



A JURISTIC ANALYSIS OF *FATĀWĀ* IN THE U.S.A.:
CONGRATULATING AND PARTAKING IN THE
NON-MUSLIMS' RELIGIOUS FESTIVALS

BY

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A dissertation submitted in fulfilment of the requirement
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ABSTRACT

Muslims in the U.S. are increasingly looking to integrate into its society while trying not to lose their identity as Muslims. They find themselves in a dilemma when it comes to the issue of congratulating and even partaking in the festivals of the non-Muslims in the U.S. This issue has gained prominence and momentum after the event of 9-11, in which the Muslims wanted to show and prove their tolerance and acceptance towards others while trying to hold onto and maintain the core principles of Islam. For this reason, this topic is a hotly debated issue in the U.S. and the West in general and a cause of division and confusion amongst Muslims. However, in order to justify their position and feel that they are following the teachings of Islam, they turned to the Islamic scholars, both in the West and the Muslim world, regarding the permissibility or prohibition of congratulating and partaking in non-Muslim festivals. Hence, some scholars scrambled to pass *fatāwā* that would make the lives of Muslim minorities living in the U.S. easier in order to better integrate and accept the culture and customs of its people without having to attract unnecessary attention. Though the *fatāwā* of prohibition have been present in the books from the time of the classical scholars, they did not gain prominence and/or were not seen as a refuting force against the claim of permissibility, except after the dust had settled and emotions were not running as high as they were in the initial months and years following 9-11. This dissertation employs a qualitative methodology to analyze the *fatāwā* of permissibility from a juristic, comparative, content and discourse point of view. By using these methodologies the researcher proves how the consensus of the classical scholars was broken, verses of the Qur'ān and Ḥadīth used out of context and/or weak, and contradictory statements made sometimes even in the same book. Additionally, this dissertation gives readers an insight, through a questionnaire that was conducted by the researcher, into how the Muslims in the U.S. perceive the issue of congratulating and/or partaking in the religious festivals of the non-Muslims. The study conducted found that 66% of Muslim respondents in the U.S. do not congratulate and partake in the religious holidays of the non-Muslims. It also found that 45% of Muslims in the U.S. believe that religious identity of Muslims will eventually be lost if they start to partake in the religious holidays of the non-Muslims, while 29% of respondents said maybe. Last but not least, it also makes an effort to educate the readers in the paganistic origins of some of the holidays in the U.S., which may have otherwise been overlooked by the Islamic contemporary scholars when issuing their *fatāwā* of permissibility.

ملخص البحث

يجد المسلمون في الولايات المتحدة أنفسهم في مأزق وحرَج عندما تثار قضية تهنئة غير المسلمين بأعيادهم أو المشاركة في احتفالاتهم. وذلك لأنهم حريصون على الاندماج في المجتمع الأمريكي من جهة، ومن جهة أخرى يودّون الاحتفاظ بهويتهم الإسلامية. وقد تصدرت هذه القضية المشهد بعد أحداث الحادي عشر من سبتمبر، حيث أراد المسلمون أن يبرهنوا على تسامحهم وقبولهم للآخر مع التمسك بمبادئ الإسلام وثوابته. ولهذا فإن هذه القضية أصبحت محل جدالٍ ونزاع في أوساط المسلمين في أمريكا خاصة وفي الغرب عموماً. ولكي يسوغوا مواقفهم، ويتأكدوا من موافقتها للشريعة الإسلامية فإنهم لجئوا إلى علماء الإسلام في الغرب وفي العالم الإسلامي ليبينوا لهم حكم التهنة والمشاركة في هذه الأعياد. ومن هنا اندفع بعض العلماء إلى إصدار فتاوى من شأنها أن تخفف معاناة الأقلية المسلمة في أمريكا وتسهل لها الاندماج وقبول الثقافة والتقاليد الأمريكية. وبالرغم من وجود فتاوى التحريم في كتب العلماء السابقين إلا أنه لم يحظ بالشهرة، ولم ينظر إليه كرد أو حاجز لدعوى الإباحة إلا بعدما انقشع الغبار وخذت نار العاطفة التي بلغت ذروتها بعد أحداث الحادي عشر من سبتمبر. وبناءً عليه فإن هذه الرسالة توظف الأسلوب النوعي لدراسة وتحليل هذه الفتاوى القائلة بالجواز من منطلق فقهي مقارن، ومن حيث المحتوى والمنهج. وباستخدام هذه الأساليب يبيّن الباحث كيف تم خرق إجماع العلماء السابقين بعد انعقاده، وكيف أخرجت الآيات والأحاديث عن سياقها، ويشير إلى بعض التصريحات المتناقضة التي أطلقت، وأحياناً في نفس الكتاب. إضافة إلى ذلك فإن الأطروحة تسلط الضوء على مواقف المسلمين في أمريكا ومشاعرهم تجاه تهنة غير المسلمين بأعيادهم والمشاركة فيها من خلال استطلاع للرأي الباحث. وقد أظهرت نتائج الاستطلاع أنّ ستة وستين بالمائة ممن استطلعت آراءهم لا يهنتون غير المسلمين في أعيادهم الدينية ولا يشاركون فيها. كما أظهر الاستطلاع أنّ خمسة وأربعين بالمائة ممن شملهم الاستطلاع يعتقدون أنّ مشاركة المسلمين في هذه الإحتفالات تؤدي إلى ضياع هويتهم الإسلامية. وأخيراً، يسعى البحث أيضاً إلى تنبيه القارئ على الأصول الوثنية لبعض هذه الأعياد التي ربّما يغفل عنها بعض الفقهاء المعاصرين، عندما يصدرن هذه الفتاوى التي تبيح المشاركة أو التهنة بهذه الأعياد.

APPROVAL PAGE

I certify that I have supervised and read this study and that in my opinion, it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a thesis for the degree of Master of Islamic Revealed Knowledge and Heritage (Fiqh and Uşūl al-Fiqh).

Luqman Zakariyah
Supervisor

I certify that I have read this study and that in my opinion it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a thesis for the degree of Master of Islamic Revealed Knowledge and Heritage (Fiqh and Uşūl al-Fiqh).

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Ibrahim Mohamed Zein
Dean, Kulliyah of Islamic
Revealed Knowledge and
Human Sciences

DECLARATION

I hereby declare that this dissertation is the result of my own investigations, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

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Transliteration Table

ء	'	خ	kh	ش	Sh	غ	Gh	ن	N
ب	B	د	D	ص	ṣ	ف	F	هـ	H
ت	T	ذ	dh	ض	ḍ	ق	Q	و	W
ث	Th	ر	r	ط	ṭ	ك	K	ي	Y
ج	J	ز	z	ظ	ẓ	ل	L		
ح	ḥ	س	s	ع	ʿ	م	M		

Short Vowels	
َ	a
ِ	i
ُ	u

Long Vowels	
ا + َ	ā
ي + ِ	ī
و + ُ	ū

CHAPTER ONE

INTRODUCTION

1.1 INTRODUCTION

One of the most controversial topics in the U.S. that is a source of division and confusion amongst the Muslims every year is the permissibility or prohibition of Muslims congratulating the non-Muslims with regards to their festivals and partaking in those celebrations.

Some view this issue as a contemporary *Fiqhi* (Juristic) issue and thus claim that our pious predecessors did not face such a dilemma in their time. The reason is that Islam was dominant and was the rule of law and Muslims barely interacted with non-Muslims and/or non-Muslims did not live in the Muslim lands and as a result there was little to none interaction between Muslims and non-Muslims. Therefore, early Muslim scholars were not exposed to their practices and even if they were aware of their festivals they did not see a need to pass *fātwā* (religious verdict) in order to prohibit Muslims from partaking in their festivals and congratulating them. This is because one of the requirements for a *Dhimmī* (non-Muslim citizen) to live in the Muslim lands is that they do not practice their religious rituals openly but should practice them within the confinements of their house or place of worship.¹

However, if one were to look carefully at the books of the early scholars, he would find that indeed they had spoken about this issue at length and issued their legal rulings on this topic and informed the Muslim *Ummah* (nation) of their time, whether living in *Dār al-Islam* (Islamic State) or *Dār al-Ḥarb* (Land of War), on the juristic

¹ Muḥammad ibn Abu Bakr ibn Qayyim Al-Jawziyyah, *Aḥkām Ahl al-Dhimmah*, (Bayrūt: Dār al-Kutub al-‘Ilmiyyah, 2nd Edn., 2002), 151-156.

ruling on this issue. And because of their foresightedness, wisdom and deep insightful knowledge in Islamic Jurisprudence, Muslims living in the 21st century are able to reap the fruits of their *Ijtihād* (independent reasoning). Muslims are also able to practice their religion regardless of where they live, with the contentment that it is based on sound and authentic knowledge and wisdom.

Moreover, Muslims had extensive interactions with non-Muslims either as a result of business transactions, political dialogue or as a result of non-Muslims living under the protection of the Islamic caliphate and political authorities in the Islamic world. Also, it is a known fact that Muslims traveled to other parts of the world in order to spread the message of Islam. All of these interactions did indeed expose the Muslims to different cultures and religious practices of others in the world. Because of this, early Muslim scholars passed *Fatāwā* for both Muslims and non-Muslims and the relationship that one must have with the other in order to live in a harmonious environment that gives freedom of religion to minorities as well as the limitations of those freedoms.

Thus, those who claim that early Muslim scholars were unaware of the issue of partaking in the festivals of the non-Muslims are mistaken. Making such a claim gives one the juristic excuse to make their own *Ijtihād* and to be independent in his opinion because it is an issue that is particular to our time and place only and as a result enables them to issue a *Fatwā*. Such *Fatāwā* have serious implications both on the Muslim community and the scholar himself.

For example, when a scholar claims that the issue of congratulating and partaking in the religious festivals of the non-Muslims, is a contemporary issue or that there is no *Ijmā'* (scholarly consensus) on this, then this gives him the power to flex his muscles and exhort his control over his constituency through his knowledge of the

religion. It gives the impression that he is a master in this particular topic and has the religious credentials to speak about it and issue verdicts on it. This results in his constituency being subjugated to his opinions only and thus creates a blind following. And all of that results in the Muslim mass neglecting the Book of Allah and the Sunnah of the Prophet, peace be upon him (P.B.U.H.)² and the opinion of the early scholars who were free of any whims and desires of pleasing the mass and/or having the mass follow them. But because the general Muslim public have no access to such knowledge, and if they do, then they do not have the necessary tools to research a topic and extrapolate rulings from it, they are left at the mercy of the scholars they approach to guide them to that which is correct and sound.

Islam is spreading very fast in the U.S.; indeed it is the fastest growing religion according to a 2010 U.S. Census statistic. Yet, Muslims living in the U.S. are especially vulnerable to the above scenario for a number of reasons.³ The U.S. lacks well qualified scholars who have a sound understanding of religious texts. Muslims are living as a minority in the U.S., and thus, they are suffering from an identity crisis and as a result are losing their identity as Muslims slowly but surely. It is also due to an oversight or lack of knowledge on the origins of such festivals and what they stand for and the history behind them. For example, the origin of Christmas has a paganistic history and has nothing to do with the early true Christians. Likewise, celebrations of New Year's and Valentine's amongst other such celebrations, are pagan-based rituals that found their roots in later Christianity. Therefore, the researcher would like to address the origins of these holidays and juristically analyze the *fatāwā* of the scholars

² This statement of sending peace upon the Prophet is customary in all the religious texts, both classical and contemporary. However, for the sake of brevity it will not be in written form as it is implied that both the writer and readers of this paper will say this statement within themselves henceforth.

³ Meghan N., "Number of Muslims in the U.S. doubles since 9/11," New York Daily News, 3 May, 2012, via Daily News, <<http://www.nydailynews.com/news/national/number-muslims-u-s-doubles-9-11-article-1.1071895>>. (accessed 20 March, 2015).

in the U.S. with regards to congratulating and partaking in the religious festivals of the non-Muslims.

1.2 STATEMENT OF THE PROBLEM

There is a significant amount of pressure upon Muslims living in the U.S. with regards to the lack of integration into the melting pot culture of the States. This pressure comes both from the non-Muslims, namely the media, as well as Muslims, especially reverts and 2nd and 3rd generation Muslims with regards to the prohibition/permissibility of congratulating their fellow Americans in their religious festivals and/or partaking in the festivals itself.

The scholars in America have taken two opposing stands on this issue. One is that of absolute permissibility for Muslims, to not only congratulate them in their festivals but also to partake in them if they so desire. In fact, some have gone as far as to say that it is an obligation to partake in them if they are reverts and their families are still non-Muslims. So, for the sake of keeping ties of kinship and respecting ones parents it is a must. On the other hand, we have a group of scholars who have issued a verdict of absolute prohibition. They go as far as saying that if a Muslim were to be approached by a non-Muslim congratulating them on one of their festivals that it is prohibited for them to return the greeting and in doing so may lead one to commit a sin and even an act of *Kufr* (disbelief). This causes the lay Muslims to have confusions and leads them to doubt the unity in Islam and its laws. It also, causes many of them to doubt the spirit of Islam and the message it came with. Last but not least, it leads many to have a crisis that affects their identity as Muslims.

The problem that the researcher finds with this research topic is that the concept of *fatwā* is well known in the classical books of Islamic jurisprudence,

however, who is qualified to be a *mufī* in a society like America where there are a diverse group of Muslim scholars with different schools of thought is not yet articulated. Moreover, almost none of the scholars who permitted the congratulation and partaking in the festivals of the non-Muslims talked about the issue with regards to the paganistic origin of some of the religious festivals in their *fatāwā*. It is the opinion of the researcher that perhaps, if they had known about the paganistic origins of the festivals then they might change their views and *fatāwā* regarding its permissibility. Additionally, the scholars did not differ on the prohibition of congratulating the non-Muslims on their religious festivals at all in their *fatāwā*, up until the end of the 20th Century. It was only after the events of 9-11 did the contemporary scholars started to give *fatāwā* on this issue.

Therefore, the researcher will bring into light the origins of some of the religious festivals being celebrated in the U.S. and will analyze it from a *fiqhi* perspective. Additionally, the researcher will determine, through critical and content analysis, whether *Ijmā'* was broken due to the sudden pouring of *fatāwā* after the events of 9-11. Moreover, the researcher would like to bring into light the eligibility and criteria a *mufī* must meet before issuing a *fatwā*, especially to the diverse group of Muslims in the U.S.

1.3 RESEARCH QUESTIONS

Throughout this research, the researcher will make an effort to answer the following questions:

1. What is a *fatwā*, who is a *mufī* and what are the qualifications he/she must have in issuing a *fatwā*?

2. What are the origins of the religious festivals being celebrated by the non-Muslims in the U.S. and what is its affect on the Islamic legal ruling?
3. What are the different *fatāwā* being issued with regards to congratulating and partaking in the religious festivals of the non-Muslims in the U.S.?
4. What are the effects and ramifications of their *fatāwā* on the Muslims living in the U.S. and what is the solution?

1.4 RESEARCH OBJECTIVES

The objective of this research dissertation is to achieve the following:

1. To have a clear understanding of what is a *fatwā*, the mannerism and the conditions that need to be taken into consideration before issuing a *fatwā* as well as the pre-requisites and qualifications of a *muftī*.
2. To carefully examine and analyze the historic origins of the religious festivals of the non-Muslims in the U.S. and to determine whether or not it will affect the Islamic legal ruling in its permissibility or prohibition of congratulating the non-Muslims.
3. To present to the reader in a clear manner the controversy surrounding the issue of congratulating the non-Muslims on their religious festivals and partaking in them and the reasons given behind each *fatwā* in the U.S., to critically analyze them by employing an objective methodology of the different *fatāwā* in the light of religious texts and their conformity with Islamic values.
4. To reveal to the reader the effects and ramifications each *fatwā* has on the Muslims living in the U.S. and to offer solution(s) that the researcher

deems appropriate in bringing about harmony amongst Muslims and non-Muslims living in the U.S.

1.5 SIGNIFICANCE OF THE STUDY

Muslims are living in the U.S. at a time when they are suffering from an identity crisis, lack of Islamic knowledge and proper religious guidelines by the scholars they look up to. They want to show their government, neighbors, colleagues, and fellow citizens that Muslims are no different than they are. They demonstrate this in a variety of ways such as interfaith dialogue, community service and outreach, relief aid work, condemnation of terrorism, candle-light vigils and celebration of American festivals amongst other things.

The researcher is of the opinion that this is such an important topic that it needs to be properly evaluated from an Islamic academic perspective, because it is a matter of not only confusion amongst the Muslims in the U.S. but also a cause of division amongst community members as well as family members. There are cases in which revert Muslims have to choose between their faith and their non-Muslim family or where a scholar has to choose between the lesser of the two evils and so on. Therefore, what this research intends to do is to shed light on the issue of the permissibility or prohibition of congratulating the non-Muslims in their festivals and partaking in their celebrations from a Juristic point of view.

1.6 RESEARCH SCOPE

The researcher will focus on selected five festivals that have religious connotations. They include Christmas, New Year's, Valentine's, Halloween and Thanksgiving holidays. Furthermore, the research intends to focus on critically analyzing the *fatāwā*

of congratulating and partaking in the religious festivals of the non-Muslims from 1990 until 2015. From this particular time, many *fatāwā* have been issued in an inconsistent manner, silent political pressure and an apologetic attitude, which tend to be featured in the way Muslim scholars have dealt with the issue of congratulating and partaking in non-Muslim religious festivals in the U.S.A.

1.7 RESEARCH METHODOLOGY

In writing this research, the researcher will be employing the qualitative method, which is well-suited for this type of research since the researcher intends to achieve a deeper understanding of this issue and present to the readers a detailed explanation with regards to this topic.⁴ This qualitative method will be achieved in the following manner:

- I. Comparative Analysis: By using this method, *fatāwā* from different scholars in the U.S. and those that have influence amongst Muslims in the U.S., will be compared and contrasted until the researcher is satisfied that all angles have been covered.
- II. Content Analysis: In this analysis the researcher seeks to enrich the readers of the ‘behind the scenes’ with regards to the *fatāwā* issued in the U.S. on this topic.⁵
- III. Discourse Analysis: This method will be employed to analyze ‘beyond the statements’ of the scholars in the U.S., look at patterns of the different

⁴ Neil Murray and David Beglar, *Writing Dissertations and Theses*, (England: Pearson Education Limited, 2009), 47.

⁵ Michael H. Walizer and Paul L. Wiener, *Research Methods and Analysis: Searching for Relationships*, (New York: Harper & Row Publishers, Inc., 1978), 349.

fatāwā and interpret them and how the different scholars talked about this issue in their writings.⁶

- IV. Juristic Analysis: This form of analysis will focus on the strength of the arguments used by the various scholars in the U.S. when issuing their *fatāwā*. Those *fatāwā* will be analyzed against the primary and/or secondary sources of Islamic Jurisprudence for their weakness(es) and strength(s).

Additionally, by employing a qualitative method the researcher would like to give the readers a better understanding of some of the practices, think processes and attitude of the Muslims in the U.S. Hence, a survey of 100 participants was conducted, asking them ten (10) questions in an online questionnaire and survey provided by SurveyMonkey.⁷ Participants chosen were Muslims from across the U.S., that followed different schools of thought, reverts and Muslim born, native and foreign born and those that differed in their views on the permissibility or prohibition of congratulating the non-Muslims on their religious festivals. The researcher seeks to attain the following from the survey:

1. Number of Muslims that participate in congratulating and/or partaking in the religious festivals of the non-Muslims in the U.S.
2. The source(s) or the *muftīs* the Muslims in the U.S. refer to for their *fatāwā*.
3. The social effect(s) that the *fatāwā* of permissibility and/or prohibition has amongst Muslims, both as individuals and as a community.

⁶ Catherine Dawson, *Introduction to Research Methods: A practical guide for anyone undertaking a research project*, (United Kingdom: How to Content, 2009), 123-124.

⁷ Ali Ahmed Zahir, "Effects of Congratulating non-Muslims on their festivals on the Muslim think process," SurveyMonkey, 7 September, 2015, <<https://www.surveymonkey.com/r/2DR96YD>>, (accessed 20 September 2015).

4. The reasoning(s) behind following a particular *fatwā*, particularly in the permissibility or prohibition of congratulating and/or partaking in the religious festivals of the non-Muslims.

1.8 LITERATURE REVIEW

Partaking in the festivals and holidays of the non-Muslims is not a contemporary issue since it had been discussed by the scholars of the past both from a Juristic point of view as well as an ‘*Aqīdah* (Islamic Creed) point of view. However, there exist today in our time issues of festivals and holidays that were not existent in the times of the scholars of the past and therefore, the researcher must ask the question whether a particular festival or holiday would fall under one of the five legal ruling of *Wājib* (Obligatory), *Ḥarām* (Prohibited), *Mandūb* (Recommended), *Mubāḥ* (Permissible) or *Makrūh* (Disliked), given whether or not they have the same ‘*Illah* (effective cause) that would render it to take one of the five legal rulings.

In order for the readers to get a holistic picture of the issue at hand, the researcher will effectively translate some basic *fiqhi* terminologies and its linguistic and technical definitions to the readers in order to establish a common ground for understanding the texts of the scholars. Additionally, the researcher will rely upon the classical books of *fiqh* from scholars of the past to get the foundational knowledge of the rulings on this issue and then will adopt the books and writings of the contemporary scholars on the understanding and implementation of such rulings in our present time.

The researcher has come across a book by a contemporary scholar named, Rāshid al-Ghanūshi (1993) entitled “*Huqūq Al-Muwāṭānah*”⁸ in which the author discusses at length the rights a non-Muslim citizen has in a Muslim country. In fact, the author prefers to use the term non-Muslim citizens rather than the classical terminology of *al-Dhimmi*. The book talks about the justice of Islam when it comes to dealing with non-Muslim citizens with respect to employment, financial transactions, freedom of religion amongst other rights given to them by Islam. However, the book does not mention the freedom of religion and the extent to which it can be practiced in a Muslim country and whether Islam has ever afforded them such freedoms. It also fails to address the issue of Muslims congratulating the non-Muslims on their festivals and partaking in them.

The researcher has come across two books by Yūsuf al-Qaraḍāwī, a famous contemporary scholar, entitled “*Al-Aqalliyāt al-Dīniyyah wl al-ḥall al-Islāmi*”⁹ (1998) and “*fi Fiqh al-Aqalliyāt al-Muslimah*”¹⁰ (2005). The author talks about the spirit of Islam with regards to tolerance of Muslims towards non-Muslim minorities and the prophetic behavior and interaction one must have in dealing with them and in fact should respect them, and to bestow favors upon them. However, the book (1998), which was written before 9-11, does not talk about the ruling of Muslims congratulating and partaking in the non-Muslim religious festivals and thus the researcher would like to analyze the reason(s) behind it.

The second book by the same author, which was written post-9-11, discusses the issue of congratulating the non-Muslims in their religious festivals. The

⁸ Rāshid Al-Ghanūchi, *Huqūq al-Muwāṭānah*, (U.S.A.: The International Institute of Islamic Thought, 2nd Edn., 1993).

⁹ Yūsuf Al-Qaraḍāwī, *Al-Aqalliyāt al-Dīniyyah wa al-ḥall al-Islāmi*, (Bayrūt: Al-Maktab al-Islāmi, 3rd Edn., 1998).

¹⁰ Yūsuf Al-Qaraḍāwī, *fi Fiqh al-Aqalliyāt al-Muslimah*, (Cairo: Dār al-Shurūq, 2nd Edn., 2005).

arguments used by the author are generic and not specific and concrete in the permissibility of the issue. For example, he uses the verse of the Quran where Allah mentions, “When you are greeted with a greeting, greet in return with what is better than it, or (at least) return it equally” (*al-Nisā’*: 86), to justify his ruling. Furthermore, the author fails to address the opponents’ position on this issue and their justification for the impermissibility of the issue. Lastly, the author states that the position of Islam with regards to the People of the Book is more tolerant than towards the polytheists and idol-worshippers. Therefore, would the ruling of Al-Qaradāwi change knowing that the basis (*’aṣl*) for most of the religious festivals, including Christmas, is polytheistic in nature and has nothing to do with Christianity? Thus, the researcher would like to address this issue from a historic background.

