating to laws about food, dress, marriage, divorce, co-education, and relations with non-Muslims, is to ensure the autonomy and autonomy of the Islamic law system. As a consequence, a whole set of new interpretations, often divergent, appeared. Some other jurists stressed the need for developing special sources of Islamic law. Various rules of Islamic jurisprudence, e.g. common goods, objectives or spirit of law, convenience, considerations of expediency, prevention of harm, which were involved sparingly, gained significance as basic prin- ciples of Islamic law. The outcomes were published in the form of fatwas and did not constitute part of regular Islamic law texts. It is only recently that these have begun to appear on the subject.

Jurisprudence of minorities

In 1994, the North American Fiqh Council announced a project to ‘develop fiqh for Muslim minorities living in non-Muslim societies’. Taha Jabir Al-wani, Chairman of the Council, was perhaps the first to use the term fiqh al-aqalliyat (1994) in his fatwa about Muslim participa- tion in American secular policies. Some Mus- lim jurists in America hesitated to participate in American politics because it meant alliance with non-Muslims, division of the Muslim community, and allegiance to a non-Islamic system of secular policies as well as giving up the hope of the US becoming part of dar al-islam. According to Taha Jabir Al-wani in his fatwa about the secular system, faith neutral, not irreligious. He distinguished between communities that have Muslim majorities from those where Muslims are in minority. The two contexts are quite different and entail different obliga- tions: ‘While Muslims in Muslim countries are obliged to uphold the Islamic law of the country, Muslims minorities in the Western States are not required either by Islamic law or rationality to uphold Islamic symbols of faith in a secular state, except to the extent permissible within that state.’

This fatwa stirred a controversy among Muslim scholars. For instance, the Syrian Shaykh Saeed Ramadan al-Buti dismissed Al-wani’s claim for the jurisprudence of minorities as a ‘plot to divide Islam’. Amongst other comments he stated: ‘We were so pleased with the growing numbers of Muslims in the West, that we hoped that their adherence to Islam and their obedience to its codes will diminish the cold resistance of the Western civilization to the current of the Islamic civilization. But today the call to the Jurisprudence of Minorities美学的 of a caliphate contrary to our hopes. We are warned of thawing of the Islamic existence in the current of the deviating Western civi- lization and this type of jurisprudence guarantees the survival of this caliphate. Since 1989 and is losing sympathy with ju- rists. In the wake of the rising Islamophobia, discrimination and harassment of Muslims, and media prejudice, especially after the events of 11 September, there seems to be no sympathy for another civil rights move- ment. If the Muslims were forced to take this path, fiqh al-aqalliyat would not be there to help them because it has been so far con- cerned only with solving problems of (and within) Islamic law. It has still to work out problems with the local laws. There is per- haps a need for Muslim jurisprudence of cit- izenship in the framework of pluralism, in order to respond to the current political and legal challenges.