The Assembly Muslim Jurists of America (AMJA) issued a *fatwā* with regards to the celebration of non-Muslim holidays (2006).¹¹ The committee of AMJA for issuing *fatāwā* comprises of seven *mufṭīs*, all of whom are regarded qualified scholars in issuing a religious verdict. They are well-respected members of the committee that people refer to when seeking a *fatwā* in all areas of Islamic field. Moreover, they have annual scholarly and academic meetings in the U.S. in which scholars and *Imāms* from all over the U.S. attend and participate in the gathering. The committee issued several *fatāwā* when asked regarding the permissibility of partaking in the religious festivals, being fully aware of the condition of the Muslim minority in the U.S. However, due to the volume of *istiṭfā’* (questions) they receive and the shortage of staff they employ, the *fatwā* given lacks proper academic research in that it does not provide any proof from the legal texts with regards to its permissibility or prohibition.

¹¹ Main Khalid Al-Qudah, “Celebrating Non-Muslim Holidays,” Assembly of Muslim Jurists of America, 8 February, 2006, <<http://www.amjaonline.org/fatwa-22994/info>> (accessed 23 March, 2015).

Therefore, the researcher would like to fill in that shortage by tracing and critically analyzing the basis for their *fatwā*.

Additionally, the researcher has reviewed the book entitled, “*Şinā‘at al-Fatwā wa Fiqh al-Aqalliyyāt*”¹² by a contemporary scholar, ‘Abdullah ibn Bayyah (2007). This book is important as it reflects the views and opinions of some of the *Imāms* in the U.S. such as Hamza Yusuf. The researcher has exhausted his efforts in finding any literature pertaining to congratulating and partaking in the religious festivals of the non-Muslims in the U.S. that can be authentically associated to Hamza Yusuf. Thus, it can safely be concluded that the views and opinions presented in the book of Ibn Bayyah are also the views and opinions of Hamza Yusuf, especially given the fact that Hamza Yusuf has studied under the author.¹³

This book contains new issues of Jurisprudence concerning the Muslim minority living in Europe and from amongst them, is the issue of congratulating the non-Muslims in their festivals. He makes a distinction between the festivals that have a religious, such as Christmas and those that do not, such as Independence Day and the rulings for the two. This book also refers to the position Muslim reverts should take when their non-Muslim family celebrate such religious festivals. This is an important issue that the classical scholars did not mention in their books. However, the book talks about this issue briefly and does not mention what a Muslim should do when presented with food during the festivals of non-Muslims. It also falls short in the cultural aspect of Westerners and their attitude towards being congratulated on their festivals. Lastly, the book mentions that there are three different juristic opinions of *Imām Aḥmad* with regards to congratulating the non-Muslims on their festivals but

¹² ‘Abdullah al-Maḥfūz ibn Bayyah, *Şinā‘at al-Fatwā wa Fiqh al-Aqalliyyāt*, (Jeddah: Dār al-Minhāj, 2007).

¹³ Hamza Yusuf, "Who is Shaykh Abdullah bin Bayyah", YouTube, 22 April, 2012, <<https://www.youtube.com/watch?v=fhi-6BEItpE>>, (accessed 15 June, 2015).

fails to mention them and in which context those three rulings were given. The researcher would like to search those three opinions and mention the context of its rulings.

The researcher has come across a Master's dissertation entitled, "*Mushārahāt al-Muslimīn liḡhayrihim fī Munāsabātihim al-Dīniyyah*"¹⁴ by Mīt 'Īsa ibn Dārman (2008). In this book the author talks about the position Muslims should adopt with regards to the religious festivals of the non-Muslims in Muslim countries, and Malaysia was set as an example. The researcher did an amazing job in presenting the views of the classical as well as contemporary scholars with regards to this issue. However, it failed to address the issue of the paganistic origin of these festivals, and hence the ruling of it, as well as whether the Muslims should adopt the same position living as minorities in non-Muslim countries.

Furthermore, the researcher has come across a book entitled, "*Maḡhūm al-Bid'ah*"¹⁵ by 'Abd al-Ilāh ibn Ḥusayn (2009), a contemporary scholar. In this book, the author talks about the definition of *bid'ah* (innovation) in Islam and the differences between the scholars in its meaning between its laxity and restrictive meaning and the harm it has caused for the Muslims in our time. The author has mentioned approximately 36 *fiqhi* issues in this book in which the scholars have differed with regards to it being an innovation in the religion or not. From amongst the issues, the author has discussed the issue of congratulating the Muslims in the beginning of the Islamic New Year. Though, he has only mentioned the *fatāwā* of the contemporary scholars of today such as Ibn Bāz, Ibn 'Uthaymīn and others, it is beneficial to know what they have said with regards to this issue especially when they

¹⁴ Mīt 'Īsa ibn Dārman, *Mushārahāt al-Muslimīn liḡhayrihim fī Munāsabātihim al-Dīniyyah*, (Master's Thesis, International Islamic University of Malaysia, 2008).

¹⁵ 'Abd al-Ilāh ibn Ḥusayn Al-'Arfaj, *Maḡhūm al-Bid'ah*, (Ammān: Dār al-Fatḡ, 2009).

have lived in our time and witnessed it. However, the book does not mention congratulating the non-Muslims in their New Year's, the religious context behind it and hence, the researcher would like to determine if the same ruling can be applied using *qiyās* (analogical reasoning).

An article entitled “*Can I Give Thanks & Throw Down on Some Turkey this Week?*”¹⁶ (2013) is written by Suhaib Webb, who is an Imām in the U.S. In this article he has issued a *fatwā* to a question from a Muslim revert in regards to the permissibility of celebrating Thanksgiving with their non-Muslim parents. The article states that there are legitimate differences of opinion amongst the scholars surrounding this issue but fails to provide references for them. Furthermore, the researcher has come across a post by Webb on his personal Facebook page (2012)¹⁷ in which he mentions that ‘Ali bin Abi Talib, the fourth *Khalīfah* (Caliph), celebrated the Persian New Years. Based on this, he justifies that Muslims can celebrate and/or congratulate the non-Muslims in their festivals such as Christmas and New Years in the U.S. Though, both the article and Facebook post lack authentic scholarly or academic research, the researcher feels it is necessary to include it, in order to prove or disprove the claim(s) that have been made in them. It is important to include this *fatwā* into this research as Webb’s website attracts a lot of viewership to his page, sometimes as much as 13,000 views per day.¹⁸ Therefore, the researcher would like to critically analyze Webb’s *fatwā* and claims with regards to ‘Ali celebrating the Persian

¹⁶ Suhaib Webb, “Can I Give Thanks & Throw Down on Some Turkey this Week?,” Virtual Mosque, < <http://www.virtualmosque.com/islam-studies/can-i-give-thanks-and-throw-down-on-some-turkey-this-week>> (accessed 24 March, 2015).

¹⁷ Suhaib Webb, Facebook post, <<https://www.facebook.com/suhaib.webb/posts/10151299865648080>> , (accessed 25 March, 2015).

¹⁸ Lisa Wangsness, “In life and words, Muslim leader bridges cultures,” The Boston Globe, 12 May, 2013, final edition, via Metro, < <http://www.bostonglobe.com/metro/2013/05/11/imam-william-suhaib-webb-emerges-face-boston-muslim-community-time-crisis/Kd8v0O48vkHSZAnOpYCqOI/story.html>>, (accessed 25 March, 2015).

New Years, in order to prove or disprove them through his objective and independent research. It can then be forwarded to Webb for the benefit of the Muslims in the U.S. and re-evaluating his *fatwā* if need be.

The researcher has come across a video clip by Yasir Qadhi entitled “Muslims Celebrating Christmas-Love for Jesus and Mary”¹⁹ (2013). This is an important reference for the researcher to use as Qadhi is a well-known speaker and scholar in the U.S. and is very influential in the Muslim community throughout the U.S. In the video he talks about the merits and miracles of Prophet Jesus and his mother, Maryam, and the position of Muslims towards them from a theological perspective. He argues that celebrating the religious festivals of the non-Muslims is similar to celebrating the concept behind it, which in the case of Christmas, would be celebrating the birth of the son of God on this day. He also points out that it is not permissible for Muslims to congratulate the non-Muslims by saying “Merry Christmas”, since Muslims do not celebrate Christmas and by saying that phrase it is as if Muslims are blessing Christmas and hence, the birth of the son of God according to Christians. However, he does offer an alternative to congratulating the non-Muslims on their festivals by using generic phrases and greetings such as “May God bless you” and the likes. Although, Qadhi talks about this issue from an *Aqīdah* point of view and does not explicitly issue a Juristic ruling, the researcher would like to fill that gap. Furthermore, he fails to address the paganistic origin of Christmas as well as the fallacy behind the birth of Jesus on the 25th of December. He goes as far as acknowledging that Jesus was born on the 25th of December. Thus, the researcher would like to address the paganistic origin of Christmas along with the other religious

¹⁹ Yasir Qadhi, “Muslims Celebrating Christmas-Love for Jesus and Mary,” YouTube, <https://www.youtube.com/watch?v=_cJvbI7BzY8>, (accessed 25 March, 2015).

holidays, the fallacy behind the birth of Jesus on the 25th of December and finally, issue a clear Juristic verdict on this matter.

The researcher has come across three articles by Muzammil Siddiqi, former president of the Islamic Society of North America (ISNA) and current vice-chair of the Fiqh Council of North America (FCNA), in which the author issued a *fatwā* with regards to celebrating Christmas²⁰ (2014), Halloween²¹ (2013) and Thanksgiving²² (2013). In these three articles, Siddiqi makes a distinction between festivals that have a religious connotation and those that do not have any religious connotation to it, thus issuing different *fatāwā* on the permissibility and prohibition of partaking in such festivals. Furthermore, he acknowledges the fact that by participating in the religious festivals, such as Christmas, Muslims will slowly lose their Islamic identity, something which the researcher has pointed out and would like to make a *fiqhi* ruling on it at the conclusion of this research. Although, Siddiqi sheds some light on the paganistic origin of Halloween, he fails to do the same on the other religious festivals such as Christmas, Valentine's and New Year's. The paganistic origins of these festivals is something the researcher would like to further elaborate on in order to give an insight to the Muslims in general and contemporary scholars in particular, so that they have a holistic and better understanding of the origins of these festivals. This will further the cause of uniting these *fatāwā* in their legal ruling on celebrating and partaking in the religious festivals of the non-Muslims.

²⁰ Muzammil Siddiqi, "Can Muslims Celebrate Christmas?," OnIslam, <<http://www.onislam.net/english/ask-the-scholar/morals-and-manners/customs-and-traditions/174414-can-muslims-celebrate-christmas.html?Traditions=>>>, (accessed 25 March, 2015).

²¹ Muzammil Siddiqi, "Celebrating Halloween," OnIslam, <http://www.onislam.net/english/ask-the-scholar/morals-and-manners/customs-and-traditions/174266-celebrating-halloween.html?Traditions=>>, (accessed 25 March, 2012).

²² Muzammil Siddiqi, "An Islamic Thanksgiving," IslamiCity, <<http://www.islamicity.com/Articles/articles.asp?ref=IC0511-2855>>, (accessed 25 March, 2015).

All in all, the above books, articles and video clips have touched, in one way or the other, on aspects of the position of Islam in congratulating and partaking in the non-Muslim religious festivals from a Juristic point of view. However, none of these books have looked into a specific *fatāwā* issued in the U.S.A., in a certain time period, to critically analyze their (in)consistencies and the underlying reason(s) that necessitates the (in)consistencies. Lastly, none of the previous researches have critically analyzed those *fatāwā* using content and discourse analysis method for the different *fatāwā* issued on this topic by the scholars in the U.S.A. to realize the long term effects such *fatāwā* will have on the Muslims living as minorities in the U.S. The present research, thus, aims to study those *fatāwā* using the above mentioned methods, in order to realize the ramification(s) of those *fatāwā* on the Muslims living in the U.S.A.

CHAPTER TWO

FATWĀ AND MUFTĪ

2.1 INTRODUCTION

The issue of *fatwā* in Islamic jurisprudence has been extensively researched and written about, both by classical and contemporary scholars. Classical scholars that are known to have dedicated their writings to the topic of *fatwā* include: Ibn ‘Ābidīn of the Ḥanafī school of thought (*maddhab*),¹ al-Qaraāfi of the Malikī *maddhab*,² al-Nawawī of the Shāfi‘ī *maddhab*,³ and Ibn Ḥamdān of the Ḥanbalī *maddhab*.⁴ Contemporary scholars include: Yūsuf al-Qaraḏāwī,⁵ Usāmah ‘Umar al-Ashqar,⁶ Muḥammad Riyāḏ,⁷ and Līnah al-Ḥumsī⁸ among others. That is because *fatwā* is such an important issue that the one who issues a *fatwā*, known as a *muftī*, has reached such a lofty position that the general public view him as a mediator between them and matters of the Sharī‘ah.⁹ Those matters of the Sharī‘ah, also known as *al-aḥkām al-khamsah*, must fall into one of five categories; the obligatory (*wājib*), the recommended (*mandūb*), the permissible (*mubāḥ*), the prohibited (*ḥarām*), or

¹ Muḥammad Amīn Ibn ‘Umar ibn ‘Ābidīn, *Majmū‘ah Rasāil Ibn ‘Ābidīn*, (Lahore: Suhail Academy, 1st ed., 1976).

² Shihāb al-Dīn Aḥmad ibn Idrīs Al-Qarāfi, *Al-Ihkām fi Tamyīz al-Fatāwā ‘an al-Aḥkām wa Taṣarrufāt al-Qāḏī wa al-Imām*, (Bayrūt: Dār al-Kutub al-‘Ilmiyyah, 1st ed., 2004).

³ Zakariyyā Yahyā ibn Sharaf Al-Nawawī, *Ādāb al-Fatwā wa al-Muftī wa al-Mustaftī*, (Bayrūt: Dār al-Bashā‘ir al-Islamiyyah, 2nd ed., 1990).

⁴ Abū ‘Abdullāh Aḥmad Ibn Ḥamdān, *Ṣifat al-Fatwā wa al-Muftī wa al-Mustaftī*, (Bayrūt: Al-Maktab al-Islāmī, 3rd ed., 1397H).

⁵ Yūsuf Al-Qaraḏāwī, *Al-Fatwā Bayna al-Indibāt wa al-Tasayyub*, (Bayrūt: al-Maktab al-Islāmī, 2nd ed., 1995).

⁶ Usāmah ‘Umar al-Ashqar, *Fawḏā al-Iftā’*, (‘Amman: Dār al-Nafā’is, 2nd ed., 2009).

⁷ Muḥammad Riyāḏ, *‘Uṣūl al-Fatwā wa al-Qaḏā fi al-Madhab al-Māliki*, (Morocco: University of Qāḏī ‘Iyāḏ, 2nd ed., 1998).

⁸ Līnah al-Ḥumsī, *Tārīkh al-Fatwā fi al-Islam wa Aḥkāmuhā al-Sharī‘ah*, (Bayrūt: Mu’assasat al-Īmān, 1st ed., 1996).

⁹ Ibn Ḥamdān, *Ṣifat al-Fatwā...*, 4.

repugnant (*makrūh*).¹⁰ Therefore, the scholars pay much attention to this topic and lay down the rules and regulations for a *muftī* to adhere to in order that he does not deviate from the core principles of Islamic jurisprudence. Hence, the researcher will make an effort in this chapter to explain some of the matters pertaining to *fatwā* and *muftī*, its processes, its history in the U.S., legality and other issues surrounding the topic.

2.2 FATWĀ IN ISLAMIC JURISPRUDENCE

2.2.1 Definition of Fatwā

The linguistic meaning of *fatwā* has been defined to us by the linguistic scholars, with different variations as we shall see. According to the definition given by Ibn Fāris, *fatwā* is derived from the Arabic root words of *fa-ta-wa* and *fa-ta-ya* and is given various meanings. One refers to mildness and tenderness while the other refers to clarifying an issue.¹¹ According to the *Hans Wehr Dictionary*, the original usage of *fatwā* is from *fatā*, which is a strong young man, implying that he strengthens anything, through his clarifications, that which is made ambiguous or unclear to him.¹²

According to Ibn Manẓūr, *fatwā* is derived from the Arabic root word of *fa-ta-wa* or *fa-ta-ya* which means to explain or clarify a matter. It is said that a person issued a *fatwā* on an issue if they clarified it and a person gave a *fatwā* on a question if they answered it.¹³

¹⁰ Wael B. Hallaq, *A History of Islamic Legal Theories: an Introduction to Sunnī uṣūl al-fiqh*, (New York: Cambridge University Press, 4th ed., 2005), 40.

¹¹ Abū al-Ḥusayn Aḥmad ibn Zakariyyā ibn Fāris, *Mu‘jam Maqāyīs al-Lughah*, (Bayrūt: Dār Iḥyā’ al-Turāth al-‘Arabi, 1st ed., 2001), 806.

¹² Hans Wehr, *A Dictionary of Modern Written Arabic*, (Bayrūt: Librairie Du Liban, 3rd ed., 1980), 696.

¹³ Muḥammad ibn Mukarram ibn Manẓūr, *Lisān al-‘Arab*, (Cairo: Dār Ṣādir, 3rd ed., 1414 H), vol. 15, 147-148.

According to the author of al-Muḥīṭ, the act of issuing a *fatwā* by a *muftī* is the act of explaining a dubious matter.¹⁴ The meaning of dubious in this context refers to a matter which is uncertain, thus requiring a specialist in the field of *fatāwā* (sing. *fatwā*) to further explain the matter to the questioner.

The verb form of *fatwā* is *aftā* and its infinitive form is *iftā'*, which is defined as "an answer, or reply, to a question relating to a vague judicial decision."¹⁵ It may also mean "to give a formal legal opinion (regarding Islamic law) and to furnish it with information."¹⁶

From the above linguistic meaning it can be concluded that the literal meaning of *fatwā* is the explanation given in a matter that is unclear to the questioner by a learned man.

The technical definition of *fatwā* is relatively close to its literal one. It was defined by some classical scholars under the heading of *ijtihād* (independent reasoning) since, to them, *iftā'* and *ijtihād* were synonymous to each other.¹⁷ Scholars such as al-Āmidī stated that a *muftī* must be a person capable of *ijtihād*.¹⁸ Ibn al-Hummām stated that the people of *uṣūl* are unanimous in that a *muftī* must be a *mujtahid*.¹⁹ Nonetheless, the technical meaning given to *fatwā* from an *uṣūlī* perspective did not have a significant effect on its overall meaning or understanding. Hence, *fatwā* is technically defined as a "transmission or conveyance of Islamic

¹⁴ Ismā'īl ibn 'Abbād Al-Ṣāhib, *Al-Muḥīṭ fi al-Lughah*, (Bayrūt: 'Ālim al-Kutub, 1st ed., 1994), vol. 9, 470.

¹⁵ Edward William Lane, *Arabic-English Lexicon*, (Bayrūt: Librairie Du Liban, 1968), vol. 6, 2337. Originally published in 1877 by Williams and Norgate, London.

¹⁶ Wehr, *A Dictionary of Modern Written Arabic*, 696.

¹⁷ Wael B. Hallaq, *Iftā' and Ijtihād in Sunnī Legal Theory: A Developmental Account*, in Khalid Masud, Brinck Messick and David Powers, eds., *Islamic Legal Interpretation: Muftīs and their Fatwās*, (New York: Cambridge University Press, 1996), 33-43.

¹⁸ Abū al-Ḥasan Sayyid al-Dīn 'Alī ibn Abī 'Alī ibn Muḥammad Al-Āmidī, *Al-Iḥkām fi Uṣūl al-Aḥkām*, (Bayrūt: Dār al-Kutub al-'Ilmiyyah, 1983), vol. 4, 298.

¹⁹ Muḥammad ibn 'Abd al-Wāḥid ibn al-Hummām, *Fath al-Qadīr*, (Bayrūt: Dār al-Fikr, 2nd ed., n.d.), vol. 7, 256.

jurisprudence that have been extracted from the Quran, Ḥadīth, *ijmā'* (consensus of the scholars) and *qiyās* (reasoning by way of analogy).²⁰ It is also important to note one stark difference majority of the scholars gave between a *mujtahid* (independent jurist) and a *muftī*; a *muftī* must be of just and trustworthy character that takes his religion and its matters seriously.²¹ This is important as will become evident throughout the remaining of this dissertation.

Others have defined it further by stating, “*fatwā* is what a *muftī* chooses as an answer to a question, or an explanation of an Islamic legal matter, even though it was not asked of him.”²² Some of the juristic scholars confined it by saying that it is the “conveyance of the Islamic legal ruling with regards to an incident that has already occurred.”²³ However, according to the researcher, this clause, which stipulates that a *fatwā* be issued on a matter that has already occurred, can be neglected at times because *iftā'* can also be issued in a theoretical or hypothetical situation such as the legal ruling of human cloning, praying on the moon or other such scenarios that have yet to occur.

The position of the researcher is supported by Yūsuf al-Qaradāwī's definition in which he does not stipulate that an issue must have occurred for a *fatwā* to be given. He states that it is “clarification of an issue, vague or specific, that has been asked by a questioner, individually or collectively, with regards to the Sharī‘ah legal rulings.”²⁴

This was also the view of ‘Abd al-Karīm Zaydān when he defined *fatwā* by saying, “the technical definition for *iftā'* is the same as its literal definition...except

²⁰ Ibn Ḥamdān, *Ṣifat al-Fatwā...*, 14.

²¹ Hallaq, *A History of Islamic Legal Theories...*, 123.

²² Nadiyah Sharīf Al-‘Umri, *Al-Ijtihād fī al-Islam: Uṣūluhu, Aḥkāmuhu, Āfātuhu*, (Bayrūt: Mu’assasat al-Risālah, 1st ed., 2001), 44.

²³ Al-Ḥumsī, *Tārīkh al-Fatwā fī al-Islam...*, 40.

²⁴ Yūsuf Al-Qaradāwī, *Al-Fatwā Bayna al-Indibāt wa al-Tasayyub*, 11.

with one condition; both the question and answer must be regarding the *ḥukm* (pl. *aḥkām*) of the Sharī‘ah.”²⁵

The Kuwaiti Encyclopedia of Fiqh, or as it is known in Arabic, *al-Mawsū‘ah al-Fiqhiyyah al-Kuwaitiyyah*, also states in its definition of *fatwā* as, “the explanation of the legal rulings in the Sharī‘ah to a questioner who seeks answer to it with proof and this includes issues that is known to have occurred or otherwise.”²⁶

Furthermore, the meaning of *fatwā* has further been confined by stating that it is, “conveyance of the orders of Allah or Islam to a questioner who seeks answers to them, with regards to issues that have (already) occurred or have not (yet) occurred, while it (*fatwā*) being non-binding.”²⁷ This definition makes a stark contrast from that of a ruling issued by an Islamic state appointed judge, known as *qadā’*, which is Islamically binding and therefore must be executed and followed.²⁸ And the reason for a *fatwā* being non-binding is that the questioner has the right to ask another *muftī* for their opinion on a legal juristic matter and obtain a second opinion, provided that certain conditions are met.²⁹

It can be concluded from this section that a *fatwā* is a non-binding legal opinion issued by a *muftī*, explaining the rulings of the *Sharī‘ah*, with proof from the Quran, Ḥadīth, *ijmā’* and *qiyās*, to the questioner, on matters that have occurred and what has yet to occur.

²⁵ ‘Abd al-Karīm Zaydān, *Uṣūl al-Da‘wah*, (Bayrūt: Mu’assat al-Risālah, 2nd ed., 1987), 130.

²⁶ Kuwait Encyclopedia of Fiqh, *Al-Mawsū‘at al-Fiqhiyyat al-Kuwaitiyyah*, (Kuwait: Ministry of Islamic Endowments and Affairs, 1st ed., 1995), vol. 32, 20.

²⁷ Usāmah ‘Umar Sulaymān Al-Ashqar, *Manhaj al-Iftā’ ‘inda al-Imām Ibn al-Qayyim al-Jawziyyah*, (Jordan: Dār al-Nafā’is, 1st ed., 2004), 62.

²⁸ Muḥammad ibn Abū Bakr ibn Ayyūb ibn Sa‘īd ibn al-Qayyim al-Jawziyyah, *I‘lām al-Muwaqqi‘in ‘an Rabb al-‘Ālamīn*, (Bayrūt: Dār al-Kutub al-‘Ilmiyyah, 2nd ed., 2002), vol. 2, 460.

²⁹ Qutb Mustafā Sanu, *Mu‘jam Muṣṭalaḥāt Uṣūl al-Fiqh*, (Bayrūt: Dār al-Fikr al-Mu‘āṣir, 3rd ed., 2006), 213; Al-Qarāfī, *Al-Iḥkām fi Tamyiz al-Fatāwā*, 30.

2.2.2 Process of Issuing a Fatwā

The process of issuing a *fatwā* has, like any other field of Islamic science, conditions and pre-requisites that must be met in order to be considered a valid *fatwā*. Else, anyone can be considered a *muftī* and anything can be deemed a *fatwā*. According to the definition of *fatwā* in the previous section, it can be said that *iftā'* has four pillars that must be met in order for the end result to be considered a *fatwā*. The four pillars are: *mustafti fihī* (the question), *fatwā* (legal opinion), *mustaftī* (the questioner) and *muftī* (jurisconsult).³⁰ In this section, the first two pillars will be discussed, whereas the last two will be discussed in section 2.1.3 and 2.2.2, respectively.

In order for a *muftī* to issue his legal opinion, there must be a question asked of him, known as *mustafti fihī*. This question arises in the mind of a Muslim when a matter pertaining to the religion of Islam is unclear or unknown to him³¹. And for a question to be valid it must be connected to matters of the *Sharī'ah* with regards to *mubāh*, *ḥarām*, *wājib*, *mandūb*, or *makrūh*, as discussed above. If the question does not fall under one or more of those categories then it would not be a valid question to be asked of from a *muftī*.³² For example, if a question is concerning what type of a car a person should buy, the color of it or from which seller he should buy it from, then it would not be considered a valid question to be asked of a *muftī*, because it does not concern a matter pertaining to the *Sharī'ah*. On the other hand, if the question was regarding whether or not a car can be bought on an interest-based bank loan, then it would be a valid question to be asked, since it has to do with one of the above five *aḥkām al-Sharī'ah*.

³⁰ Zaydān, *Uṣūl al-Da'wah*, 140.

³¹ When referring to a *mustaftī*, *muftī* or any other unnamed individual throughout this research, the masculine pronoun will be used. This is not to say that female *muftīs* or *mustaftīs* do not exist, but for the sake of brevity of a sentence the masculine pronoun will be used henceforth.

³² Al-Ḥumsī, *Tārīkh al-Fatwā fi al-Islam...*, 40;
Ibn al-Qayyim, *I'lām al-Muwaqqi'īn...*, vol. 2, 446.

Furthermore, some scholars such as Imām Mālik, required that a question be in relation to something that has already occurred or at least has the possibility of occurring in the near future.³³ Therefore, he and others that agreed with him, discouraged any questions that were theoretical in nature and was far from becoming a reality. The reason for their objection to such theoretically-loaded questions, was that the Islamic texts had already covered things that have occurred or have the possibility of occurring, and therefore, there is no need in asking such questions that would not benefit the questioner nor the Muslims at large. Additionally, he disliked that people should delve into unnecessary questions that are of no immediate benefit to them or those around them.³⁴

The researcher is of the opinion that at times this restrictive condition placed on the question can be neglected at times due to the following reasons: First, for the sake of improving research in the science of Islamic jurisprudence. Otherwise, this absolute restrictive condition will limit the field of *fatwā* to something that has already occurred, in which case there will be no room for improvements or further research. Second, who is to determine whether a specific event has occurred or to be true when the question is asked? In other words, the ignorance of a *muftī* with regards to a question being asked of him, does not mean that such a case has not occurred. For example, if a *muftī* in Mauritania,³⁵ who is unaware of the events outside his country, is to be asked with regards to the ruling of fasting in the U.S. state of Alaska, where the sun does not rise or set during a 24-hour period, depending on the season, would refuse to answer the question because that question, according to the Mālikī school of thought, does not meet the pre-requisites of occurrence. Hence, it should be bore in

³³ Riyād, *'Uṣūl al-Fatwā*, 201, 232.

³⁴ Ibid., 334-335.

³⁵ The Muslims in Mauritania predominately follow the Mālikī school of thought (*madhhab*).

mind that the non-occurrence of an event to a scholar does not mean that it has not actually occurred. Finally, in the age and time that Muslims are living in, almost anything is possible by the Will of Allah – through science and technology – such as human cloning and stem cell research.³⁶ A question that is theoretical in nature now can be a reality 100 years from now. When our scholars issue *fatāwā* that may be deemed as irrelevant now will definitely prove useful for the later generation of this Ummah. This will result in the *muftī* leaving a knowledge-based and farsighted legacy behind, just like the scholars of the past have left for us. Moreover, it will create a discussion platform of *ijtihād* and Islamic thought for the future generation when they see the hard work and research that went into such *fatāwā* that have not yet occurred in our time.

The second pillar is the *fatwā* itself. In order for a *fatwā* to be considered sound and legal, it must be accompanied by proofs from the Islamic text, because a *fatwā*, as defined above, is the explanation of the orders of Allah or Islam based upon proof from the Islamic text. If a *muftī* issues a *fatwā* which has no basis or is against the Islamic text, then such a *fatwā* will not be considered valid or even given the status of a *fatwā* as it will be considered something imaginary from the *muftī* without any knowledge.³⁷ This is due to the fact that the core or essence and soul of a *fatwā* are its *dalīl* (proof) from the Islamic text, and upon it the *muftī* relies upon for his deduction and opinion.³⁸ If this is absent then it is as if the *fatwā* is spiritually dead with no

³⁶ Imad ad-Dean Ahmad, "Shuratic Iftā': The Challenge of Fatwa Collectivization" in *Iftā' & Fatwā in the Muslim World and the West*, edited by Zulfiqar Ali Shah (Virginia: The International Institute of Islamic Thought, 2011), 41.

³⁷ Al-Ashqar, *Manhaj al-Iftā' 'inda al-Imām Ibn al-Qayyim al-Jawziyyah*, 63.

³⁸ Ibn al-Qayyim, *I'lām al-Muwaqqi'īn*, vol. 2, 533.

value or weight in the sight of the *Shari'ah*. That's why al-Qarāfi states that, "*fatwā* is dependent on the (Islamic) texts."³⁹

This is further supported by the Ḥadīth of the Prophet Muḥammad when he sent Mu'ādh bin Jabal to Yemen as a judge, and asked him:

What will you do if a matter is referred to you for judgment?" Mu'ādh said: "I will judge according to the Book of Allah." The Prophet asked: "what if you do not find it in the Book of Allah?" Mu'ādh said: "Then I will judge by the Sunnah of the Prophet." The Prophet asked: "And what if you do not find it in the Sunnah of the Prophet or the Book of Allah?" Mu'ādh said: "Then I will make Ijtihād to formulate my own judgment." The Prophet patted Mu'ādh's chest and said "Praise be to Allah who has guided the messenger of His Prophet to that which pleases the Messenger of Allah."⁴⁰

Now that it has been made clear that a *fatwā* must be based on the Islamic texts, the question arises whether a *muftī* should declare and mention those proofs to the *mustaftī* or not. There is a difference of opinion amongst the scholars. Some of them, such as Ibn Ḥamdān⁴¹ and al-Nawawī,⁴² are of the opinion that a *muftī* should be brief in his opinion and not mention the proofs of their *fatwā* to the layman and that it is sufficient for them to say 'it is permissible' or that 'it is not permissible'.⁴³ Other scholars, such as Ibn al-Qayyim⁴⁴ are of the opinion that a *muftī* should not only mention the proofs for his *fatwā* but should also mention the '*illah* (reasoning) behind his *fatwā*, which should also be supported by proofs from the legal text. He mentioned that this was the methodology of the Prophet Muḥammad, the Ṣaḥābah and

³⁹ Al-Qarāfi, *Al-Iḥkām fī Tamayiz al-Fatāwā*, 41.

⁴⁰ Abū Dāwūd, Sulaymān bin Ash'ath, *Sunan Abū Dāwūd*, (Riyadh: Dar al-Salām, 1st ed., 2008), ḥadīth no. 3592, vol. 4, 180.

Note: Though this ḥadīth is deemed by some scholars such as al-Bukhāri to be weak due to some narrators in the chain of ḥadīth, Ibn al-Qayyim and others have authenticated it from its textual meaning and the fact that the almost all the scholars of *Uṣūl* and *Fiqh* used this ḥadīth to justify the use of *ijtihād* in their books. The researcher concurs with Ibn al-Qayyim and has decided to use this ḥadīth to support the argument that a *fatwā* must be based on the Islamic text. See Ibn al-Qayyim, *I'lām al-Muwaqqi'in*, vol. 1, 157-158.

⁴¹ Ibn Ḥamdān, 44 & 60.

⁴² Al-Nawawī, *Ādāb al-Fatwā...*, 52 and 64.

⁴³ Ibn Ḥamdān, 60; Al-Nawawī, *Ādāb al-Fatwā...*, 52.

⁴⁴ Ibn al-Qayyim, *I'lām al-Muwaqqi'in*, vol. 2, 450.

those that came after them when issuing *fatāwā*. Al-Qaraḏāwī goes as far as saying that a *muftī* should also mention the wisdom and the general Islamic philosophy behind certain rulings in order that a *mustaftī* would better understand the beauty behind the ruling and accept it firmly as his natural disposition (*fiṭrah*).⁴⁵

The researcher is of the opinion that a *muftī* should and must show proof, either verbally or in writing, the proofs to support his *fatwā*, whether the questioner asks for it or not. This will bring about several benefits both for the *muftī* and the *mustaftī*. First, it will give beauty, legitimacy and credit to the knowledge and *fatwā* of the *muftī* that his opinion is sound and based on Islamic text.⁴⁶ Second, it will push the *muftī* to search for the *dalīl* and make him strive in strengthening and revising his knowledge, which is in it of itself a form of worship. Third, it will save the *muftī* from following his desires and making unnecessary and erroneous mistakes in the issuance of a *fatwā* and associating to the Sharī‘ah that which does not belong to it.⁴⁷ Fourth, it will make the heart of the questioner to be at ease and content with the *fatwā* that it is issued based on sound Islamic text.⁴⁸ This will in return prevent the questioner from following his whims and desires when doing *fatwā* shopping to suit his aims. Lastly, because the Muslims are living in an information-filled era, in which people of all creed and ideology are writing about Islam and issuing *fatwā*, both in books and on the internet, this will help in filtering those erroneous and flawed *fatāwā* that have no basis in Islamic text.⁴⁹ This will in turn ensure that the Muslim *Ummah* is protected from false innovative practices and their life is led based on sound and correct Islamic practices. In a survey conducted by the researcher, 25% of respondents said that they

⁴⁵ Al-Qaraḏāwī, *al-Fatwā Bayna al-Inḏibāṭ wa al-Tasayyub*, 108-112.

⁴⁶ Ibn al-Qayyim, *I‘lām al-Muwaqqi‘īn*, vol. 2, 458-459.

⁴⁷ Ibid., vol. 2, 462-463.

⁴⁸ Al-Qaraḏāwī, *al-Fatwā Bayna al-Inḏibāṭ wa al-Tasayyub*, 124.

⁴⁹ Al-Ashqar, *Fawḏā al-Iftā’*, 111.

follow their scholars regardless if their *fatwā* is 'easy', 'hard' or backed by proofs from the Quran and Sunnah.⁵⁰ This may be due to: a) their lack of interest of knowing the proofs, or b) complete trust in their scholars, or c) inability to distinguish between the proofs, or d) all of the above.

2.2.3 Fatwā "Shopping" and Legal Authority of Fatwā

The phenomenon of *fatwā* "shopping" is the process in which a *mustaftī* goes around asking the same question to a number of Imams, scholars and *mufītīs*⁵¹ in the hope of receiving a *fatwā* that will fit into his agenda. This practice is widely apparent and practiced by many Muslims, including those in the U.S., for one reason or the other, to the extent that if a *mustaftī* is not happy with his first *fatwā* then he goes and obtains a second *fatwā*.⁵² It is synonymous with a patient seeking a second opinion in a medical diagnosis in order to receive the most accurate and best care. However, in the case of *fatwā* shopping this is not always the case, in that it is not for the purpose of receiving the 'most accurate' opinion, but it is one where a certain objective cannot be met or an end result unable to be achieved.

For example, a *mustaftī* wants to purchase a house from a conventional bank in which the loan, unambiguously, consists of *ribā* (interest/usury). The *mustaftī* will seek a *fatwā* from a *mufītī* in which he will ask whether it is permissible to deal in this transaction or not. After receiving a *fatwā* that says 'it is not permissible' and the proofs from the Islamic text, the *mustaftī* feels that his goal of obtaining the

⁵⁰ Appendix, Question 4. **Note:** Though the answer (#4) they chose does not say 'backed by proofs from the Quran and Sunnah', the previous answer (#2) does. Therefore, the researcher is deducing that since those respondents did not choose answer #2, their choosing of answer #4 indicates their blind following of their scholars who they trust.

⁵¹ Not every Islamic scholar is qualified to be a *mufītī* and hence, cannot assume the role of a *mufītī*. However, due to the lack of this distinction amongst the general public, they assume that every scholar, and even an Imām who leads Muslims in congregational prayers, is qualified to be a *mufītī* and hence, qualified to issue a *fatwā*.

⁵² Al-Ashqar, *Fawqā al-Iftā'*, 144.

‘American Dream’⁵³ has been ruined. He, therefore, proceeds to ask another *muftī* the same question, however, now in a slightly different manner in which desperation and other emotional factors are involved. For instance, he will say that it is very hard for someone to obtain a loan from an Islamic bank and that if he does not buy a house he will be left homeless, as the people do not rent their houses to Muslims and/or foreigners.⁵⁴ In such a scenario the *muftī*, especially someone not living in the U.S. or unaware of the exaggerated scenario, will most likely issue him a *fatwā*, making it permissible for him to buy a house, given the circumstances.⁵⁵ That is why Ibn al-Qayyim warned such *muftīs* from falling into the wicked traps of the *mustaftīs* and that they must do their due diligence in investigating the matter and to be far-sighted in his answer.⁵⁶

Such cases of *fatwā* "shopping" are not limited to cases where there is *ijmā‘* on the permissibility or prohibition of a particular issue. Rather it is widely practiced and even encouraged on matters in which there are differences of opinion amongst the scholars, in order to obtain a *fatwā* suiting the desires of the *mustaftī* under the guise of *maṣlaḥah*.⁵⁷ For example, issues such as the *niqāb* (face-covering veil for women), length of a man’s beard, consuming meat in the U.S., etc, are issues in which a *mustaftī* does *fatwā* shopping in order to find the most lenient *fatwā* that can cater to his desire.⁵⁸ And this is done, either due to a lack of proper knowledge on the *adab* (manners and etiquettes) of a *mustaftī*, which will be covered in this section, or due to following one’s desires, or because a *mustaftī* believes that differences amongst the

⁵³ This is a common phrase that is used in the U.S. to refer to someone buying a house.

⁵⁴ ‘Abdullah al-Maḥfūz ibn Bayyah, *Ṣinā‘at al-Fatwā wa Fiqh al-Aqalliyyāt*, (Jeddah: Dār al-Minhāj, 1st Edn., 2007), 232.

⁵⁵ Yūsuf Al-Qaraḍāwī, *fi Fiqh al-Aqalliyyāt al-Muslimah*, (Cairo: Dār al-Shurūq, 2nd Edn., 2005), 164.

⁵⁶ Ibn al-Qayyim, *I‘lām al-Muwaqqi‘īn*, vol. 2, 506.

⁵⁷ Al-Ashqar, *Fawḍā al-Iftā’*, 149.

⁵⁸ Asma Youssuf, "Fatwa Shopping" in *Ittihaadeeth: The Code of Scholars*, edited by Iman Kouvalis (Al-Maghrib USA: Qabeelat Ittihaad, 2006) vol. 2, issue 2, 4.

scholars is a *dalīl* in it of itself. In other words, the *mustaftī* thinks that just because there exists differences of opinion amongst the scholars that this gives him the option to pick and choose that which suits him. This makes the *mustaftī* treat the differences amongst the scholars as legal proof without paying much heed to the *dalīl* and strength of those opinions. And this is especially true in a country like the U.S. where there are scholars and *mufītīs* from different schools of thought, that employ different methodologies and *uṣūl* in their *fatāwā*. In a survey conducted by the researcher, it was asked whether following a 'second' opinion on matters of the religion would be more easier and more comforting. A significant amount of respondents, 59%, said only if it is backed with proofs from the Quran and Sunnah, while 10% said that they always follow the 'easy' path no matter what.⁵⁹

That is why scholars, such as al-Nawawī,⁶⁰ Ibn Ḥamdān,⁶¹ al-Qaraḍāwī⁶² and al-Ashqar⁶³ have laid down certain *ādāb* (sing. *adab*) in their books of *fatāwā*. The following are some basic etiquettes and guidelines that should be taken into consideration by a *mustaftī* when seeking a *fatwā*.

1. Before a *mustaftī* embarks on a quest to seek out a *fatwā*, he should ask himself whether, through this *fatwā*, he seeks nearness to Allah or to make permissible that which is actually forbidden, through the use of an eloquently worded question.⁶⁴ The Prophet states in a Ḥadīth, “seek *fatwā* from your heart, because piety is that which the inner-self feels at ease and the heart feels tranquil. And sin is that which wavers in the inner-self and

⁵⁹ See Appendix, Question 4.

⁶⁰ Al-Nawawī, *Ādāb al-Fatwā...*, 70-78.

⁶¹ Ibn Ḥamdān, *Ṣifat al-Fatwā...*, 65-84.

⁶² Al-Qaraḍāwī, *al-Fatwā Bayna al-Indibāṭ wa al-Tasayyub*, 44-56.

⁶³ Al-Ashqar, *Fawḍā al-Iftā'*, 135-152.

⁶⁴ Al-Ashqar, *Fawḍā al-Iftā'*, 136; Ibn Ḥamdān, *Ṣifat al-Fatwā...*, 32-34.

causes uneasiness in the heart even if people give you a *fatwā* for it.”⁶⁵

Therefore, a *mustaftī* should not think that through the seeking of a *fatwā* that the issue would become *halāl* for him, if he knows in his heart that it is *harām* in actuality.

2. A *mustaftī* must seek someone who is duly qualified to be a *muftī* when searching for a *fatwā*. Al-Nawawī states that, “it is incumbent upon him (*mustaftī*) to search for someone (*muftī*) who is well qualified to give *fatwā* and it is not enough to seek *istiftā*’ from someone who merely shows that he is from amongst the people of knowledge either through his association with scholars or studying, but someone who is famous and known, through his credentials, for being a person of *iftā*’.⁶⁶
3. In the age of technology and mass media that we are living in, it is possible for a *mustaftī* to find several *muftīs* that fit the above qualifications. In this case it is recommended, according to what the researcher sees as a *maṣlahah* for the Muslims in the U.S., that he chooses a *muftī* that is closest to his locality. This is due to the fact that the *muftī* is more aware of the situation of the locality and more involved in the Muslim community. In the rare case where there are more than one *muftī* in the locality of the *mustaftī*, then the majority of the *fuqahā*’ (scholars of *fiqh*) stated that the *mustaftī* should choose the one who is more knowledgeable and experienced in issuing *fatāwā*, even if he is less pious and religiously committed, outwardly, than the less knowledgeable *muftī*. This is the position that some of the scholars, such as al-Nawawī⁶⁷ Ibn

⁶⁵ Al-Nawawī, *al-Arba‘ūn al-Nawawī*, ḥadīth 27, classified as *ḥasan*.

⁶⁶ Al-Nawawī, *Ādāb al-Fatwā...*, 71-72.

⁶⁷ *Ibid.*, 74.

Ḥamdān⁶⁸ and Ibn al-Qayyim⁶⁹, have taken to be the most correct position. Others said that a *mustaftī* is charged with the responsibility of enquiring about the credentials and moral characters of the *muftī* if there is more than one in his locality.⁷⁰ Though the researcher agrees with the majority of the *fuqahā'* and in what context and atmosphere it was said, except that the researcher believes that this cannot be applied in our time and age for the *muftīs* in America in its absoluteness. The definition of a more knowledgeable but 'less pious' *muftī* in the time and era of the above mentioned scholars was completely different than our times. There is no comparison between the 'less religiously committed' *muftīs* of the past, who would be classified as such for simply eating while standing up,⁷¹ to the 'less religiously committed' *muftīs* of America in which mixing with the opposite gender and going to musical concerts, where alcohol and nakedness is prevalent, can be equally compared. Because such behaviors and actions will ultimately influence the *fatwā* of a *muftī* and can be issued with a reliance of heavy *ta'wīl* (allegorical interpretation), causing the *fatwā* to be divergent from the Islamic text.⁷² That's why the Prophet warned us from a friend who may have a negative influence on us, stating, "A person is upon the religion of his friend, so beware of whom you befriend."⁷³ Therefore, if we were to apply this *ḥadīth*, then it would become clear that a person should be aware of whom they take as their

⁶⁸ Ibn Ḥamdān, *Ṣifat al-Fatwā...*, 42.

⁶⁹ Ibn al-Qayyim, *I'lām al-Muwaqqi'īn*, vol. 2, 528.

⁷⁰ Hallaq, *A History of Islamic Legal Theories...*, 122.

⁷¹ Al-Qaraḍāwī, *al-Fatwā Bayna al-Inḍibāṭ wa al-Tasayyub*, 85.

⁷² Ibn al-Qayyim, *I'lām al-Muwaqqi'īn*, vol. 2, 525.

⁷³ Abu Dāwūd, Sulaymān ibn Ash'ath, *Sūnan Abū Dāwūd* English Translation. (Riyadh: Darussalam, 1st ed., 2008), ḥadīth 4833, vol. 5.

muftī, because that would definitely influence their religion. This is further supported by a saying of Muḥammad ibn Sirīn as reported in *Ṣaḥīḥ Muslim*, "Verily knowledge (of Islam) is from the religion (itself), so see from who you take it (the knowledge) from."⁷⁴

4. In a scenario where a *mustaftī* receives or is informed of two different contradictory *fatāwā* regarding an issue, such as one *fatwā* stating it is *mubāḥ* and the second stating it is *harām*, then the *mustaftī* should get a third *fatwā* and take that which agrees with it.⁷⁵ This is assuming that the two *fatāwā* came from two *muftīs* who are both equally knowledgeable in the Islamic texts as well as Islamically committed to its practices. It is worth noting that just because *muftīs* differ in their *fatāwā* that it does not mean the *mustaftī* can pick and choose from that which suits his desires and objectives.⁷⁶ This difference in *fatāwā* can be due to several reasons some of which are acceptable and some that are not. Examples of an acceptable difference is the understanding of a particular text and its applications in a real life scenario. As for the unacceptable form of differences is the following of desires, following an anomalous (*shādh*) opinion and frankly issuing a *fatwā* without a proper understanding of the *ahkām al-Sharī'ah*.⁷⁷ Therefore, it is not being suggested by the researcher that the *mustaftīs* in America choose the easiest or the hardest of the two *fatāwā*, as stated by the *fuqahā'*,⁷⁸ but rather to seek a third,

⁷⁴ Muslim ibn al-Ḥajjāj ibn Muslim al-Naysābūrī, *Ṣaḥīḥ Muslim*. (Bayrūt: Dār al-Iḥyā' al-Turāth al-‘Arabī, n.d.), vol. 1, 14.

⁷⁵ Ibn al-Qayyim, *I'lām al-Muwaqqi'īn*, vol. 2, 536.

⁷⁶ Ibn Ḥamdān, *Ṣifat al-Fatwā...*, 71-72.

⁷⁷ Al-Ashqar, *Fawqā al-Iftā'*, 145-147.

⁷⁸ See Ibn Ḥamdān, *Ṣifat al-Fatwā...*, 80; Ibn al-Qayyim, *I'lām al-Muwaqqi'īn...*, vol. 2, 536; Al-Nawawī, *Ādāb al-Fatwā...*, 78.

fourth or as many *fatāwā* in order to save oneself from following one's desires and to attain the tranquility of the heart as mentioned by Ibn al-Qayyim.⁷⁹ And this can easily be achieved, by asking different *muftīs* through the internet and other forms of communication. This is different than *fatwā* shopping, as the intention in this case is to find an answer which the heart will find tranquility and whose goal and objective is to find the most correct *fatwā*, as opposed to following one's desires in *fatwā* shopping.

The above brief and concise guidelines, etiquettes, moral and ethical responsibilities to be taken into consideration by the *mustaftī*, are what the researcher deems to be more appropriate and practical for the *mustaftīs* in America. This is especially true when the *mustaftī* acts as an independent *mujtahid* and decides which *fatwā* to follow after 'consulting' several *muftīs* and their books/websites on a particular issue. For example, when the researcher asked the respondents which *fatwā* website(s) they consult for their *fatwā* needs, some said that they consult more than one. Others went as far as saying that they read multiple sources and come to their own conclusions. Yet, another said that they weigh the answers based on evidence and what they see fit for their situation.⁸⁰

2.2.4 Changing of Fatwā Based on Time and Place and its effect on *fiqh al-aqalliyyāt*

Muslims living in the U.S. face many challenges when it comes to practicing their religion. These challenges range from the permissibility of taking interest based loans, to obtaining citizenship of the U.S., to that of Muslim women wearing *ḥijāb* in an anti-

⁷⁹ Ibn al-Qayyim, , *I'lām al-Muwaqqi'in...*, vol. 2, 529.

⁸⁰ Appendix, Question 8, see response section.

Muslim society to that of congratulating and partaking in the festivals of the non-Muslims. The field of Islamic jurisprudence that examines and addresses such challenges confronted by Muslims is called *fiqh al-aqalliyāt al-Muslima*—the jurisprudence of Muslim minorities.⁸¹ In other words, *fiqh al-aqalliyāt* is not concerned with ritual practices, but rather it is more concerned with a Muslim's interaction with his fellow Muslims as well as with the non-Islamic environment.⁸² The sources upon which *fiqh al-aqalliyāt* derives its ruling is the same as the general traditional *fiqh*: Qur'ān, Sunnah, *Ijmā'* and *Qiyās* respectively. After that comes the contested sources of *Istiṣlāḥ* (consideration of public interest), *Istiḥsān* (juristic preference), *Sadd al-Dharī'ah* (blocking the means), *'Urf* (rulings based on customs).⁸³

Al-Qaradāwī argues the need for sound contemporary *ijtihād* and that whatever question is posed in the context of *fiqh al-aqalliyāt* that it does not leave the circle of *ijtihād*.⁸⁴ He argues that one should not approach the process of *ijtihād* as a form of innovation in religion but as part of the renewal process of the religion that was envisioned by the Prophet.⁸⁵ Some of the scholars such as Ibn Bayyah expounded on the notion of *ijtihād* in the context of *fiqh al-aqalliyāt* and said that it must take into consideration the reality on the ground, the general evidences (*al-adillah al-ijmāliyyah*) and specific evidences (*al-adillah al-tafṣīliyyah*).⁸⁶ Others such as 'Abd al-Majīd al-Najjār are advocating that it is necessary for a *fatwā* to be based on, in addition to the scriptural sources and scholarly juristic traditions, concrete realities of

⁸¹ See Andrew F. March, *Islam and Liberal Citizenship: The Search for an Overlapping Consensus*, (New York: Oxford University Press, 2009).

⁸² Said Fares Hassan, *Fiqh al-Aqalliyāt: History, Development, and Progress*, (New York: Palgrave MacMillan, 2013), 17.

⁸³ *Ibid.*, 77.

⁸⁴ Al-Qaradāwī, *fi Fiqh al-Aqalliyāt al-Muslimah*, 40.

⁸⁵ *Ibid.*, 41.

⁸⁶ Ibn Bayyah, *Ṣinā'at al-Fatwā...*, 171.

the specific socio-political and cultural context surrounding Muslim minority communities.⁸⁷ And since *fiqh al-aqalliyāt* deals with the reality Muslim minorities face in non-Muslim majority countries it entails that a *muftī* should take another approach, other than the traditional one, in the issuance of his *fatwā*, known as "creative-*ijtihād*".

According to the researcher this reality based *ijtihād* in *fiqh al-aqalliyāt* is problematic in that reality changes from one minority Muslim community to another and even from one group of Muslims in a particular U.S. state to another. In other words, challenges that are faced by a Muslim community in Texas may not be faced by a Muslim community in California and vice-versa. This will inevitably result in producing multiple *ijtihāds*, all under the pretext of *fiqh al-aqalliyāt* and will consequently result in clashes and confusion between the general public. Hence, the researcher is advocating and proposing for a more localized *fiqh al-aqalliyāt* which will be more applicable and conforming to the reality of individuals and/or community being addressed as well as uniting them. This issue of localizing *fiqh al-aqalliyāt* will be further discussed in chapter 2.3.2.

Generally speaking there are two approaches to *fiqh al-aqalliyāt*: the *wasafī* and *salafī* approach.⁸⁸ For the purposes of this thesis the researcher would like to concentrate on *fiqh al-aqalliyāt* from an *uṣūl* perspective and not from any one school of thought. This is for a number of reasons: a) to break the division between Muslims by saying they follow the *wasatī* or *salafī* opinion, b) the above categorization is misleading in that one is given an implied meaning of being

⁸⁷ ‘Abd al-Majīd al-Najjār, *Fiqh al-Aqalliyāt bayna al-Tarkhīṣ wa al-Ta’sīs: al-Majlis al-Urūbī li al-Iftā’ wa al-Buḥūth Anamūdhajan*, in *The Question of Minorities in Islam: Theoretical Perspectives and Case Studies*, edited by Mohamed El-Tahir El-Mesawi, (Kuala Lumpur: The Other Press Sdn. Bhd., 2015), 303.

⁸⁸ Uriya Shavit, *Sharī‘a and Muslim Minorities: The wasatī and salafī approaches to fiqh al-aqalliyāt al-Muslima*, (New York: Oxford University Press, 2015), 2.

moderate and accomodating (*wasatī*) while the other is given an implied meaning of being rigid and harsh (*salafī*), and c) to go back to the origin and basis (*asl*) of which all the scholars across the spectrum agreed upon, i.e. *uṣūl al-fiqh*.

Based on the above approach from an *uṣūl*'s perspective, calls for different approaches to *fiqh al-aqalliyyāt* is based on many maxims of *uṣūl* that play a role in the production of *fatāwā* for Muslim minorities, such as customs, cultures and societal norms that dates back to the time of the Prophet and his companions.⁸⁹ Likewise, *fatāwā* are also influenced by the concept of “change of *fatwā* based on time-space context”, or as the scholars of *uṣūl* put it, "It cannot be denied that changing of rules based on customs or personal opinion according to changes in time and circumstances."⁹⁰ This is not the original principle of the *Sharī'ah*, in which *all* or *most* of the Islamic rulings change based on time-space context, but that *some* of the rulings, if such rulings were initially enacted on the custom and culture of past generations and those that are not stipulated in the Qur'ān and Ḥadīth, change.⁹¹

The theory behind this concept is that as time goes by changes take place in society with regards to their thoughts, traits and practices. This change, or evolution⁹², that takes place, has a direct effect on some of the Islamic rulings,

⁸⁹ ‘Abd al-Raḥmān ibn Abū Bakr al-Suyūṭī, *Al-Ashbāh wa l-Nazā'ir* (Bayrūt: Dār al-Kutub al-‘Ilmiyyah, 1403), 89; Zayn al-‘Abidin ibn Ibrāhīm ibn Nujaym, *Al-Ashbāh wa al-Nazā'ir ‘alā Madhhab Abī Ḥanīfah al-Nu‘mān*, (Bayrūt: Dār al-Kutub al-‘Ilmiyyah, 1993/1413), 92; ‘Ali Haydar, *Durar al-Ḥukkām Sharḥ Majallat al-Aḥkām*, (ed.) Fahm al-Husayni (Bayrūt: Dār al-Kutub al-‘Ilmiyyah, n.d.), vol. 1, 40; Badr al-Dīn Muḥammad ibn ‘Abdullah ibn Bahādur Al-Zarkashī, *Al-Manthūr fī al-Qawā'id*, (ed.) Taysir F.A. Mahmūd, (Kuwait: Ministry of Endowment and Islamic Affairs, 2nd edn, 1405), vol. 2. 356; Aḥmad M. al-Zarqā, *Sharḥ al-Qawā'id al-Fiqhiyyah*, (Damascus: Dār al-Qalam, 4th edn, 1996), 219; Aḥmad ibn Muḥammad al-Ḥamawī, *Ghamz ‘Uyūn al-Basā'ir Sharḥ al-Ashbā' wa l-Nazā'ir*, (Bayrūt: Dār al-Kutub al-‘Ilmiyyah, 1985), vol. 1, 37.

⁹⁰ Ali Ahmad Al-Nadwī, *Al-Qawā'id al-Fiqhiyyah Maḥmūmuhā, Nash'atuhā, Taṭawwuruhā, Dirāsātuhā, Mu'allafātuhā, Adillatuhā, Muḥimmatuhā, Taṭbīquhā*, (Damascus: Dār al-Qalam, 2nd edn., 1998/1418), 27.

⁹¹ Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, (Kuala Lumpur: Ilmiah Publishers, 3rd ed., 2000), 255.

⁹² By evolution, the researcher intends the linguistic meaning of the word and not the scientific Darwinian definition or theory.

whereby the *muftī* must conform his *fatwā* according to the needs of the society in order to bring about benefit (*maṣlahah*) and ward off of them any harm (*mafsadah*), which are the ultimate objectives of the *Sharī‘ah* (*Maqāṣid al-Sharī‘ah*).⁹³

The first scholar to address this concept in detail was Ibn al-Qayyim, whereby he dedicated an entire chapter entitled, “The change in *fatwā*, and its variations, according to the change of time, place, circumstances, intentions and practices”.⁹⁴ He stated, “The *Sharī‘ah* is based and founded upon wisdom and the *maṣlahah* of mankind in this world and the hereafter. It is a just, merciful, beneficial and wise religion in its totality.”⁹⁵ He presents numerous examples from the Ḥadīth of the Prophet and his Companions in which he details the wisdom of the *Sharī‘ah* and illustrates the application of the time-space concept.

Other scholars have also written about this principle and its application on the rulings of the *Sharī‘ah*. Al-Qarāfī writes:

A change of practices is not necessarily required. In fact if someone goes to another country that practices a different set of customs and practices then it (this principle) is applied. Likewise, if a person goes to a place wherein the practices differ from the *muftī*, then the *fatwā* should not be given unless it is based on the *muftī’s* place of residence.⁹⁶

Ibn ‘Ābidīn, a Ḥanafī scholar, also wrote on this principle:

Many of the rulings vary with the difference of time that is due to the varying of the customs, an existing necessity or the moral decline of the people. If those rulings remain without change, it will result in bringing about difficulty and hardship upon the people, and this clearly contradicts the *maqāṣid al-Sharī‘ah*, which is based upon ease and the prevention of harm and corruption on the earth. Many of the scholars may produce a different opinion or *ijtihād* than those of the earlier scholars – even if they are from the same school of thought (*madhhab*) – knowing that if they were to be present in the current time, they would be of the same opinion based upon the principles of the *madhhab*. An

⁹³ Ibn Bayyah, *Ṣinā‘at al-Fatwā...*, 184-185.

⁹⁴ Ibn al-Qayyim, *I‘lām al-Muwaqqi‘īn*, vol. 2, 5-47.

⁹⁵ Ibn al-Qayyim, *I‘lām al-Muwaqqi‘īn*, vol. 2, 5.

⁹⁶ Al-Qarāfī, *al-Iḥkām fī Tamayiz al-Fatāwā...*, 72.

example of this is the permission of accepting a salary by Quran teachers...If the teachers engage themselves with the teaching of the Quran without an allowance, it will cause hardship for them and their family. Similarly, if the Quran teachers occupy themselves with any other work, in order to support their families, then it will be a cause for the loss of religious and Quranic education.⁹⁷

That is why the scholars have laid down certain conditions that a *muftī* must follow before enacting this principle, so as not to fall into the trap of using *maqāṣid al-Sharī‘ah* to make *mubāḥ* what is *ḥarām* in actuality, or vice-versa under the disguise that this will bring about benefit for the Muslim community and ward off harm from them.⁹⁸ Those conditions are as follows:⁹⁹

1. That a given ruling be accompanied by a cause-effect (*‘illah*), whereby if the *‘illah* expires or is no longer applicable due to the circumstances of time-space concept, then the ruling will also change. However, certain rulings are permanent and will never change such as the prohibition of adultery (*zinā*), drinking of alcohol¹⁰⁰ or the consumption of pork, for these are not affected by the time-space context.
2. That a given ruling is based on a specific custom or tradition. It is noteworthy to mention that what the scholars have mentioned on this topic is vast and it is not possible for the researcher to go into further details. However, for the sake of this dissertation and the connection it has with the topic it is important to define what type of custom and tradition are

⁹⁷ Ibn ‘Ābidīn, *Majmū‘ah Rasāil Ibn ‘Ābidīn*, vol. 2, 125.

⁹⁸ Ruqayyah Ṭāhā Jābir al-‘Alwānī, *Athar al-‘Urfī Fahm al-Nuṣūṣ*, (Damascus: Dār al-Fikr, 1st ed., 2003), 274.

⁹⁹ Muḥammad Taqī Al-‘Uthmānī, *Uṣūl al-Ifṭā’ wa Ādābuhu*, (Dākā: Maktabah Sheikh al-Islam, 1433H), 202.

¹⁰⁰ The *‘illah* behind the consumption of alcohol, whether in small quantity or large, is the intoxicating effect that it causes. However, there are beverages that are non-alcoholic, which do not intoxicate one drinking it, thereby eliminating the *‘illah* for its prohibition, rendering it *halāl* for Muslim consumption. On the other hand, the researcher is of the opinion that even though such non-alcoholic drinks are permissible to drink in it of itself, it can be *ḥarām* if the intention of the drinker is to imitate the behavior of non-Muslims

considered valid, so as to confine it in the scope of the Sharī‘ah. Ibn ‘Ābidīn states: “If the tradition of the people contradicts the texts of the Sharī‘ah, such as if it is customary for them to deal in usury (*ribā*) or consumption of alcohol or the wearing of silk and gold (by men), then no doubt that tradition is not to be considered valid.”¹⁰¹

3. The change in a ruling must be due to a strong necessity or need, rendering such a change. There are many *al-qawā‘id al-fiqhiyyah* which eludes to this, such as “The unlawful begets lawfulness in times of necessity”.¹⁰² There are numerous examples in the Quran and the Sunnah where the Sharī‘ah have allowed them, albeit temporarily, which are prohibited in its normal condition, such as the consumption of pork during the time of extreme hunger,¹⁰³ when no other *ḥalāl* alternative is available. It is important to note that what is considered necessity is not subjective, but rather it has been confined by the scholars as those that concern the well-being of one’s religion, life, intellect, property and lineage, also known as *al-darūriyyāt al-khamsah* (five essentials).¹⁰⁴ In other words, a *muftī* can issue a *fatwā* in which he temporarily makes an unlawful thing lawful in order to protect one or more of the above five basic essentials.
4. To change a ruling due to a preventative measure (*sadd al-dharī‘ah*). This last condition is the exact opposite from the above condition, in that it prohibits something which is lawful in the Sharī‘ah in order to prevent it from leading towards an unlawful thing. An often quoted example of this,

¹⁰¹ Ibn ‘Ābidīn, *Majmū‘ah Rasāil Ibn ‘Ābidīn*, vol. 2, 116

¹⁰² Al-Shātībī, Abū Ishāq Ibrāhīm ibn Mūsa ibn Muḥammad, *al-Muwāfaqāt*, (Al-Khobār: Dār ibn ‘Affān, 1997) vol. 5, 99.

¹⁰³ Quran, al-Baqarah: 173.

¹⁰⁴ Al-Shātībī, *al-Muwāfaqāt*, vol. 1, 31

is the verse of the Quran: “And insult not those whom they (disbelievers) worship besides Allah, lest they insult Allah wrongfully without knowledge.” (*al-An‘ām*: 108). In this verse Allah prohibits the believers from cursing the false gods of the polytheists, lest they should curse Allah in return.¹⁰⁵

It is important that a *muftī* adheres to the above four conditions if he decides to use the “time-space” principle, because many people have invented in the Sharī‘ah new practices in the name of *maṣlahah* and *maqāṣid al-sharī‘ah*.¹⁰⁶ Al-Qaraḍāwī states that there are those who will not leave anything in its current state (of prohibition) because they want to change every ruling in the name of change of time-space concept.¹⁰⁷ He goes on to mention numerous examples such as the making of permissible usury and other (prohibited) acts if the ruler deems it to be necessary. And the position of Al-Shāṭibī, who wrote extensively on *maqāṣid al-Sharī‘ah* and is considered to be one of its pioneers, supports the claim of the researcher. He explains that the Legislator (Allah) prescribed to us what is considered *maṣlahah* and anything that we come up with to be considered *maṣlahah*, that the Sharī‘ah does not elude to, then it is considered following our desires and rejected by the consensus of the Muslims.¹⁰⁸

2.2.5 History of Fatawā in the U.S.

The seeking and issuance of *fatāwā* can be dated back to as far back as 1929 when a small community of Muslims sought a *fatwā* from the renowned *al-Azhar* university

¹⁰⁵ Al-Shāṭibī, *al-Muwāfaqāt*, vol. 4, 60

¹⁰⁶ Al-Ashqar, *Fawqā al-Iftā’*, 41.

¹⁰⁷ Al-Qaraḍāwī, *al-Fatwā Bayna al-Indibāt wa al-Tasayyub*, 117-119.

¹⁰⁸ Ibid, vol. 2, 63-65; Abū Ishāq Ibrāhīm ibn Mūsa ibn Muḥammad al-Shāṭibī, *al-I‘tiṣām*, (Cairo: Dār al-Ḥadīth, 2003), 361-362.

in Cairo.¹⁰⁹ Though it has been proven through historic records of Muslims living in the U.S. as early as the 18th century, mass migration did not occur except in the mid-20th century. After the Immigration and Nationality Act of 1965, greater numbers of Muslims began migrating to America.¹¹⁰ However, the huge wave of Muslim migration did not take place except after 1990, with approximately 71% of Muslims migrating from 1990 till 2011. According to the Pew Research Center, an American think tank based in Washington D.C., that provides information on social issues and demographic trends, most of the foreign-born Muslims migrated to the U.S. after 2000 (40%) or during the 1990s (31%). An additional 16% arrived in the 1980s with just 12% that arrived before 1980.¹¹¹

Living as minorities, Muslims struggled to keep their Islamic identity in the Christian-Judeo-Secular environment they found in the U.S. They started establishing centers and organizations in which they can hold onto their roots and Islamic beliefs, while slowly integrating into the melting-pot society that America is so famously known for.¹¹² The first organization to be founded was by an influx of Muslim students that came from the Middle East, after having been disenchanted with the secularism, socialism as well as Islamic modernism ideology that was being preached in their native countries. This organization, the Muslim Student Association (MSA), was founded in 1963 and laid the foundation for subsequent and future institutions, centers and organizations.¹¹³

¹⁰⁹ Kambiz GhaneaBassiri, *A History of Islam in America*, (New York: Cambridge University Press, 1st ed., 2010), 177.

¹¹⁰ Teaching Tolerance, "American Muslims in the United States," <<http://www.tolerance.org/publication/american-muslims-united-states>> (accessed 11 May, 2015).

¹¹¹ Pew Research Center, "A Demographic Portrait of Muslim Americans", 30 August, 2011, <<http://www.people-press.org/2011/08/30/section-1-a-demographic-portrait-of-muslim-americans/>> (accessed 12 May, 2015).

¹¹² GhaneaBassiri, *A History of Islam in America*, 268; and Judith Colp Rubin, "North America" in *Guide to Islamist Movements*, edited by Barry M. Rubin (New York: M.E. Charp Inc., 2010), 579.

¹¹³ Yvonne Y. Haddad and Jane I. Smith, *The Oxford Handbook of American Islam*, 3

One such organization was the establishment of the Islamic Society of North America (ISNA) in 1980, which grew directly as a result of the MSA.¹¹⁴ It provided, and continues to provide, several services including the issuance of *fatāwā*, albeit it is limited and confined to individual scholars of ISNA. As the Muslim community needs increased and diversified more and more organizations were established, both officially and unofficially, to tackle their needs. For example, the International Institute of Islamic Thought (IIIT)¹¹⁵ founded in 1981, the Fiqh Council of North America (FCNA)¹¹⁶ founded in 1986 and the Assembly of Muslim Jurists of America (AMJA)¹¹⁷ founded in 2002, were all established due to the growing demand for religious guidance, through the issuance of *fatwā*, by the Muslim community in America.

Initially, the demand for those *fatāwā* was to address issues ranging from *tahārah* (purification), *salāh* (prayer), *hajj* (pilgrimage to Makkah), and marital disputes and so on. Now, however, those *fatāwā* are focusing less on the above issues, not because they are no longer significant and applicable, but because the issues facing the Muslim community grew more complex, thus requiring the Muslims scholars to tackle and address them. Issues such as Islamic banking, interfaith dialogue, political involvement and activism by the Muslim community, condemnation of terrorism and integration of Muslim societies, amongst other

¹¹⁴ Ibid., 4

¹¹⁵ International Institute of Islamic Thought, <<http://www.iiit.org/AboutUs/AboutIIIT/tabid/66/Default.aspx>>, (accessed on 11 May 2015).

¹¹⁶ Fiqh Council of North America, <<http://www.fiqhcouncil.org/node/13>>, (accessed 11 May, 2015).

¹¹⁷ Assembly of Muslims Jurists of America, <<http://www.amjaonline.org/en/about-us>>, (accessed 11 May, 2015).

pressing issues, have been made the focal point of those *fatāwā*.¹¹⁸ According to Taha Jabir Al-Alwani,

Muslims are having to face new situations that raise many issues far beyond the limited personal ones such as *ḥalāl* food, the sighting of the new moon, or marriage to non-Muslim women. The debate has now turned to greater and much more profound issues relating to Muslim identity, the role of Muslims in their new homeland, their relationship to the world Muslim community, the future of Islam outside its present borders and how it may go forward to establish its universality in all parts of the globe.¹¹⁹

Congratulating and partaking of Muslims in the religious festivals of the non-Muslims is also one such issue that continues to be addressed due to the pressure of Muslim integration and tolerance towards others, as we shall see in Chapter Four. As for the other issues pertaining to *‘ibādah* (acts of worship), those *fatāwā* have been archived on individual websites and readily available for Muslims to refer to.¹²⁰

2.3 MUFTĪ IN ISLAMIC JURISPRUDENCE

It can be said that the first person who held the position of a *muftī* was the Prophet Muḥammad, whereby he acted as a conveyer of the Message sent to him by Allah.¹²¹ He explained to the *Ummah* the Sharī’ah through his words and actions, as Allah says in the Quran:

¹¹⁸ Islamic Society of North America, "Interfaith Dialogue", <<http://www.isna.net/interfaith-dialogue.html>>, (accessed 11 May, 2015); Islamic Circle of North America, "U.S. Muslim Religious Council Issues Fatwa Against Terrorism", 28 July, 2005, <<http://www.icna.org/u-s-muslim-religious-council-issues-fatwa-against-terrorism/>>, (accessed 11 May, 2015); RadioIslam, "An Interview with Dr. Jamal Badawi on Muslims and Politics in the West", <<http://www.soundvision.com/article/an-interview-with-dr-jamal-badawi-on-muslims-and-politics-in-the-west>>, (accessed 11 May, 2015).

¹¹⁹ Taha Jabir al-Alwani, *Towards a Fiqh for Minorities: Some Basic Reflections*, (Virginia: The International Institute of Islamic Thought, 1st ed., 2003), 6.

¹²⁰ See Assembly of Muslims Jurists of America, "Fatwa Bank," <<http://www.amjaonline.org/en/fatwa-corner/fatwa-bank>>, (accessed 06 September, 2015).

¹²¹ Ibn al-Qayyim, *I'lām al-Muwaqqi'īn*, vol. 2, 538.

And We have also sent down unto you (O Muhammad) the reminder and the advice (the Quran), that you may explain clearly to men what is sent down to them, and that they may give thought. (*al-Nahl*: 44).

In the Prophet's absence, this noble and distinct position was taken up by his companions, whether during his lifetime or after his death.¹²² In fact, the Prophet would train some of his companions in the issuance of *fatwā*, so as to train them in the deduction of rulings from the Islamic texts. For example, al-Ḥākim reports on the authority of 'Abdullāh ibn 'Umar:

Once two men came to the Prophet seeking a decision in a matter that they had dispute over. So the Prophet told 'Umar to judge between them, whereupon 'Umar asked: "(how can) I judge between them while you are present O Messenger of Allah!" The Prophet replied: "Yes (you can), for if you are correct (in your judgment) then you will have ten rewards, and if you make *ijtihād* but err than you will have one reward."¹²³

Also, the Ḥadīth of the Prophet Muḥammad when he sent Mu'ādh bin Jabal to Yemen as a judge and asked him:

What will you do if a matter is referred to you for judgment? Mu'ādh said: I will judge according to the Book of Allah. The Prophet asked: What if you do not find it in the Book of Allah? Mu'ādh said: Then I will judge by the Sunnah of the Prophet. The Prophet asked: And what if you do not find it in the Sunnah of the Prophet or the Book of Allah? Mu'ādh said: Then I will make *Ijtihād* to formulate my own judgment. The Prophet patted Mu'ādh's chest and said: Praise be to Allah who has guided the messenger of His Prophet to that which pleases the Messenger of Allah.¹²⁴

After the companions of the Prophet, the responsibility of issuing *fatwā* was taken by the most learned of men that came after them.¹²⁵ This section, 2.2, and its sub-

¹²² Ibn al-Qayyim, *I'lām al-Muwaqqi'in*, vol. 1, 11.

¹²³ Al-Ḥākim, Muḥammad ibn 'Abdullāh al-Naysābūrī, *Mustadrak 'alā Ṣaḥīḥayn*, (Bayrūt: Dār al-Kutub al-'Ilmiyyah), vol. 4, 99, ḥadīth no.7004.

¹²⁴ Abū Dāwūd, *Sunan Abū Dāwūd*, vol. 4, 180, ḥadīth no. 3592.

¹²⁵ Al-Qarāḍāwī, *al-Fatwā Bayna al-Indibāt wa al-Tasayyub*, 17-18.

sections will deal with issues surrounding that of *muftī*, his qualifications, and responsibilities and so on.

2.3.1 Definition of a Muftī

The scholars of *uṣūl* and *fiqh* have defined a *muftī* in various forms by using different verbage. Though they may differ in some minute details and conditions, they nonetheless, convey the same meaning. For example, Al-Qarāfī states that a *muftī* is a “person that acts as a translator between Allah and the people, who must translate every letter and word without any addition or omission. So it is incumbent upon a *muftī* to follow the evidences of the Islamic text, after a thorough examination of it, and inform mankind of that which is made evident to him from his induction and examination.”¹²⁶ Ibn Ḥamdān described a *muftī* to be an, “informer of the commandments of Allah due to his acquaintance and comprehension of His text. It is also said that he is an informant from Allah with regards to His commandments. It is also said that he is someone who is deeply rooted and well-versed of the occurrences and happenings of the Sharī‘ah through his memorization of the Islamic legal text.”¹²⁷ Imām al-Zarkashī defined a *muftī* in a short, one word sentence saying that he is a, “*faqīh* (jurist).”¹²⁸

Al-Shāṭibī, following the definition of his predecessors and using various analogies that Muslims in general are tasked with, described a *muftī* as,

an informant from Allah like the Prophet, an endorser of the Sharī‘ah upon those who are accountable (*mukallaḥ*) like the Prophet and an enforcer of His commandments on the *Ummah* by being a *khalīfah* (vicegerent) like the Prophet. And because of that he (*muftī*) was named as an authority, whose obedience was linked with the obedience of

¹²⁶ Al-Qarāfī, *Al-Aḥkām fi...*, 12-13

¹²⁷ Ibn Ḥamdān, *Ṣiḥāḥ al-Fatwā...*, 4.

¹²⁸ Badr al-Dīn Muḥammad al-Zarkashī, *al-Baḥr al-Muḥīt fi Uṣūl al-Fiqh*, (Cairo: Dār al-Ṣafwah, 1992) vol. 6, 305.

Allah and His Prophet. Allah says in the Quran, “O you who believe! Obey Allah and obey the Messenger, and those of you who are in authority.”¹²⁹

However, al-Shāṭibī adds an additional definition that none of the classical scholars preceded him in. He stretches his analogy and goes as far as likening a *muftī* to be a legislator. He states that,

a *muftī* is a *shāri‘* (legislator) from a particular angle, because what he conveys to the people of the Sharī‘ah is either from a transmitted text or an extrapolation of that text. As for the first type, then he is a conveyer. As for the second type, then he has taken the position of someone who legislates, and the act of legislation is only reserved for the legislator. So if a *mujtahid* (independent scholar), based on his views and *ijtihād*, can be viewed as a legislator, then his obedience is compulsory.”¹³⁰

After a careful examination and a thorough reading with regards to the definition of a *muftī*, it can be concluded that a *muftī* is a *faqīh*, who is an informer and endorser of the commandments of Allah due to his deep comprehension of the Islamic text. He is a *faqīh* because he is a learned individual who is aware and well-versed of the commandments of the Sharī‘ah based upon what he finds and knows from the Islamic legal text. In other words, a *muftī* is an informant of Allah, whereby he informs the people with regards to the intent of the commandments of Allah that he deduces from the Islamic legal text. It should be noted that what Al-Shāṭibī said in his similitude of a *muftī* to that of a legislator is peculiar to him only. The researcher included this unique definition of Al-Shāṭibī in order to respond to it in an academic and scholarly manner.

First, a *muftī* does not technically legislate any new commandments, but rather those commandments are already available in the Sharī‘ah and he is merely an informer and conveyer of it. Second, a *muftī* does not command the people to obey or follow him, because his *fatwā* is not binding, hence it is not obligatory to obey him.

¹²⁹ Al-Shāṭibī, *al-Muwāfaqāt*, vol. 5, 257.

¹³⁰ *Ibid.*, vol. 5, 255.

Lastly, we are commanded not to obey anyone in which a sin is involved, due to the saying of the Prophet, “There is no obedience in sin. Obedience is only in regards to good.”¹³¹

2.3.2 Qualifications of a Muftī

The *fuqahā'* and scholars of *uṣūl*, such as Imām Aḥmad, Imām al-Shāf'ī and the Ḥanafīs as reported by Ibn Ḥamdān,¹³² Al-Nawawī,¹³³ Ibn al-Qayyim¹³⁴ and Al-Baghdādī,¹³⁵ have extensively talked about the conditions and pre-requisites a person must meet before qualifying to be a *muftī*. Some of those are redundant and common sense, such as the condition of Islam and maturity present in a *muftī*, therefore it will not be mentioned. Others are stringent and excessively harsh, such as the memorization of 500,000 Ḥadīth as well as all the Islamic sciences of the Quran, such as *nasikh* (abrogated) and *mansūkh* (that which abrogates), and Ḥadīth, such as *khbar al-āḥād* (solitary narrations) and *mutawātir* (multiple narrations), before being able to issue a *fatwā*.¹³⁶ Therefore, the researcher would only like to mention those conditions that are pertinent and applicable to the Muslims in America in the 21st century.

1. Knowledge.¹³⁷ This is one of the most important fundamental conditions that is placed upon a *muftī*, because one of the major sins a person can commit is to speak on behalf of Allah and His Prophet without knowledge. This is because a *muftī*, as we defined previously, is an informer of Allah

¹³¹ Muḥammad ibn Ismā'īl Al-Bukhārī, *Saḥīḥ al-Bukhārī*, (Riyādh: Dār-us-Salām, 1997), ḥadīth 7257

¹³² Ibn Ḥamdān, *Ṣifāt al-Fatwā...*, 16-28.

¹³³ Al-Nawawī, *Ādāb al-Fatwā...*, 19-44.

¹³⁴ Ibn al-Qayyim, *I'lām al-Muwaqqi'īn*, vol. 2, 487 and 492-494.

¹³⁵ Al-Baghdādī, Abū Bakr Aḥmad ibn 'Alī ibn Thābit ibn Aḥmad al-Mahdī al-Khaṭīb, *Al-Faqīh wa al-Mutafaqqih*, (Bayrūt: Dār Ibn Ḥazm, 2014), 373-382.

¹³⁶ Ibid., 378 and 385.

¹³⁷ Al-Nawawī, *Ādāb al-Fatwā...*, 31; Ibn Ḥamdān, *Ṣifāt al-Fatwā...*, 14; Ibn al-Qayyim, *I'lām al-Muwaqqi'īn*, vol. 2, 485.

who speaks on behalf of Allah and the Sharī'ah.¹³⁸ Therefore, it is obligatory upon him to speak with authentic knowledge whose source is from the Islamic legal texts. Warning on speaking without knowledge has been revealed to us in the Quran where Allah says:

Say (O Muhammad SAW): "The things that my Lord has indeed forbidden are al-fawāḥish (great evil sins, every kind of unlawful sexual intercourse, etc.) whether committed openly or secretly, sins (of all kinds), unrighteous oppression, joining partners (in worship) with Allah for which He has given no authority, and saying things about Allah of which you have no knowledge (*al-A'rāf*: 33).

And the saying of Allah:

And on the Day of Resurrection you will see those who lied about Allah [with] their faces blackened. Is there not in Hell a residence for the arrogant?¹³⁹

The Prophet warned against those who attributes something to him that is false:

Whoever lies against me, let him find his place in Hell.¹⁴⁰

And the saying of the Prophet:

Whoever gives a *fatwā* that is unauthentic then the sin of that *fatwā* is upon him.¹⁴¹

The above said scholars that mentioned this requirement of knowledge a *muftī* must have in order to be qualified as such, except that some of those requirements were very stringent and written by scholars that were suitable for their time and place, in which the criterion of knowledge was kept at a very high level. That's why Al-Shawkānī stated that, "It is noteworthy that the scholars that wrote regarding this topic

¹³⁸ Ibn Ḥamdān, *Ṣifāt al-Fatwā...*, 4.

¹³⁹ Surat al-Zumur: 39:60; See also Surat al-Baqarah: 2:169;

¹⁴⁰ Al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, vol. 1, 33, ḥadīth no. 107.

¹⁴¹ Ibn Mājah, Muḥammad ibn Yazīd al-Qazwīnī, *Sunan ibn Mājah*, (Bayrūt: Dār Iḥyā' al-Kutub al-'Arabī, n.d.) vol. 1, 20, ḥadīth no. 53, ḥadīth *ḥasan*.

(of *muftī*) did so either being very lax or being very stringent."¹⁴² Having said that, some contemporary scholars, such as Usāmah ‘Umar Al-Ashqar,¹⁴³ Muḥammad Sulaymān Al-Ashqar¹⁴⁴ and Yūsuf Al-Qaraḍāwī,¹⁴⁵ that wrote on the issue of *muftī* and *fatāwā*, modified them in order to suit the demand of our time and place. The following is what the researcher felt is suitable for the Muslim community in America to use as a guideline to determine whether the *muftī* meets the minimum requirements or not.

First, he must possess adequate knowledge of the Quran and Sunnah, whereby he knows the *aḥkām* (rulings) in details, has memorized a good portion of it and is capable of researching the issue at hand with relative ease and confidence. It is also important that he is able to know what are the authentic Ḥadīths from the non-authentic ones, the abrogated verses and Ḥadīth from the binding ones (*an-Nāsikh wa al-Mansūkh*) and those verses and Ḥadīth which are general in ruling (*‘ām*) and those that are exclusive (*khāṣ*) to a particular time or situation.¹⁴⁶

Second, it is absolutely necessary that he is well-versed in the Arabic language, its science and literary studies (*ādāb*).¹⁴⁷ This is so, because the Quran and the Ḥadīth along with all the foundational books of *fiqh* and *uṣūl* are all in the Arabic language. Even if a time was to come in which every single book is translated into English, as was done in languages such as Farsi and Urdu, this requirement would still be applicable. This is because, the real and true meaning of the Islamic text cannot be understood in its totality in any other language except in which it was revealed.

¹⁴² Al-Shawkānī, Muḥammad ibn ‘Alī ibn Muḥammad ibn ‘Abdullah, *Irshād al-Fuḥūl ila Taḥqīq al-Haqq min ‘Ilm al-Uṣūl*, (Bayrūt: Dār al-Kitāb al-‘Arabī, 1st ed., 1999), vol. 2, 208.

¹⁴³ Al-Ashqar, *Fawḍā al-Iftā’*, 35.

¹⁴⁴ Muḥammad Sulaymān al-Ashqar, *al-Futyā wa Manāhij al-Iftā’*, (‘Ammān: Dār al-Nafā’is, 1st ed., 1993), 40.

¹⁴⁵ Al-Qaraḍāwī, *al-Fatwā Bayna al-Indībāt wa al-Tasayyub*, 30.

¹⁴⁶ Al-Ashqar, *al-Futyā wa Manāhij al-Iftā’*, 41.

¹⁴⁷ Al-Qaraḍāwī, *al-Fatwā Bayna al-Indībāt wa al-Tasayyub*, 27.

That's why the researcher believes that the well-known rule in the legal maxims (*qā'idah al-uṣūliyyah*) pertains to this requirement: "If an obligation (*wājib*) cannot be performed except for a pre-requisite, then that pre-requisite becomes obligatory (*wājib*)."¹⁴⁸

Third, knowledge of *uṣūl al-fiqh* is crucial as this will enable the *muftī* to connect edicts with its proofs and its application to it.¹⁴⁹ The researcher believes this is very important so as to differentiate those scholars who have a specialty in the comparative religion field (*uṣūl al-dīn*), or those with a specialty in the science of Quran or Ḥadith, and that if they do not possess the adequate knowledge of *uṣūl al-fiqh*, then they should refrain from issuing a *fatwā*, as this crucial and vital condition is missing. This position of the researcher is further supported by the stance that AMJA has taken, whereby they strictly require that their *muftīs* have a solid background in *uṣūl al-fiqh*.¹⁵⁰ Furthermore, according to Al-Ashqar only those *muftīs* who specializes in a particular field, such as finance and its related branches, can give *fatwā* even if he does not meet the other (stringent) requirements. This is because such (stringent) requirements laid down for a *muftī* cannot be met by almost all of the *muftīs* in our time.¹⁵¹

Fourth, the sayings and *fatāwā* of the scholars of the past whether it is their *ijmā'* or differences of opinion (*ikhtilāf*).¹⁵² Again, this is crucial because the researcher has found on more than one occasion that the scholars in the U.S. have

¹⁴⁸ See Abū Ḥāmid Muḥammad ibn Muḥammad al-Ghazālī, *al-Mustaṣfā* (Bayrūt: Dār al-Kutub al-‘Ilmiyyah, 1993) vol. 1, 57; Al-Āmidī, *Al-Iḥkām fī Uṣūl al-Aḥkām*, vol. 1, 96; Al-Shātībī, *al-Muwāfaqāt*, vol. 1, 197.

¹⁴⁹ Al-Ashqar, *al-Futyā wa Manāhij al-Iftā'*, 41.

¹⁵⁰ This requirement, although not officially stated on the website of AMJA, was personally told to the researcher by Dr. Waleed Basyouni, one of the *muftīs* for AMJA, in a private conversation when Dr. Basyouni visited Malaysia on May 14th, 2015.

¹⁵¹ Al-Ashqar, *Fawqā al-Iftā'*, 35.

¹⁵² Al-Ashqar, *al-Futyā wa Manāhij al-Iftā'*, 41; Al-Qaradāwī, *al-Fatwā Bayna al-Indībāt wa al-Tasayyub*, 27-28.

claimed *ijmā'* on an issue in which there was none. Similarly, the scholars, in issuing their *fatāwā*, have went against *ijmā'*, as we shall see an example of in Chapter Four.

2. Virtuous. According to Al-Ashqar, this condition is rarely emphasized in the books of the contemporary scholars of today, due to which we see confusion and chaos in the various opposing *fatāwā* in our current times.¹⁵³ According to Al-Qaraḍāwī, the nations before us were not destroyed due to the ignorant amongst them, but rather due to the wretched scholars, and in our times we have those that betray the knowledge (of Islam), selling it for a wordly gain, mix the truth with falsehood and hide the truth while they know (it is the truth).¹⁵⁴ That's why the researcher is of the opinion that this condition be re-introduced and emphasized in our contemporary books, if we are to make sure that those who pass a *fatwā* are upright and virtuous in their religion. The researcher has briefly talked about this point in section 2.1.3, with the addition that the scholars in general and the *muftīs* in particular must fear Allah and seek His countenance when issuing a *fatwā*. The *muftīs* in America should not issue a *fatwā* that goes against the Sharī'ah for the sake of integration, in which the core fundamental values of Islam are compromised, as we shall discuss further in Chapter Four. They should be reminded to have the conscious of Allah (*taqwā*) when issuing a *fatwā* because, "it is only those who have knowledge among His slaves that fear Allah." (Qur'an, *al-Fāṭir*: 28).

¹⁵³ Al-Ashqar, *Fawḍā al-Iftā'*, 38-39.

¹⁵⁴ Al-Qaraḍāwī, *al-Fatwā Bayna al-Indībāt wa al-Tasayyub*, 37.

3. Understanding of the context or circumstances (*wāqiʿ*).¹⁵⁵ What is meant by this is that a *muftī* should have a level of understanding of what takes place and practiced in the personal, social, economical, etc. aspects of a *mustaftī* or society he is issuing a *fatwā* for. So it is not enough for a *muftī* to know the rulings of the Sharīʿah for a particular issue, but rather to have a comprehensive understanding of a society's traditions, customs and new occurrences or developments so as not to bring about unnecessary harm and burden on them.¹⁵⁶ For this reason, the researcher is of the opinion that the scholars not living in the U.S. should refrain from issuing *fatāwā* for the Muslim communities in America. This is to prevent unnecessary confusion amongst the Muslims in America as well as unnecessary clash and infighting between communities. This happens in cases such as the starting or ending of Ramaḍān, or in what form *ṣadaqat al-fīṭr* should be given, cash or food staple, and other such cases in which two or more individuals or societies take *fatwā* from two or more sources, one being from outside of the U.S. and use it against each other, resulting in a divided community. This is also not to say that the *muftīs* in America should not consult with the scholars and *muftīs* living abroad so as to get a more clearer understanding of the ruling and/or to make them aware of the new developments that are happening in America in order to benefit and educate them.

¹⁵⁵ Ibn al-Qayyim, *I'lām al-Muwaqqi'īn*, vol. 2, 486.

¹⁵⁶ Al-Ashqar, *Fawqā al-Ifṭā'*, 37-39.

2.3.3 Moral and Ethical Responsibilities of a Muftī

There are certain moral and ethical responsibilities a *muftī* must adhere to that is consistent with and befitting his lofty position Allah has bestowed upon him. The scholars have talked about some of them that the researcher deems fit and appropriate for the *muftīs* in the U.S.

1. Intention. Indeed this is very important for a *muftī* to have within himself as it is the pillar and soul of every deed.¹⁵⁷ His intention should be solely for the sake of Allah, that the word of Allah is dominant in the people's lives and not so that people may look up to him as a person of knowledge and high status.¹⁵⁸ And if a question is asked of him to which he does not know the answer to, then he must indicate that to the *mustaftī* and say "I do not know" because it is a third of knowledge.¹⁵⁹ This will not diminish anything from his honor or respect because his intention is to seek the pleasure of Allah and not speak about the Dīn of Allah which he has no knowledge of. The righteous predecessors, such as Imām Mālik, Ibn 'Uyaynah, Imām Aḥmad and others implemented this in their *fatwā* and yet Allah elevated them to a high rank amongst their people.¹⁶⁰
2. Confidentiality.¹⁶¹ In a place such as the U.S., where confidentiality is strictly adhered to and enforced by law, it is pertinent that a *muftī* not only abides by this for the sake of upholding the law, but also to respect the privacy of the *mustaftīs* and not expose their secrets to the public. This is

¹⁵⁷ Ibn al-Qayyim, *I'lām al-Muwaqqi'īn...*, vol. 2, 481.

¹⁵⁸ Al-Ashqar, *Al-Futūyā...*, 77-78.

¹⁵⁹ Ibn al-Qayyim, *I'lām al-Muwaqqi'īn...*, vol. 1, 45.

¹⁶⁰ An-Nawawī, *Ādāb al-Fatwā...*, 15-16

¹⁶¹ Ibn Hamdān, *Ṣifāt al-Muftī...*, 58; Al-Baghdādī, *al-Faqīh...*, 407; Ibn al-Qayyim, *I'lām al-Muwaqqi'īn...*, vol. 2, 530.

so that they feel comfortable and at ease when asking very personal and intimate questions, seeking thereby a *fatwā*.

3. Wisdom. A *muftī* must use wisdom along with his knowledge when issuing a *fatwā*.¹⁶² Because of the sensitive political climate that is prevalent in the U.S., they must be careful in how they word their *fatāwā* to the *mustafīs*, especially if it is going to be published on the internet. According to the researcher, words such as *kuffār*, infidels, *sharī‘ah*, *ḥarām*, etc. have been attached negative connotations by the media¹⁶³ and in order to avoid attracting any further negative attention the researcher proposes their alternatives such as non-Muslims, polytheists, Islam, impermissible, etc. There is no harm in using such translated words because they convey the same meaning and thus would not be considered to be a compromise to one’s religion.
4. Constituency. This entails that a *muftī* must know the Muslims in a community in which a question arises, the challenges they face as a minority and their Islamic and secular educational level.¹⁶⁴ They are very important for the *muftīs* in order to make themselves ready to tackle those challenges. For example, if a *muftī* was asked a question in regards to the ruling of trading on Wall Street, investing in a 401k plan at their work or the details of their Islamic bank loan, then he must be prepared to answer them satisfactorily taking into consideration that such questions normally are asked by educated, well-to-do Muslims in a community who have little to no understanding of the Sharī‘ah guidelines. If a *muftī* is unable to

¹⁶² Ibn al-Qayyim, *I‘lām al-Muwaqqi‘īn...*, vol. 2, 529.

¹⁶³ Creeping Sharia, <<https://creepingsharia.wordpress.com/>>, (accessed 15 June, 2015).

¹⁶⁴ Al-‘Alwānī, *Towards a Fiqh for Minorities...*, 4.

answer such questions, then he must excuse himself and not put himself in a position of appearing to know the answer or else he might be guilty of making *mubāḥ/harām* something which is otherwise. Additionally, the *muftī* knowing his constituency will help him to avert any misleading, deceptive and cunning questions that will otherwise deceive someone who is not aware of the true nature of the Muslim community.¹⁶⁵ An example of this can be seen in section 2.1.3.

2.3.4 Function of a Muftī in Relation to the Different Schools of Thought

When a *muftī* is asked a question, the *mustaftī* is seeking a *fatwā* according to one of the three: a) either the *ḥukm* of the Sharī‘ah, b) the opinion of a particular school of thought (*madhhab*) the *muftī* specializes in, c) or the *ijtihād* of the *muftī* in relation to the Sharī‘ah.¹⁶⁶ As the second and third generation of American-born Muslims are coming into existence, the latter of the three (c) is becoming more prevalent. In other words, the new generation of Muslims and even revert Muslims in America do not care so much for the opinions of any particular *madhhab*, but rather they are seeking the opinion of the *muftī* they are asking for a *fatwā* in regards to an issue. Because for them the *muftī* is their Imām and *madhhab*.¹⁶⁷ Whereas, the older generation of Muslims, especially those born in their native countries, are more interested in the opinion of their particular *madhhab*. They see the *muftī* as a mere conveyor of those opinions of the great scholars to them and do not expect from him any *ijtihād* in

¹⁶⁵ Ibn al-Qayyim, *I‘lām al-Muwaqqi‘in...*, vol. 2, 486.

¹⁶⁶ Ibid., vol. 2, 463.

¹⁶⁷ Taha Jabir Al-Alwani, *Issues in Contemporary Islamic Thought*, (London: The International Institute of Islamic Thought, 2005), 77; European Council for Fatwa and Research, "New Converts: Which Madhhab to Follow?", 1 October, 2014, < <http://www.onislam.net/english/ask-the-scholar/principles-of-islamic-jurisprudence-usul-ul-fiqh/concepts-and-term/175625-new-converts-which-madhhab-to-follow.html?Term=>>, (accessed 15 June, 2015).

matters of the religion that have already been dealt with centuries ago. Furthermore, they also frown upon any *fatwā* that deviates from their particular *madhhab*. According to the researcher, both types of group should be dealt with respect as they are both correct in their reasoning.

In the case of the first group, the *muftī* should issue a *fatwā* based upon what is made apparent to him, according to his *ijtihād*, to be the closest to the Islamic texts even if it opposes his or a *mustaftī*'s supposed *madhhab*.¹⁶⁸ This is permitted provided that a *muftī* is mindful that his *ijtihād* is not based on pleasing the *mustaftī* or giving into their whims and desires, as explained above. Otherwise, it is not allowed for a *muftī* to issue a *fatwā* merely based on the fact that the opinion of a different *madhhab* is easier or that it fits into the motive(s) of the *mustaftī*. But rather his *ijtihād* should be based on his deep understanding of the different opinions and interpretations of the Islamic texts.¹⁶⁹

As for the second group, then it is a form of trust that is upon the shoulders of the *muftī* that he should accurately convey the opinion of the *madhhab* that the *mustaftī* follows, even if this is not his personal opinion. However, in the case where it is clear to the *muftī* that the opinion of such a *madhhab* is clearly against the Islamic texts, then he should add his opposing opinion, backing it up with proofs from the Quran and Sunnah.¹⁷⁰ For example, if a *mustaftī*, following the *madhhab* of Imām Abū Ḥanīfah, comes and seeks a *fatwā* in regards to the permissibility of the consumption, in small quantity, of alcohol that is not derived from grapes or dates,¹⁷¹

¹⁶⁸ Ibn al-Qayyim, *I'lām al-Muwaqqi'īn...*, vol. 2, 512.

¹⁶⁹ Ibn Ḥamdān, *Ṣifat al-Fatwā...*, 39.

¹⁷⁰ Ibn al-Qayyim, *I'lām al-Muwaqqi'īn...*, vol. 2, 512.

¹⁷¹ The *madhhab* of the Ḥanafīs do not consider alcohol that is derived from sources other than dates and grapes to be absolutely *harām*, unless it is drunk in large quantity that leads to intoxication. See Muḥammad ibn Maḥmūd al-Bābartī, *al-'Ināyah Sharh al-Hidāyah*, (n.p.: Dār al-Fikr), vol. 10, 93-96.

then the *muftī* should mention the opinion of the *madhhab* of Abū Ḥanīfah along with a clarification in how this opinion is irregular and contradicts the clear Islamic texts.¹⁷²

According to the researcher, it is important for the *muftī* that he is well-versed in the approved and confirmed (*mu'tamad*) opinion of a particular *madhhab* before concluding that this is the *mu'tamad* opinion of the said *madhhab*. For example, many scholars such as Imām al-Shāfi'ī and Imām Aḥmad have two or more opinions on a particular issue.¹⁷³ However, not all are considered to be the *mu'tamad* opinion of the *madhhab*. Therefore, it is important that a *muftī*, when issuing a *fatwā* according to the *madhhab* of the *mustaftī* or other than his, confirms whether or not the opinion he is relaying is the *mu'tamad* opinion of the said *madhhab*. If he is unable to do so, then he should direct the *mustaftī* to a *muftī* of the same *madhhab*.

2.3.5 Muftīs in the U.S.

There are some people in the U.S., and the West in general, that have taken up the position and responsibility of a *muftī*, whereby they issue *fatāwā* without the necessary requirements and conditions being met as discussed by the classical and contemporary scholars and as mentioned briefly in this chapter.¹⁷⁴ That is why phrases such as "Sheikh Google" has become popular amongst the Muslim laymen and circles of scholars.¹⁷⁵ This is because any person that has studied the Islamic sciences is looked up to as a source of reference and authority in the issuance of

¹⁷² The ḥadīth of the Prophet, "Every intoxicant is *harām*." See al-Bukhārī, *Saḥīḥ al-Bukhārī*, ḥadīth no. 6124. The ḥadīth of the Prophet, "What intoxicates in large quantity is also *harām* in small quantity." See Abu Dāwūd, *Sunan Abū Dāwūd*, vol. 4, ḥadīth no. 3681.

¹⁷³ Ibn Ḥamdān, *Ṣifat al-Fatwā...*, 43.

¹⁷⁴ Abu Muslim Kamran, "A Warning to the Facebook Shaykh and Twitter Mufti", Islam21C, 1 September, 2014, <<http://www.islam21c.com/islamic-thought/a-warning-to-the-facebook-shaykh-and-twitter-mufti/>>, (accessed 15 June, 2015).

¹⁷⁵ Muhammad Haq, "The Sheikh Google Phenomenon" Virtual Mosque, 12 June, 2015, <<http://www.virtualmosque.com/personaldvlp/seeking-knowledge/the-sheikh-google-phenomenon/>>, (accessed 15 June, 2015).

fatāwā whether he is a *dā'ī* or a *mujtahid/muftī*.¹⁷⁶ Whether those individuals have studied in the sciences of Fiqh and Uṣūl al-Fiqh, Quran and Ḥadith or Uṣūl al-Dīn and whether they have studied up to the B.A., M.A. or Ph.D. level, they are not made a distinction by the general public with regards to their qualification in issuing a *fatwā*. In a survey conducted by the researcher, it was asked which *fatwā* website they used to answer their Islamic questions. Several replied saying they used their local Imām or Shaykhs via social media such as Facebook or even people with 'more knowledge' in the community.¹⁷⁷

Furthermore, there are some such as Hamza Yusuf¹⁷⁸ and others, as we shall see later on in this section, who have studied independently with a scholar for a number of years or studied in an unaccredited institute such as a *madrāsah* or *ma'had*. This is not to say that those graduates of such institutes are less educated and qualified compared to their colleagues who have studied in accredited universities. Rather, it is to point out that there are a diverse group of people who have studied in different educational systems with varying degrees of education and qualifications. For the purpose of this research the researcher would like to divide those individuals and organizations into two categories, namely those who have studied in the traditional educational system and the accredited educational system.

1. Traditional educational system. Under this system individuals go to study classical Islamic texts for an average of six¹⁷⁹ to eight years,¹⁸⁰ depending if it is online or in-class studies. This form of education is popular

¹⁷⁶ Surkheel Sharif, "Qualifications of a Mufti", The Humble I, 6 December, 2014, <<http://thehumblei.com/tag/qualifications-of-a-mufti/>>, (accessed 15 June, 2015).

¹⁷⁷ See Appendix, Question 8, Response section.

¹⁷⁸ Hamza Yusuf, "Zaytuna College Faculty" <https://www.zaytuna.edu/academics/faculty/hamza_yusuf/>, (accessed 15 June, 2015).

¹⁷⁹ Darul Uloom Online, "Academic Curriculum", <<http://www.darululoomonline.org/index.php/academics/curriculum/>>, (accessed 16 June, 2015).

¹⁸⁰ Darul Uloom Deoband, "The System of Education", <http://www.darululoom-deoband.com/english/sys_of_edu/index.htm>, (accessed 16 June, 2015).

amongst the Indian sub-continent and is famously referred to as the *Deobandi Madrasas* or *Dār al-'Ulūm*. These institutes have a comprehensive curriculum in which they do not make a distinction amongst the different Islamic sciences. They teach the sciences of Aqīdah, Fiqh and Uṣūl al-Fiqh, Tafsīr (Quranic Exegesis), Ḥadīth and Arabic literature and poetry amongst other sciences. A graduate is conferred upon the title of *'Ālim* after having studied six to eight years. Thereafter, if he wishes to continue his studies he can obtain the qualification of a *Muftī* after undergoing a rigorous training of *iftā'* for two to three years.¹⁸¹ Only then is such an individual qualified to issue *fatāwā*. There are a number of *muftīs* in the U.S. who are a graduate of such institutions and are considered an authority in issuing *fatāwā*. However, due to a lack of references available on the internet for all of them, the researcher will mention just a few.

- a. Shariah Board of America.¹⁸² Located in Chicago, IL. they offer a range of services including the issuance of *fatwā* by individuals and a board of *muftīs*. They mainly cater to the Urdu-speaking Muslims that follow the Ḥanafī *madhhab*. According to their official Facebook page,¹⁸³ the *muftī* that is mainly responsible in issuing *fatāwā* is Muftī Naval-ur-Raḥman Miftahi.
- b. Fatwa Center of America.¹⁸⁴ Located in the State of Rhode Island the issuance of *fatwā* is mainly issued by Muftī Ikram Ul Haq. The

¹⁸¹ Ibid.

¹⁸² Shariah Board of America, <<http://www.shariahboard.net/>>, (accessed 16 June, 2015).

¹⁸³ Shariah Board of America, Official Facebook Page, <<https://www.facebook.com/pages/Shariah-Board-Of-America/229375680450402>>, (accessed 16 June 2015).

¹⁸⁴ Fatwa Center of America, <<http://askamufti.com/>>, (accessed on 16 June, 2015).

fatāwā that is issued ranges from the basics of worship and cleanliness to more complex issues such as insurance and Islamic finance.

c. Imam Mufti.¹⁸⁵ Located in Peoria, IL. the *muftī* responsible for the issuance of *fatwā* is Imam Kamil Mufti. According to his website, he holds a number of *Ijāzāt* (credentials) from numerous scholars ranging from Pakistan to Egypt to Mauritania. He issues *fatāwā* on his website dealing with acts of worship, Islamic creed and familial matters.

2. Accredited educational system. Under this system, students go to Islamic universities such as the Islamic University of Madīnah, Al-Azhar University, and the International Islamic University of Malaysia amongst others. Unlike the *Dār al-'Ulūms*, these universities have departmentalized the area of study a student wishes to specialize in. They include mainly the department of Fiqh and Uṣūl al-Fiqh, Uṣūl al-Dīn and the department of Quran and Ḥadīth.¹⁸⁶ Those that wish to specialize in the study of Ḥadīth, for example, will take some basic courses in Fiqh, Uṣūl al- Fiqh and so on, but will not concentrate on them as his area of specialty. This is important to mention because one of the core requirements for a *muftī* to issue *fatwā*, as mentioned before in this chapter, is the in-depth study and knowledge of *uṣūl al-fiqh*, without which a *muftī* will be deficient in his extraction of rulings from the Islamic

¹⁸⁵ Imam Mufti, <<http://imammufti.com/>>, (accessed on 16 June 2015).

¹⁸⁶ Islamic University in Madīnah, "Islamic University Academics", <<http://www.iu.edu.sa/encolleges/Pages/default.aspx>>, (accessed 16 June 2015); Al-Azhar University, "Faculties", <http://www.azhar.edu.eg/pages/fac_boys.htm>, (accessed 16 June 2015); International Islamic University of Malaysia, "Undergraduate Islamic Revealed Knowledge & Human Sciences Programmes", <http://www.iium.edu.my/programmes-courses#ug_irkhs>, (accessed 16 June 2015).

texts, known as *istinbāt al-ahkām*.¹⁸⁷ Having said this, none of the *fatāwā* committees in the U.S. such as FCNA and ICNA, have a systematic platform for the issuance of regular *fatāwā* except for AMJA. Those committees' *fatāwā* is limited to moon sighting,¹⁸⁸ interfaith dialogue,¹⁸⁹ renouncing terrorism¹⁹⁰ and political participation.¹⁹¹ This is not to say that some members of those committees do not issue *fatāwā* independently, however, they are scattered and not organized. For the purpose of this research, the researcher will mention a few of the *muftīs* that have met the basic requirements of being qualified to issue *fatāwā*.

- a. Hamza Yusuf. He is the cofounder and current president of Zaytuna College in California, the first accredited Islamic college in the U.S. He has studied for about 10 years in the U.A.E., Algeria and Mauritania amongst other places, with various scholars.¹⁹² However, his specialty of fiqh is in the Māliki *madhhab* which restricts him to issuing *fatāwā* in that *madhhab*. He was ranked as “the Western world’s most influential Islamic scholar” in 2009 by *The 500 Most*

¹⁸⁷ Ibn al-Qayyim, *I'lām al-Muwaqqi'īn*, vol. 2, 493.

¹⁸⁸ Fiqh Council of North America, "An Analysis of Moon Sighting Arguments," edited by Zulfiqar Ali Shah, <<http://www.fiqhcouncil.org/node/21>>, (accessed 16 June 2015); Islamic Circle Of North America, "ICNA's Position on Moon Sighting," 8 August, 2009 <<http://www.icna.org/icnas-position-on-moon-sighting/>>, (accessed 16 June 2015).

¹⁸⁹ Islamic Circle Of North America, "Interfaith", <<http://icnacsj.org/interfaith/>>, (accessed 16 June 2015).

¹⁹⁰ Fiqh Council of North America and Islamic Circle Of North America, "U.S. Muslim Religious Council Issues Fatwa Against Terrorism," 28 July, 2015, <<http://www.icna.org/u-s-muslim-religious-council-issues-fatwa-against-terrorism/>>, (accessed 16 June 2015).

¹⁹¹ RadioIslam, "An Interview with Dr. Jamal Badawi on Muslims and Politics in the West", <<http://www.soundvision.com/article/an-interview-with-dr-jamal-badawi-on-muslims-and-politics-in-the-west>>, (accessed 16 June, 2015).

¹⁹² Shaykh Hamza Yusuf, “Unofficial Biography of Shaykh Hamza Yusuf”, <<http://shaykhamza.com/biography>>, (accessed 17 June 2015).

Influential Muslims.¹⁹³ Unfortunately, his website does not have a platform for the Muslims to ask questions and seek his personal *fatwā*.¹⁹⁴

- b. Muzammil Siddiqi. Since 1981, Siddiqi has been working as an educator and religious director in Southern California. He was the former President of ISNA from 1997-2001 and the current vice-chair of FCNA. He has studied both in the traditional educational system as well as the accredited educational system, receiving a Ph.D. He issues *fatwā* for the Fiqh Council, both independently and as a cosigner *muftī*, however, they are limited in scope and systemization. Nonetheless, he is a well-respected scholars who is also recognized as a highly influential community leader, both by the local government and the Muslim community that he serves in.¹⁹⁵
- c. Jamal Badawi. He is a member of FCNA and the European Council of Fatwa and Research. Although, he is located in Canada, Badawi travels to the U.S. and is involved in the collective issuance of *fatāwā* to the Muslims in America.¹⁹⁶ However, like many academic scholars, his *fatāwā* are limited in scope and availability. Nonetheless, because of his accreditations and membership, he is considered to be a *muftī* in the practical sense, if not in the technical sense.

¹⁹³ The Royal Islamic Strategic Studies Centre, “The Muslim 500: The World’s Most Influential Muslims”, <<http://themuslim500.com/profile/sheikh-hamza-yusuf-hanson>>, viewed on 17 June 2015.

¹⁹⁴ Sandala, <<https://www.sandala.org>>, (accessed 17 June 2015).

¹⁹⁵ Islamic Society of Orange County, “Religious Director”, <http://isocmasjid.weebly.com/dr-muzammil-siddiqi.html>>, (accessed 17 June 2015).

¹⁹⁶ Islamic Society of North America (ISNA), “Jamal Badawi”, <<http://www.isna.net/jamal-badawi.html>>, (accessed 17 June 2015).

d. Assembly of Muslims Jurists of America (AMJA). According to the researcher, this is the most organized and well structured committee for the issuance of *fatāwā* whose *muftīs* are from respected and diverse educational backgrounds.¹⁹⁷ Some of their member *muftīs* have, in addition to their religious qualifications, an education in the field of medicine, economics and geology amongst other such disciplines. In order to be qualified to issue a *fatwā* with AMJA, they require that a scholar be fully qualified in the science of *iftā'* and have an extensive background in *fiqh* and its *uṣūl*. Such qualifications that is present in the scholars that make up the committee of AMJA, is arguably the most comprehensive in the U.S. In addition, their outreach and influence which, unlike the other councils for the issuance of *fatāwā*, is widespread amongst the Muslims throughout the U.S. They have a forum for Muslims to ask their questions both online and via their hotline, in which they will call one of their member *muftīs* and ask a question in person. They hold academic seminars and conferences for Imāms annually, in which they seek to tackle some of the contemporary issues facing the Muslim communities in the U.S. Furthermore, their website has an archive of previously issued *fatāwā* in which Muslims in the U.S. can use as a point of reference.¹⁹⁸

¹⁹⁷ Assembly of Muslims Jurists of America, "Our Scholars-Fatwa Committee," <<http://www.amjaonline.org/en/about-us/our-scholars-fatwa-committee>>, (accessed 17 June 2015).

¹⁹⁸ Ibid., "Fatwa Bank," <<http://www.amjaonline.org/en/fatwa-corner/fatwa-bank>> (accessed on 17 June 2015).

2.4 CONCLUSION

It should be clear by now that a *muftī* holds a lofty position, both in the sight of the Sharī‘ah and amongst the general public. Therefore, it is essential that a *muftī* meets the guidelines and pre-requisites that have been penned down by, both the classical and contemporary scholars. As we have seen throughout this chapter the classical scholars set forth the foundation (*uṣūl*) for those requirements while the contemporary scholars built on top of that foundation according to each time and place.

Though the researcher made an effort in this chapter to contextualize the issue of *fatwā* and *muftī* to that of the U.S., however, it can be argued that it can also be contextualized to most other Western countries, such as Canada, U.K., etc., due to the similarities in culture and issues the Muslim minority face in those countries. This is also because a *muftī* in America also happens to be a *muftī* in another Western country, as we have shown an example of Jamal Badawi. This is due to in part because of the vast influence that a particular *muftī* plays, through his popularity and/or knowledge, across Western countries or even continents. Furthermore, it shows the limited number of *muftīs* that are well-qualified and versed in the realm of *fatwā* that they are often stretched and in high demand. Hence, it is the opinion of the researcher that duly qualified *muftīs* be trained, recognized and promoted for the Muslims in the West in order that the *mustaftīs* can refer to in times of need.

CHAPTER THREE

RELIGIOUS FESTIVALS OF NON-MUSLIMS AND THEIR HISTORY

3.1 INTRODUCTION

Practically every Christian holiday, ritual and activity lies well beyond the boundaries of biblical Christianity and has its roots in paganism.¹ It is obvious that Christianity was not invented in Europe nor was it originated there, but rather it was imported there by the followers of the Christian faith. With it came the persecution and challenges of being accepted by people who were pagans and worshipped more than one deity. Certain policies and changes took place by this imported and alien religion, in a region which they had no prior claim to, in order to inscribe the rites and beliefs of the pagans in their doctrine. This was done, as we shall see throughout this chapter, in order to better assimilate themselves in the community and attract the pagans to this new-found religion of Christianity. One such account was a letter from Pope Gregory to Saint Augustine of Canterbury, who was spreading Christianity in England in the eight century. He states:

...we have been giving careful thought to the affairs of the English and have come to the conclusion that the temples of the idols among the people should on no account be destroyed...In this way, we hope that the people, seeing that their temples are not destroyed, may abandon their error and, flocking more readily to their accustomed resorts, may come to know and adore the true God. And because they have a custom of sacrificing many oxen to demons, let some other solemnity be substituted in its place, such as a day of dedication or the festivals of the holy martyrs whose relics are enshrined there. On such occasions they might well construct shelters of boughs for themselves around the

¹ David A. Ingraham, *Pagan Traditions: The Origins of Easter, Christmas, and Halloween*, (Oklahoma: Bible Belt Publishing, 1st ed., 2000), 7.

churches that were once temples, and celebrate the solemnity with devout feasting.²

Such testimony proves that there was a tug of war between the pagans of Europe and the Christians, who wanted to convert as many of them as possible even if it meant compromising on the basic tenets of their doctrines. According to Frank Viola, author of several books on Christianity:

Our spiritual forefathers chose to compete with the pagans by redeeming certain days for Jesus Christ that had traditionally been kept sacred by their heathen neighbors. The Christians chose those same days to honor their Lord instead of going along with the pagan celebrations. It was a testimony against paganism and a way to “redeem the days”.³

This view is taught, widespread and is accepted amongst the churches, especially the Roman Catholic Church. However, if we were to look carefully at the history of how Christianity was accepted into the pagan-ridden culture of Europe, we would find that the “Christian forefathers” were not concerned about what Prophet Jesus or his Apostles taught, but rather they were concerned about gaining a foothold and power over the people in the West. According to Jason Hunt, the founder of Frontier Christian University in the U.S. state of Kentucky:

Additionally, you will find no Biblical precedent for the redeeming of days, nor will you find any mention of our supposedly redeemed ‘Christian’ holiday celebrations in the Bible. We hear so much today “*Keep Christ in Christmas*”, the thing is; Jesus never had anything to do with Christmas! So if holidays are not listed in the bible, shouldn’t we stop trying to base them on biblical truth? When we look at the true nature, and often times the original name of the festival our Christian holiday supposedly redeemed, we find it throughout the scriptures with the command to rebuke, reprove and turn away from it, a name change isn’t enough to justify a practice of a holiday dedicated to an idol.⁴

² Philippe Walter, *Christianity: The Origins of a Pagan Religion*, (Vermont: Inner Traditions, 1st ed., 2006), 3.

³ Frank Viola and George Barna, *Pagan Christianity: Exploring the Roots of our Church Practices*, (Illinois: Tyndale House Publishers, 3rd ed., 2012), quote taken from the author’s website which has excerpts of the book, <www.ptmin.org>, (accessed 23 July 2015).

⁴ Jason A. Hunt, *Reasons for the Seasons: Origins of the Christian Holidays*, (Colorado Springs: CreateSpace Independent Publishing Platform, 2010), v.

And in the words of Elisha J. Israel, a minister, educator and author of several books:

It is a grave contradiction to believe in the God of Abraham, Isaac, and Jacob and simultaneously celebrate Christian holidays.⁵

In a strategic effort to attract the pagans of Europe to the Christian faith, the Christians, through the most powerful religious institution in the world-the Roman Catholic Church, simply fused together the pagan customs and festivals of the sun with the rites of their faith. This fusion was done to such an extent that some Christians, as we will show throughout this section of the chapter, broke away from the Church for such an unholy alliance. In the words of a Christian author and commentator, Berit Kjos, noted that:

Throughout history, spiritual compromise has been a constant temptation, and our Easter traditions show the timeless trend toward unholy alliances. While the constant pressure of persecution kept the early Church pure in faith, the shift to cultural acceptance in the Roman empire brought compromise. Then as now, the Christian's goal changed from pleasing God to pleasing man. Soon, the politically correct church had traded purity for popularity and adopted the "abominable" practices of its pagan neighbors.⁶

If we observe this statement of the Church's 'unholy alliance', the words of Al-Qaradāwī resonates in which he stated that:

The nations before us were not destroyed due to the ignorant amongst them, but rather due to the wretched scholars, and in our times we have those that betray the knowledge (of Islam), selling it for a wordly gain, mix the truth with falsehood and hide the truth while they know (it is the truth).⁷

Therefore, the researcher would like to make an effort in this chapter to bring into light the paganistic origins of the holidays that are commonly celebrated in the U.S.

⁵ Elisha J. Israel, *The Pagan Origins of Christian Holidays*, (U.S.A.: CreateSpace Independent Publishing Platform, 2013), i.

⁶ Berit Kjos, "Earth Day Joins Easter, A Sign of Our Times?", Kjos Ministries, <<http://www.crossroad.to/text/articles/Easter-Earth.htm>>, (accessed 23 July, 2015).

⁷ Yūsuf Al-Qaradāwī, *Al-Fatwā Bayna al-Inḍibāṭ wa al-Tasayyub*, (Bayrūt: al-Maktab al-Islāmī, 2nd ed., 1995), 37.

and determine the *fiqhi* ruling with regards to the permissibility or prohibition of celebrating and partaking in them by Muslims. Moreover, the researcher would like to determine, from a *fiqhi* point of view, if the *fiqhi* ruling of permissibility of the scholars would change if they were to know the paganistic origins of some of the non-Muslim festivals. Additionally, the researcher would like to explore if a 'compromise' was made by the scholars that allowed congratulating and partaking in the festivals of the non-Muslims in their *fatwā* of permissibility. Lastly, for the sake of brevity only certain rituals of each holidays that the researcher deems to be important and of relevance to each holidays would be highlighted and expounded upon.

3.2 RELIGIOUS FESTIVALS OF NON-MUSLIMS AND THEIR HISTORY

3.2.1 Christmas

The word “Christmas” means “Mass of Christ,” or, as it came to be shortened, “Christ-Mass.” This term was first used in the year 1038 and brought to the modern world from the Roman Catholic Church.⁸ For Christians, Christmas is perhaps the first and most popular festival on the calendar. It is a holiday that is held in order to commemorate the birth of Jesus Christ and gifts are exchanged among loved ones and acquaintances. However, this holiday was never celebrated by the early Christians nor was it sanctioned by the Bible. In fact, Origen, an early Catholic writer, said this about those who celebrate Christmas:

In the Scriptures, no one is recorded to have kept a feast or held a great banquet on his (Christ's) birthday. It is only sinners (like Pharoah or Herod) who make great rejoicing over the day in which they were born into this world.⁹

⁸ Catholic Encyclopedia, (New York: Robert Appleton Company, 1912 ed.), vol. 3, article: *Christmas*.

⁹ *Ibid.*, vol.10, article *Natal Day*.

During the Mass which must be attended by all the faithful, Christ is offered in the form of a wafer that is blessed by the priests, which supposedly takes the actual flesh of Jesus. The people are to worship this piece of bread as it represents the living Christ and is placed on a device, known as the monstrance, which is shaped like the sun, the importance and relevance of this will become evident later on in this section.

According to the document of the Vatican II, it states:

There should be no doubt in anyone's mind that all the faithful ought to show to this most holy sacrament the worship which is due to the true God, as has always been the custom of the Catholic Church. Nor is it to be adored any the less because it was instituted by Christ to be eaten.¹⁰

Although Christmas was not sanctioned by the early Christian Church, we find that there was no consensus amongst the Christians regarding the birth of Jesus. Clement of Alexandria, one of the most important leaders and theologians of the late second-century Church, stated that it could be on May 20, March 21, April 15, 20 or April 21.¹¹ However, none of the dates suggested by him proposed the date of December 25. It was around the fourth century that December 25 was chosen as the official “birthday” of Jesus.¹² And in the words of Ingraham, who has spent years researching the biblical origins, practices and contemporary remnants of paganism:

In A.D. 375, the church announced that Christ’s date of birth had been discovered to be December 25. This date was without biblical or historical grounds, however, and became officially only for the sake of convenience so that the celebration of the birth of Christ could be merged with pagan festivities of the season.¹³

It is similar to a person who wants to celebrate someone else's birthday on a day other than their true date of birth or in a manner other than what pleases them only because

¹⁰ Austin Flannery, *Vatican II: The Conciliar and Post Conciliar Documents*, (Minnesota: Liturgical Press, 1st ed., 2014), Chapter 9, section 3, article f.

¹¹ Israel, 77-78.

¹² Greg Tobin, *Holy Holidays The Catholic Origins of Celebration*, (New York: Palgrave Macmillan, 1st ed., 2011), 14.

¹³ Ingraham, *Pagan Traditions: The Origins of Easter, Christmas, and Halloween*, 102.

it is convenient or accommodating to the said person. This is surprising because during the first three hundred years, the Catholic Church maintained a staunch position against all pagan beliefs and practices.¹⁴ Furthermore, Christmas was forbidden in England by Act of Parliament in 1644.¹⁵ So why was this day chosen? The answer lies in pagan Europe.

December 25 was a date in the old Roman calendar as *Dies Natalis Invicti Solis*—the *Day of the Birth of the Unconquered Sun*.¹⁶ It was also the birth date of many pagan deities such as Apollo or Dionysus among the Greeks, Hercules among the Romans, Mithras among the Persians and those Romans who had been stationed as soldiers throughout Persia and Arabia and other deities.¹⁷ However, it was the Saturnalia, an ancient Roman festival in honor of the Roman god, Saturn that was officially recognized as Jesus' birthday celebration. The festival was originally 12 days long, which began on December 21, which is the time of the Winter Solstice and went through the pagan new year, we know as January 1. To the Roman pagans the Winter Solstice was the birthday of their sun god, in which the sun was worshipped while at its lowest point; and rebirth occurred thereafter which was signified by the sun making its way back to its original point in the sky by New Year's Day.¹⁸ This is further supported by the Encyclopedia Americana which states:

In the fifth century, the Western Church ordered it (Christ's birth) to be observed forever on the day of the old Roman feast of the birth of Sol

¹⁴ Sheryl Ann Karas, *The Solstice Evergreen: The History Folklore and Origins of the Christmas Tree*, (Fairfield, CT: Aslan Publishing, 2nd ed., 1998), 88.

¹⁵ British History Online, "Table of acts: 1644." Acts and Ordinances of the Interregnum", His Majesty's Stationery Office, <http://www.british-history.ac.uk/no-series/acts-ordinances-interregnum/xviii-xxx/>, (accessed 23 July 2015).

¹⁶ John G. R. Forlong, *Encyclopedia of Religions*, (New York: Cosimo Inc., 1st ed., 2008), vol. 1, 457

¹⁷ Edward Carpenter, *Pagan and Christian Creeds: Their Origin and Meaning*, (California: The Book Tree, 1st ed., 1999), 20.

¹⁸ Hunt, 48.

Invictus (Invincible Sun-the sun god), as no certain knowledge of the day of Christ's birth existed.¹⁹

Saturnalia owed its importance and reverence to many factors. All businesses were suspended, slaves were given temporary freedom to say and do as they pleased and above all certain moral restrictions were eased.²⁰ According to Russel K. Tardo, Saturnalia was:

...the most vile, immoral feast that ever disgraced that pagan city (Rome). It was a season of license, drunkenness and debauchery. The spirit of revelry prevailed, and the entire city wantonly indulged in the filthiest sorts of immorality imaginable.²¹

Gradually the observance and worship of the Sun god became so popular and widespread among the Roman pagans that the Emperor, Aurelian, whose mother was a priestess of the Sun, made the worship of the sun an official religion of the empire in the third century.²² And because the Roman Empire was now officially pagans, the Church had a dilemma on their hands and that was; how to bring harmony between the Church and the Roman pagans, especially those new converts that were baptized into Christianity fairly recently? This was a dilemma because it required that the Church adopt and incorporate the pagan practices into the Christian faith so as to attract more converts to the faith as well as to live in harmony where they would not be persecuted. After all, the bible forbade the worship of any other god besides the One True God.

¹⁹ Francis X. Weiser, *Handbook of Christian Feasts and Customs*, (New York: Harcourt, Brace & World, Inc., 1st ed., 1958), 211.

²⁰ Hunt, 48.

²¹ Russel K. Tardo, "*The Shocking Truth About Christmas*," online booklet, <<http://www.slideshare.net/god17/the-shocking-truthaboutchristmas>> (accessed 23 July, 2015).

²² Hunt, 76.

Thou shalt not make unto thee any graven image, or any likeness of anything that is in the heaven above, or that is in the earth beneath, or that is in the water under the earth.²³

This is similar to what the Quran teaches the Muslims when it warns them against *shirk* (paganism):

Say, [O Muhammad], "Invoke those you claim [as deities] besides Allah ." They do not possess an atom's weight [of ability] in the heavens or on the earth, and they do not have therein any partnership [with Him], nor is there for Him from among them any assistant. (*Saba*': 22).

What occurred was explained in one brief paragraph by the New Schaff-Herzog Encyclopedia of Religious Knowledge:

The pagan festival with its riot and merrymaking was so popular that Christians were glad of an excuse to continue its celebration with little change in spirit and in manner. Christian preachers of the West and the Near East protested against the unseemly frivolity with which Christ's birthday was celebrated, while Christians of Mesopotamia accused their Western brethren of idolatry and sun worship for adopting as Christian this pagan festival.²⁴

There are certain elements, decorations, rituals and figureheads that are present during the Christmas season that may seem harmless, but in fact are loaded with paganistic overtones and origins. One may assume that having a Christmas tree is harmless and only brings warmth to the house or that having a child sit on the lap of Santa Clause and ask for whatever his heart desires is innocent. However, if they realize and understand the underlying purposes and significance of such traditions and how it may adversely affect their *aqidah*, then they may think twice about purchasing that Christmas tree or having their child sit on Santa's lap. For this reason the researcher would like to highlight some of those decorations and traditions of Christmas that appear to be other than what it is made out to be.

²³ Exodus, 20:5.

²⁴ Philip Schaff and Johann Jakob Herzog, *The New Schaff-Herzog Encyclopedia of Religious Knowledge*, (New York: Funk and Wagnalls, 3rd ed., 1914), article *Christmas*, vol. 3, 48.

3.2.1.1 *The Christmas Tree*

The Christmas tree has become nearly a universal symbol of the holiday. Long before Jesus was born the pagans around the world used evergreen trees in their superstitious worship and rituals. In honor of the Sun god the Romans decorated their homes with evergreen boughs during Saturnalia. They were decked with offerings of food and precious gifts to the sun god. Because of their ability to remain fresh and green all year, the evergreens symbolized immortality and fertility, which was the reason they became the symbol of the sun god—they were the only thing that remained green.²⁵ The Egyptian pagans thought that the evergreen tree sprang from the grave of their god Osiris, who was their “Christ”, because he died for the good of the people. Its fruit, the pine cone, was symbolic of evergreen tree worship and fertility.²⁶ The Bible forewarned of such acts of honoration and reverence of objects when it stated:

Do not act like the other nations, who try to read their future in the stars. Do not be afraid of their predictions, even though other nations are terrified by them. Their ways are futile and foolish. They cut down a tree, and a craftsman carves an idol. They decorate it with gold and silver and then fasten it securely with hammer and nails so it won't fall over.²⁷

In northern Europe the evergreens were brought inside homes and churches under the superstitious notion that the woodland spirits and fairies would live in them during the winter and survive the cold.²⁸ Amongst the other pagans, it is believed that certain gods or spirits inhabited trees; therefore, they offered sacrifices under them or decorated them with fruits or candles in honor of the sun god and to dispel evil spirits of darkness and death.²⁹

²⁵ Tobin, 20-21.

²⁶ Hunt, 57-58.

²⁷ Jeremiah, 10: 2-4.

²⁸ Hunt, 59.

²⁹ Ingraham, 100-101.

In fact during the 1600's it was illegal to have a Christmas tree or a Christmas service in the new founded land of America. It was these paganistic origins that prevented some Christians, such as the Puritans, from bringing in the Christmas tree in public display both in England and New England.³⁰ It was not until after the U.S. Civil War (1861-1865) that Christmas and its tradition started being practiced openly. It is believed that it was due to the influx of immigrants that came from European countries, whose beliefs were intertwined and convoluted with paganism.³¹ Such a strong resistance to the celebration of Christmas by the Puritans and others in America was due to what their Bible taught them by stating:

Only acknowledge thine iniquity, that thou has transgressed against the Lord thy God, and hast scattered thy ways to the strangers under every green tree, and ye have not obeyed my voice, saith the Lord.³²

However, it was only a matter of time until even this paganistic practice of introducing the Christmas tree would enter homes throughout Europe and America. The German Lutherans, following the way of Martin Luther, the first person to be credited with lighting and decorating a Christmas tree, brought the tree customs to America, much to the consternation of the early Puritans.³³

3.2.1.2 Mistletoe

Mistletoes are parasitic flowering plants that attaches to the stem of another plant.³⁴ They are common amongst and are familiar to most Europeans and North Americans because of the Christmas folklore that is associated with these parasitic flowering

³⁰ Ibid, 103.

³¹ Hunt, 58.

³² Jeremiah 3:13.

³³ Ingraham, 103.

³⁴ Robert L. Mathiasen, "Plant Disease", (Northern Arizona University: The American Phytopathological Society, 2008), vol. 92, no. 7, 988.

plants.³⁵ It is a concept amongst modern tradition in which people in America use it as a symbol of innocence and love. If a woman is standing under a mistletoe and is not kissed by someone then she will not be a bride in the year to come. Therefore, on Christmas Eve, people are allowed to kiss anyone standing under a mistletoe.³⁶

Looking into the origins of hanging a mistletoe during the time of Christmas it is related to the pagan sun god deemed sacred by the Druids.³⁷ The ancient Druids believed that mistletoe possessed healing and magical powers. According to Philip Freeman, who extensively researched some of the ancient heritage and cultures of European pagans, says that the Druids held the mistletoe and the tree it grew on to be sacred with healing powers. They would offer sacrifices for the mistletoe in a great ceremony that was held on the sixth day of the moon.³⁸ The Norse sun god, Balder, was considered immune to all forms of destruction and spells that were cast upon him by the other gods. The only thing they missed in their incantations was mistletoe and an evil god by the name of Loki, conspired to kill Balder by arrows made of mistletoes. When he was killed by Loki, the other gods brought him back to life and an oath was taken from the mistletoe never to hurt anyone again. Because of this, it became a symbol of love.³⁹

It was also believed that the plant possessed fertility attributes such that the white berries symbolized the divine semen of god and the red berries of the holly

³⁵ J. Kuijt, *The Biology of Parasitic Flowering Plants*, (California: University of California Press, 1969); M. Calder, "Mistletoes in focus: An introduction," in *The Biology of Mistletoes*, edited by M. Calder and P. Bernhardt, (San Diego, CA: Academic Press, 1983), 1-18.

³⁶ Henning Heide-Jørgensen, *Parasitic Flowering PLants*, (Netherlands.: Koninklijke Brill, 2008), 133.

³⁷ Hunt, 61.

³⁸ Philip Freeman, *The Philosopher and the Druids: A Journey Among the Ancient Celts*, (New York: Simon & Schuster, 2006), 171; Pliny the Elder, *Natural History*, trans. by Philemon Holland, (California: Club, 1848), Book 16, Chapter 95.

³⁹ Juan Eduardo Cirlot, *A Dictionary of Symbols*, (New York: Dover Publications, Inc., 2002), 22.

represented the goddess' menstrual blood.⁴⁰ The combination of holly's leaves and red berries was also thought to be effective against the 'evil eye.'⁴¹ In addition to such a blasphemous belief, the belief in fertility is also believed to have originated with orgiastic celebrations of the Celtic Midsummer Eve ceremony in which the mistletoe was gathered. During that festival men would kiss one another in a display of homosexuality. Later on, it was broadened so that the custom would include both men and women.⁴²

3.2.1.3 Yule Log

The Yule log is traditionally a sacred oak or evergreen pine log that was used to call for the return of the sun's warmth and light on the Winter Solstice. This tradition evolved from the ancient fire-festival of the Winter Solstice that was celebrated throughout Europe.⁴³ There are two different traditions that the Yule log get its origins from, both of which are paganistic. The first is according to Babylonian tradition in which Tammuz was the reincarnate of Nimrod. According to Israel,

This process of death and reincarnation was represented by a log and a tree. The Yule log that was set ablaze represented the death of Nimrod. The next day a tree was used to symbolize the rebirth of Nimrod through Tammuz.⁴⁴

The second tradition believes that the Yule log came from Scandinavia, where the pagan sex and fertility god, Jul/Jule, was honored in a 12 day celebration in December. During the 12 day celebration a large, single log would be lit on fire with

⁴⁰ Gerina Dunwick, *Wicca Craft: The Book of Herbs, Magick, and Dreams*, (New York: Citadel Press, 1991), 35.

⁴¹ Ingraham, 101.

⁴² Hunt, 61.

⁴³ Raven Grimassi, *Encyclopedia of Wicca & Witchcraft*, (Minnesota: Llewellyn Publications, 2nd ed., 2003), 465.

⁴⁴ Israel, 82.

a different sacrifice being offered to the god on each of the 12 days.⁴⁵ According to the scholar Rudolf Simek the Yule feast has a pronounced religious character with a function in the cult of the dead and in the veneration of the ancestors dating back to the West European Stone and Bronze Ages.⁴⁶

Now, the Yule log has found its way in a unique manner that seeks to deceive Christians and Muslims alike. It has taken shape in the form of a cake that looks like a log. It is bought in stores or given as gifts after also exchanging yuletide greetings.⁴⁷ This is a form of recognition and credit to the worship and reverence of the Scandinavian's past. Furthermore, many witches exchange gifts and gather with loved ones, burning a Yule log in a ritual fire that is seen by them to symbolize the eternal nature of the spirit.⁴⁸

3.2.1.4 Gift Giving

The practice of gift giving at Christmas time have deep roots in ancient Egypt and imperial Rome, both pagan cultures. They exchanged coins and lamps, some of which were inscribed with well wishes.⁴⁹ The Romans exchanged food, small statues of gods (no they are in the form of snowmen, Santa Clause and Jesus statues) and trinkets to one another during the winter festival of Saturnalia.⁵⁰ Later on the Church adopted this custom from the pagans of Europe, declared it that it would be done on the birthday of Christ⁵¹ and deceived the people by Christianizing it, claiming that

⁴⁵ Hunt, 63.

⁴⁶ Rudolf Simek, *Dictionary of Northern Mythology*, trans. by Angela Hall, (Germany: Boye6, 2007), 379.

⁴⁷ Hunt, 64.

⁴⁸ Skye Alexander, *The Everything Wicca and Witchcraft Book: Rituals, Spells and Sacred Objects for Everyday Magick*, (Avon, MA: Adams Media, 2nd ed., 2008), 233.

⁴⁹ Tobin, 20-21.

⁵⁰ Hunt, 64.

⁵¹ Initially gift giving was done by the pagans on January 1. But to Christianize it, it was moved to December 25.

"the three wise-men brought gifts to Christ when he was born, so we do too."⁵² Those three-wise men supposedly came from the East to give gifts of gold, frankincense and myrrh as a recognition of his holy/royal birth.⁵³ In the Gospel of Matthew it states:

No when Jesus was born in Bethlehem of Judea...and when they [the magi] came into the house, they...fell down, and worshipped Him: and when they had opened their treasures, they presented unto Him gifts; gold, and frankincense, and myrrh.⁵⁴

There is nothing wrong with giving gifts to people that you love and those that you want to show an appreciation for. However, the problem arises when such gift giving is connected with a specific occasion or is heavily influenced with a certain religious overtone that then becomes problematic. If Muslims are to give gifts to their loved ones or even Christian neighbors, etc., then it should not be given on such occasions. In doing so, it will be imitating the heathens in their traditions. The researcher will talk more in depth about the *fiqhi* ruling of gift giving in section 4.3.1 of Chapter Four.

3.2.1.5 Santa Claus

Parents love taking their kids to Santa Claus during the Christmas season as it brings joy and happiness to kids when they express their wishes for what they want to receive as gifts on Christmas Eve. Santa Claus is generally depicted as a jolly, white-bearded man, with spectacles on, and wearing a red coat with white collar and cuffs, white-cuffed red trousers, and black leather belt and boots and who carries a bag full of gifts for children, distributing them all on the Eve of Christmas by coming down the chimney. This image became popular in the United States and Canada in the 19th

⁵² Hunt, 64.

⁵³ Scotty McLennan, "Gold And Frankincense," Stanford University Public Worship Stanford Memorial Church, 6 January, 2013, <http://web.stanford.edu/group/religiouslife/cgi-bin/wordpress/wp-content/uploads/2010/04/20130106_UniversityPublicWorship_sermon.pdf>, (accessed 16 July 2015).

⁵⁴ Matthew, 2:1-11.

century in a poem "A Visit From St. Nicholas" by Clement Clarke Moore.⁵⁵ His fame skyrocketed when Coca-Cola used the image of Santa for marketing and advertising.⁵⁶ He later evolved into something which now, for businesses, Santa is a means of an economic boom because parents would go out and buy gifts and toys to fulfill the wishes their children expressed to Santa. And for parents, Santa is a means to keep their children to behave properly because Santa only brought gifts for the well-mannered children.⁵⁷ Yet for religious figures, especially amongst the Christian faith, Santa raised some serious religious questions and its historic paganistic significance. Amongst the Protestants, this imagery of Santa Claus that supposedly represented God, Jesus and saints, was viewed with great suspicion.⁵⁸

Some people, including Christians, do not realize that the origins of Santa Claus came from paganism and that his image and likeness are replicas of other deities. He is a combination of historical figures such as Saint Nicholas who was canonized by the Roman Catholic Church and made bishop of Myra because of his extreme piety. He was believed to have practiced child-like virtues of meekness and humility and gave aid to the poor and gifts to children anonymously.⁵⁹ There are also parallels between Santa Claus and the Germanic god Odin, who was associated with magic, war and hunting. As children waited for a visit from Odin during the winter, they would put food for him near the chimney, where he was believed to enter

⁵⁵ Penne L. Restad, *Christmas in America: A History*, (New York: Oxford University Press, 1st ed., 1995) 143-144.

⁵⁶ The Coca-Cola Co., "5 Things You Never Knew about Santa Claus and Coca-Cola," 1 January, 2012, <<http://www.coca-colacompany.com/holidays/the-true-history-of-the-modern-day-santa-claus>>, (accessed 17 July 2015).

⁵⁷ Richard M. Salsman, "A Well-Earned Capitalist Christmas," *Forbes*, 24 December, 2010, <<http://www.forbes.com/sites/richardsalsman/2010/12/23/a-well-earned-capitalist-christmas/2/>>, (accessed 17 July 2015).

⁵⁸ *Ibid*, 144.

⁵⁹ Hunt, 68.

through, and in return, Odin rewarded with gifts.⁶⁰ Saint Nicholas, or Santa Claus, also bears many similarities to the ancient Egyptian god Bes, who was the patron deity of little children that was swift in punishing the wicked as he was in amusing and delighting the righteous.⁶¹ We also find that many pagan religions outside of Europe, such as in India and China, that worshipped a hearth god, clad in red, coming down a chimney and blessing those who pleased him and cursing those that didn't. For example, Taiwan's hearth god is said to return to the heavens on December 24th to report on the affairs of men.⁶²

What is more intriguing is the subliminal messages that the concept of Santa Claus convey. He is made to have divine, god-like characteristics that many people don't pay attention to. For example, children are taught to behave good because Santa can see and hear them. Santa demands righteousness and commands children to obey their parents and him, through them, if they want to receive any gifts on Christmas. Moreover, he is seen as a provider of happiness and worldly treasures to those that will venerate him and follow the way of the Church and in worshipping Jesus. His godhood is also promoted through his omnipresent, where he can deliver gifts to all the faithful throughout the world in one night. According to the comparison of Santa and God given by John L. Hoh, who has written several books⁶³ on the topic of Christmas and other religious festivals, he is presented as:⁶⁴

1. Eternal: Santa has no beginning and will probably have no end.
2. Unchangeable: Santa has not changed in appearance since our childhood.

⁶⁰ Israel, 85-86.

⁶¹ Hunt, 68-69.

⁶² Ibid, 69.

⁶³ Amazon.com, "12 Books for John L. Hoh,"

<http://www.amazon.com/s?ie=UTF8&page=1&rh=n%3A283155%2Cp_27%3AJohn%20L.%20Hoh%20Jr.>, (accessed 17 July 2015).

⁶⁴ John L. Hoh, *Santa Claus: Is He For Yours Child?*, (Milwaukee: HoneyMilk Publications, 1st ed., 2001), 114-115.

3. Omniscient: He sees and knows everything you are doing.
4. Omnipresent: Santa can be found in every corner of the earth
5. Sovereignty: Santa is not responsible or accountable to anyone

That is why we find in the U.S. Christians that do not follow the Catholic Church, such as the Amish, Protestants and Puritans educate their children from a young age regarding the falsehood of Santa Claus and what he stands for. Because according to Dr. Ingraham, the veneration of Santa is tantamount to idol worshiping and equates him to a false god.⁶⁵ According to others, he is the anti-Christ and the devil himself because of his pagan origins.⁶⁶

All in all, Christmas is deeply rooted in paganism and those that celebrate it are following the ways of the pagans that remembered and worshipped their gods on December 25. Jesus was never born on December 25 and even if he was born on this date, the Christians were never commanded to celebrate his birthday, but rather were rebuked and admonished as this was the practice of Pharaoh and Herod. Christmas only came about as a strategic maneuver by the Roman Catholic Church to convert as many pagans into Christianity, once they saw that they were celebrating mass and festivals during the winter. In other words, this was a pure *bid'ah* (innovation) that was invented in the religion of Christianity that led the people into committing *shirk* (polytheism), which is absolutely *harām* both in the Islamic and Christian Scriptures. According to Hunt,

If you wish to become a disciple of Jesus Christ or think you're a disciple but are practicing these pagan rites; repent for taking part in these practices. Turn from this season of sin and falsehood and follow the word of God only.⁶⁷

⁶⁵ Ingraham, 107.

⁶⁶ Hunt, 72.

⁶⁷ Hunt, 56.

According to the researcher's proposed (Islamized) version of this statement it can be said that,

If you claim to love Allah and be the followers of His last Messenger, then you must not participate in any of the festivals that have a religious connotation which is not sanctioned by the Sharī'ah. Whoever does so, should repent and take that which the Prophet gives him (of the Sunnah) and leave that which he prohibits him from.

3.2.2 New Year's Day

If there is anything that is constant, it is time; it is constantly moving forward. And if there is anything that is changing, it is also time; the day changes from one to another, the month changes from one to another, the year changes from last to new and so on. With Christmas being situated towards the end of the year in December, the new year fastly approaches after a few days of celebrating Christmas. That is why we find, as mentioned in section 3.1.1, that the ancient Romans, in honor of the sun god, celebrated their festivals for 12 days, starting from December 21 till January 1.

In the modern Gregorian calendar, which the vast majority of the world has adopted, January 1 is the first day of the year. That is why we can find that the New Year's Day is the only global public holiday that is commemorated in one fashion or the other. Either it is celebrated with the breaking of glass, as is done in certain Muslim countries, holding a religious feast, as practiced by the Eastern Orthodox churches, or simply having a New Year's resolution, as in the U.S.,⁶⁸ by which a person intends to stop smoking, lose weight, be healthy and drink less alcohol. By and large the New Year's Day is celebrated around the world, especially the U.S., by shooting fireworks into the midnight sky. The question still remains as to why and

⁶⁸ USA Government, "Popular New Year's Resolutions", The U.S. government official website, <blog.usa.gov/post/71861890128/popular-new-years-resolutions>, (accessed 24 July, 2015)

how the celebration of the new year was established? To answer this, the researcher will briefly look into the practices of ancient Rome.

The ancient Roman calendar had only ten months which started on March 1, and was reflected in the names they gave to certain months like September (Seventh), October (Eight), November (Ninth), December (Tenth).⁶⁹ In 45 B.C.⁷⁰ Julius Caesar introduced the Julian calendar and decreed that the New Year should start on January 1 instead of March 1.⁷¹ The month of January was named in honor of Janus, the god of new beginnings, gates and doors. In ancient Rome, the pagans used to worship Janus at the beginnings of the harvest and planting times as well as at the beginning of marriages and births.⁷² Representations of Janus shows that he was a two-face god; one looking forward to the future and the other gazing backwards into the past. So to Caesar it was appropriate for the new year to be in January because it would be a “doorway” to the new year.⁷³

As mentioned earlier, people celebrate New Year’s holiday through different rituals and practices. Contemporary Romans as well as Muslims in parts of the Islamic world commemorate New Year’s holiday by throwing out their window any chipped or broken glass or dishes. Others set off firecrackers and shoot guns in the air, attracting huge crowds in New York City’s Times Square and other places throughout the U.S. Both practices were observed by the pagans in Europe in order to drive away the elves and all evil spirits that are particularly active on the night of New Year’s and to keep those evil spirits from causing harm during the year to come.⁷⁴ As

⁶⁹ Agnes Kirsopp Michels, *The Calendar of the Roman Republic*, (New Jersey: Princeton University Press, 1st ed., 1967), 97.

⁷⁰ B.C. stands for “Before Christ” in the Gregorian calendar.

⁷¹ Ibid, 97-98.

⁷² Bessie Rebecca Burchett, *Janus In Roman Life and Cult: A Study in Roman Religions*, (Wisconsin: George Banta Publishing Co., 1st ed., 1912), 11-12.

⁷³ Israel, 21.

⁷⁴ Walter, 56.

for those that held a feast on New Year's day, it was because of the fairies that entered the homes of those who worshipped them, carrying good fortune and misfortune. Those that offered those fairies the best dishes were promised good fortune for the rest of the year. And at daybreak on January 1, the masters of the house take back the food that was offered to the fairies and distributes it to his entire family.⁷⁵

Here again, we find Christianity borrowing from the pagans of Europe their traditions and conferring upon it a Christian-laden spiritual dimension. It was an attempt to make holy that which, even by their Scriptures, was evil.⁷⁶ The Roman Catholic Church up until 1969 maintained that Jesus was circumcised on January 1, while the Eastern Orthodox Church continues to hold that position of the circumcision of Jesus.⁷⁷ However, as mentioned above in section 3.1.1, Christian historians and scholars, both ancient and contemporary, have disproven that Jesus was not born on December 25 and consequentially was not circumcised on January 1. Thus, it may be acceptable to accept and adopt January 1 as the beginning of a new year for modern and civic reasons, however, it's not permissible to partake in the celebration and festivities of New Year's day, especially after having made clear that its roots is pervasively bound within the practices of the early and ancient pagans.

3.2.3 Valentine's Day

Many people around the world, and almost everyone in the U.S., celebrate Valentine's Day every year on February 14. It is done by showing appreciation for the people they love, whether married to or not. Many people, including little children at school, give specially decorated Valentine's greeting cards, chocolates, jewelry or flowers to

⁷⁵ Alfred Maury, *Les fées au Moyen Age*, (Paris: Champion, 1st ed., 1896), 21.

⁷⁶ Ephesians, 5:16-17.

⁷⁷ Israel, 23.

their friends, partners or admirers on Valentine's Day.⁷⁸ They also may express their affection and love to their loved ones, also known as cupids in the U.S., for a special dinner at a restaurant while others choose this day to propose or get married. Nonetheless, almost everyone that celebrates Valentine's Day take advantage of this day in getting intimate with their partners and other extramarital affairs.⁷⁹ So what does this day have to do with paganism if people are only exchanging gifts and words of affection? As before, we only have to look at ancient Rome for the answer.

In ancient Rome the pagans annually celebrated on February 14 and 15 a feast called Lupercalia. It was celebrated in honor of the pastoral gods Lupercus, Pan and Juno Februata (Juno the fructifyer).⁸⁰ The night before the feast on February 14, in honor of the goddess Juno the fructifyer, it was customary to exchange cards dropped into a box by women and the men would pick one out. These two would be couples for the day and sometimes even longer and would declare their love for one another and/or propose marriage and it is this custom that provides the original meaning of being someone's "Valentine".⁸¹ On February 15, Lupercalia was celebrated in honor of Pan, god of fertility and forests, who disliked clothe and encouraged sexuality and nudeness.⁸² Located near the cave of Lupercal on the Palatine Hills, women and girls

⁷⁸ Mary-Katherine Ream, "Valentine's Day in the United States," IIP Digital, U.S. Embassy, 10 February, 2012, <<http://iipdigital.usembassy.gov/st/english/article/2012/02/20120210155220enirehtak-yram0.9417841.html#axzz31A9CdG9c>>, (accessed 17 July 2015).

⁷⁹ Andrew Soergel, "Valentine's Day Spending to Approach \$19 Billion," US News, 11 February, 2015, <<http://www.usnews.com/news/blogs/data-mine/2015/02/11/valentines-day-spending-to-approach-19-billion>>, (accessed 17 July 2015).

⁸⁰ Cora Linn Morrison Daniels and Charles McClellan Stevens, *Encyclopedia of Superstitions, Folklore, and the Occult Sciences of the World*, (Hawaii: University Press of the Pacific, 2003, reprinted from original edition of 1903), vol. 3, 1582.

⁸¹ Tobin, 39.

⁸² Betty Rose Nagle Ovid, *Ovid's Fasti: Roman Holidays*, (Indiana: Indiana University Press, 1st ed., 1995), 8.

would line up to receive lashes from scantily clad boys to ensure fertility and childbirth.⁸³

Now that it has been made clear that Valentine's Day is a pagan-filled festival, the question remains: how did the Roman Church end up adopting this paganistic festival without losing the support of firmly-rooted Christian believers who were against any forms of paganism and idol worship? And how were they able to please their fundamental Christian followers while also trying to attract new followers and conversion into the Christian faith as well as not losing the recent new Christian converts for whom it was difficult to let go of their paganistic past and rituals? They figured the most clever and cunning idea; they introduced a Christian saint by the name of Saint Valentine whom was a legend even amongst the Church and Christians. However, there was confusion about who was St. Valentine of February 14 as there existed several of them, five to be more precise, in five different regions of the Roman Empire for whom the public were informed that the festival was in their honor. These five St. Valentines of February were:⁸⁴

- A priest of Rome
- A bishop martyr of Italy
- A bishop of Spain
- A confessor honored in Puy (France)
- A martyr in Africa

Regardless of which Valentines he was, legend has it that he was a priest in the year 269 C.E. during the time of Emperor Claudius II, who banned marriages because he believed single men made better soldiers. In defiance of the Emperor St. Valentine

⁸³ Israel, 25.

⁸⁴ Walter, 78.

agreed to secretly marry couples who have found love.⁸⁵ Other Medieval authors have said that St. Valentine was a matchmaker for devout Christian couples and as a consequence was beheaded for his treason.⁸⁶

The Roman Christian Church found it difficult and almost impossible to extirpate the pagan practices on these days. So adhering to their general principle of eradicating pagan superstition, they decided to retain these ceremonies, but modifying it by giving them religious significance and substituting the names of symbols and gods with saints and martyrs. Therefore, the feast of Valentine was first declared by Pope Gelasius I in 496 to be on February 14, the day supposedly he was executed, in order to counter the practice held on Lupercalia of young men and women pairing off as lovers.⁸⁷ As time passed by Lupercalia was replaced with St. Valentine's Day and it became customary for lovers to exchange gifts and messages on this day. However, the sexual wanton behavior that occurred during the ancient Lupercalia festival still persists within the current celebration of Valentine's Day.⁸⁸ This form of deception and trickery of the Church in their failed attempt to Christianize Valentine's Day did not last forever. That's why in 1969 the Roman Catholic Church officially removed the feast of Saint Valentine, because they viewed it as someone of purely legendary origin.⁸⁹

3.2.4 Halloween

Halloween is an annual holiday that is celebrated amongst family, friends and neighbors in the community with some holding a large Halloween event. Parties are

⁸⁵ Tobin, 39.

⁸⁶ Ibid, 40.

⁸⁷ Hunt, 96.

⁸⁸ Israel, 28.

⁸⁹ The Catholic Encyclopedia, article: *Saint Valentine*.

planned on October 31, or in the weekends before and after this date, in which music, dancing and alcohol consumption is common and expected. Some celebrate it by either watching horror films, holding costume parties or creating haunted houses or graveyards in their front yard. Children dress up in fancy costumes, which are traditionally modeled after supernatural figures such as monsters, vampires, ghosts, witches, skeletons and devils and visit other homes in their local neighborhood. At each house, they demand sweets, snacks or a small gift by saying, 'trick-or-treat'. If they don't get anything, they threaten to do some harm to the inhabitants of the house, either by throwing eggs or rotten tomatoes at the front door. Families carve lanterns with scary faces out of pumpkins or other vegetables, known as jack-o'-lantern, or decorate their homes and gardens with ghosts, scarecrows, spiders, spider webs, zombies and anything associated with the supernatural and 'the other world'. Such decorations are intended to ward off evil spirits.⁹⁰

So how is Halloween connected with paganism? Some people may be wondering that the researcher sees everything negative when it comes to all these 'innocent' festivals being celebrated in the U.S. and is an alarmist that sees danger lurking around every ritual and doom present in every festival. The fact of the matter is that these festivals that are pagan-ridden with rituals and rites have been thoroughly researched by historians and Christian theologians in order that they may 'purify' their religion of any paganistic observances. And because of their research, which the Muslims were unaware of, either due to the lack of access to such information or lack

⁹⁰ Library of Congress, "Americans Celebrate Halloween: October 31," <http://www.americaslibrary.gov/jb/modern/jb_modern_halloween_1.html>, (accessed 28 July 2015); USA Federal Holidays Calendar, "Halloween," <<http://usafederalholidays.com/halloween/>>, (accessed 28 July 2015); Time and Date, "Halloween in United States," <<http://www.timeanddate.com/holidays/us/halloween/>>, (accessed 28 July 2015).

of interest in the subject matter altogether, the researcher is able to bring that into light for the Muslim *Ummah* and make a *fiqhi* deduction of it.

Halloween evolved from the Celtic New Year Samhain that was observed on October 31 marking the end of summer and the beginning of winter. The festival originated among the Druids of the Celtic tribes that lived approximately 2,000 years ago in ancient Britain, France and Ireland.⁹¹ To celebrate this annual passage, the Druids lit huge bonfires that served to ward off demons and unwanted spirits which roamed around and was a means for sacrificing animals and humans for the sun god and other deities. During the ceremony the Celts wore costumes and danced in a manner symbolic to the cycle of life and death.⁹² From the Druids perspective, the spirits that roamed during the festival night are suffering from their sins and Samhain, the god of the dead, making them pay for their sins by placing their soul into the bodies of animals. In addition to burning people alive, including children, the Celts performed other rituals, such as wearing costumes in order to fool the dead spirits,

...for the sake of their safety and well-being, people put out sweets and other good things to eat to placate the evil spirits and keep them from doing harm. Some people, hoping to fool the demons, disguised themselves as evil spirits and roamed the countryside, committing malicious pranks, until dawn sent the ghosts and devils back to their unholy realm.⁹³

As Christianity spread throughout Europe, the Church sought to eliminate the pagan practices of the Celts by giving the festival a new name and meaning. This led to the festival being called “All Saints”, also known as “All Hallows” or “Hallowmas”, meaning holy mass. The Church first recognized this holiday in the year 837 to be celebrated on November 1 but the evening before, October 31, became known as “All

⁹¹ Israel, 65.

⁹² Ibid.

⁹³ Peter R. Limburg, *Weird! The Complete Book of Halloween Words*, (New York: Simon & Schuster, 1st ed., 1989), 5.

Hallow E'en.⁹⁴ Around the year 1000 the Catholic Church established November 2 (All Souls Day) to honor the dead. On this day the poor would go knocking door to door, receiving food and sweets called soul cakes, and in return they would pray for the dead.⁹⁵ It is also believed that the Irish were responsible for bringing this custom of 'trick or treat' to the U.S. because of their pagan ancestors that went from house to house to receive offerings to their Druid god.⁹⁶ The Irish were also responsible for bringing the paganistic ritual of jack-o'-lantern, where the Celts would carve out a grotesque face on a turnip in order to fool the demons. They carried these lanterns to light their way in the dark and to ward off any evil spirits. In the U.S. pumpkins were readily available, so it replaced the turnip that was used and continues to be used in Europe on Halloween.⁹⁷ The Catholic Church says that the jack-o'-lantern originated because of a person, name Jack, who outsmarted the devil trying to make his way into heaven, but fell short. His spirit is being celebrated in commemoration of the Jack-o-Latern.⁹⁸

All these customs and rituals of Halloween being associated with sorcery, magic, demons, worshipping of the dead and gods and goddesses have been thoroughly realized by some Christians. Each year they warn their congregation not to fall into the traps of this pagan-infested celebration. In fact, some have called it and compared it to Satanism, i.e. worshipping and following satan. Christian evangelist Phil Phillip and Joan Hake Robie, in their book "*Halloween and Satanism*," explain why many fundamentalists are concerned about Halloween and prevent their children from treading the path of satan. The Catholic Church is realizing fast that even their

⁹⁴ Cass R. Sandak, *Halloween*, (Iowa: Crestwood House Publishing, 1st ed., 1990), 9-11.

⁹⁵ Israel, 66-67.

⁹⁶ Ingraham, 79.

⁹⁷ Ibid, 80.

⁹⁸ Hunt, 93.

followers are beginning to realize the true pagan origins of Halloween. In 2009, Britain's *Daily Telegraph* reported that the Vatican's official daily newspaper, *L'Osservatore Romano*, published an article by Joan Maria Canals, a liturgical expert, entitled, "*Halloween's Dangerous Messages*." In it the priest is quoted as saying, "Halloween has an undercurrent of occultism and is absolutely anti-Christian."⁹⁹ Parents were warned not to permit their children to dress up as ghosts or goblins but to turn away from terror, fear and death. If this is the attitude of the Church and its followers with regards to Halloween then what should be the methodology, *fatwā* and viewpoint of the Islamic scholars with regards to, not only celebrating Halloween, but the other celebrations and festivals discussed in this chapter? The answer and analysis will be provided in Chapter four and five of this research paper.

3.2.5 Thanksgiving

Although Thanksgiving is not a pagan-based festival, it is included in this research because of its popularity amongst non-Muslims as well as Muslims in the U.S.¹⁰⁰ However, it is being included in this research in order to give a better understanding to the reader, the scholars of Islam in particular and the Muslim public in general, of its history and the reasoning behind its celebration. Only then will the scholars of Islam realize that such festivals is, not only following the ways of the non-Muslims in their traditions, but also belittling the thanks and gratitude Muslims are supposed to show to Allah. Only then will the Muslims in the U.S. realize that showing gratitude to Allah

⁹⁹ Nick Squires, "Vatican Condemns Hallowe'en as anti-Christian," *Daily Telegraph*, 30 October, 2009, <<http://www.telegraph.co.uk/news/religion/6467253/Vatican-condemns-Halloween-as-anti-Christian.html>> (accessed 28 July, 2015).

¹⁰⁰ The researcher will present proof of this in Chapter Four when presenting the *fatwā* of Suhaib Webb and Muzammil Siddiqi on this topic.

for His favors upon them is done, not only everyday but rather, five times a day in their daily prayers. They will come to realize that such a festival was held by people who neither worshipped Allah on a regular basis nor did they truly appreciate His blessings when they became oppressors against the native people of America. Nevertheless, this festival is undoubtedly less problematic, in that it does not have any paganistic origins, but one that warrants the researcher to include in this research for which the *fiqhi* ruling will be reserved in Conclusion chapter.

Although the exact date of Thanksgiving is debated amongst historians, it is thought to have first been celebrated by the Pilgrims in 1621, after having suffered a devastating winter and low harvest yield the year before. They were aided by the local Indian tribes who came to their rescue and saved them from destruction, although this 'friendly' relationship was short-lived.¹⁰¹ In 1623, the Pilgrims held another day of Thanksgiving after a drought destroyed their crops and they received relief in the form of rains and a shipment of supply from Europe.¹⁰² Now Thanksgiving is an annual festival that is celebrated officially on the fourth Thursday of every November in the U.S. since 1789.¹⁰³ It is a public holiday on which most people take advantage of by traveling to meet with family and loved ones in order to celebrate it. The festival is commemorated while family and friends are seated around a table, saying prayers and giving thanks to 'God'¹⁰⁴ and then eating turkey along with other side dishes. The Catholic bishops of the U.S. have recently endorsed he

¹⁰¹ Tobin, 194.

¹⁰² Smithsonian Institution, "Thanksgiving in North America: From Local Harvests to National Holiday," History and Culture, n.d., <http://www.si.edu/encyclopedia_si/nmah/thanks.htm>, (accessed 29 July 2015).

¹⁰³ The Center for Legislative Archives, "Congress Establishes Thanksgiving," National Archives, n.d., <<http://www.archives.gov/legislative/features/thanksgiving/>>, (accessed 28 July 2015).

¹⁰⁴ The definition of God varies from that of the Islamic one. In the Christian definition, Prophet Jesus is also referred to as God. In this case giving thanks to Jesus or referring to him as 'God' would be considered *shirk*.

celebration of Thanksgiving and have approved several prayer services and blessings to be recited over the dinner table. One such prayer is the following:

Brothers and sisters: Grace to you and peace from God our Father and the Lord Jesus Christ. I give thanks to my God always on your account for the grace of God bestowed on you in Christ Jesus, that in him you were enriched in every way, with all discourse and all knowledge, as the testimony to Christ was confirmed among you, so that you are not lacking in any spiritual gift as you wait for the revelation of our Lord Jesus Christ. He will keep you firm to the end, irreproachable on the day of our Lord Jesus Christ. God is faithful, and by him you were called to fellowship with his Son, Jesus Christ our Lord.¹⁰⁵

However, not everyone celebrates Thanksgiving day with happiness around a table. The Native Indians, for example, mark this day to be a day of mourning.¹⁰⁶ Since 1970, the United American Indians of New England declare Thanksgiving day to be a "National Day of Mourning." This is due to the fact that when the Pilgrims set foot in America it has been marked by atrocities and massacres of the Native Indians. For example, in the year 1623, the English killed 250 leaders of the Powhatan tribe in what was supposed to be a 'peace conference'.¹⁰⁷ This, after 1623 was the second time that Thanksgiving day was celebrated by the Pilgrims. And it was not only this one incident that the Native Americans refuse to celebrate the day of Thanksgiving or even refuse to send their kids to go to school on this day, but it was a systematic effort of ethnic cleansing and cultural genocide that was perpetrated by the Pilgrims in order to claim ownership and dominance of the land.¹⁰⁸ In his book, *The Wild Frontier: Atrocities During The American-Indian War from Jamestown Colony to Wounded*

¹⁰⁵ United States Conference of Catholic Bishops, "Thanksgiving Day," 27 November, 2014, <<http://www.usccb.org/bible/readings/112714-thanksgiving.cfm>>, (accessed 28 July 2015).

¹⁰⁶ Trisha Thadani, "Native Americans to demonstrate in Plymouth on Thanksgiving," *The Boston Globe*, 26 November, 2014, <<https://www.bostonglobe.com/metro/2014/11/26/native-americans-demonstrate-plymouth-thanksgiving/bjhcuOLjsZ8Q0naFTvMBCN/story.html>>, (accessed 29 July 2015).

¹⁰⁷ Ian Kennet Steele, *Warpath: Invasions of North America*, (Oxford University Press, 1st ed., 1994), 47.

¹⁰⁸ Anthony F. C. Wallace, *Jefferson and the Indians: The Tragic Fate of the First Americans*, (Cambridge, Mass.: Belknap Press, 1999), 20 and 276.

Knee, William M. Osborn clearly and historically proves the atrocities committed by the Pilgrims on the Native Indians from 1511 C.E. to 1890 C.E.¹⁰⁹

The question the researcher posed and continues to ask both Muslims and non-Muslims that celebrate the day of Thanksgiving is: "Why would anyone celebrate a day that is marked by so much killings and violence and is offending to the original owners of the land (Native Indians)? Is it to 'Thank' the starving Pilgrims for their betrayal of the Natives after they rescued them from starvation? Or is it to 'Thank God' for the Pilgrims having 'founded' America? Or is it trying to 'fit in' in the society and not be seen as disrespectful to the festivals of the land by not celebrating it?" All of these are from an ethical standpoint that both Muslims and non-Muslims alike can relate to. In the Conclusion chapter the researcher will address these issues from a *fiqhi* point of view.

3.3 CONCLUSION

After reading this chapter the researcher has shown, through multiple sources, both from historians and Christian scholars alike, that the festivals the Church have adopted into its doctrines were paganistic in origin and had nothing to do with their religion. In fact, it contradicted their fundamental beliefs of not following the ways of the pagans. This belief is still maintained by some elements and sects of Christians as we have shown in this Chapter.

The researcher is of the opinion that if these festivals are contradictory to the fundamental belief system of the Christian faith then *a fortiori* it is contradictory to the belief system of Islam, which is based on *tawhīd*. And if it is argued that these festivals have now become an integral part of the Christian faith, then what is the

¹⁰⁹ William M. Osborn, *The Wild Frontier: Atrocities During The American-Indian War from Jamestown Colony to Wounded Knee*, (New York: Random House, 2000), 93-225.

Islamic position on such innovative practices? To answer this question and others that the researcher has asked throughout this chapter, we turn to Chapter Four for answers.

CHAPTER FOUR

THE FATĀWĀ ON CONGRATULATING AND PARTAKING IN THE NON-MUSLIMS RELIGIOUS FESTIVALS IN THE U.S.A.

4.1 INTRODUCTION

The freedom of practicing, or not practicing, a religion is seen as one of the greatest values that the U.S. government prides itself in granting its citizens.¹ Muslims in the U.S. are increasingly looking to integrate into its society while trying not to lose their identity as Muslims. Without a doubt they are sincere in wanting to practice their religion to the best of their ability without being labeled or seen as ‘extremists’ or wanting to ‘Islamize’ the society. For this reason, they find themselves in a dilemma when it comes to the issue of congratulating and partaking in the non-Muslims religious festivals in the U.S. This issue has gained prominence and momentum after the event of 9-11, in which the Muslims wanted to show that they are as Americans as any other ethnic or religious groups. However, in order to justify their position and feel that they are following the teachings of Islam, they turned to the scholars in the Muslim World² as well as their own scholars in the U.S. regarding the permissibility of partaking in the festivals of the non-Muslims, as we shall see later on in this chapter. The *fatāwā* that were issued to the Muslims can be divided into two main categories: that of permissibility and prohibition of congratulating and/or partaking in the festivals of the non-Muslims. Though the *fatāwā*

¹ The United States Department of Justice, "Civil Rights Division", <<http://www.justice.gov/crt/about-division>>, (accessed 3 August, 2015).

² By the ‘Muslim World’ the researcher mainly means the Middle East, as that is where most of the *fatāwā* originated from.

of prohibition has been present in the books from the time of the classical scholars, however, it did not gain prominence and/or was not seen as a refuting force against the claim of permissibility, except after the dust had settled and emotions were not running as high as they were in the initial months and years following 9/11. In this chapter the researcher seeks to shed some light on the *fatāwā* that were issued on the permissibility and prohibition of congratulating and partaking in the religious festivals of the non-Muslims. In doing so, the researcher will analyze those *fatāwā* by employing juristic, comparative, content and discourse analysis to give a holistic picture of the topic to the readers.

4.2 FATĀWĀ OF PERMISSIBILITY

There are several prominent scholars and Islamic personalities who issued a *fatwā* that it is permissible for the Muslims living in the U.S., or the West in general, to congratulate and/or partake in the religious festivals of the inhabitants of the country even if they may be non-Muslims. Amongst them are Yūsuf al-Qaraḏāwī,³ ‘Abdullah ibn Bayyah/Hamza Yusuf⁴ and Suhaib Webb.⁵ For the purpose of this study, the researcher will limit himself to the opinions of these scholars and personalities for the following reasons; a) the scholars have a wide influence on the Muslims in the U.S., b) their opinions are sufficient for the reader to get an overall picture of the opinion of permissibility, and c) to avoid

³ Yūsuf Al-Qaraḏāwī, *fi Fiqh al-Aqalliyāt al-Muslimah*, (Cairo: Dār al-Shurūq, 2nd Edn., 2005), 145-150.

⁴ ‘Abdullah al-Maḥfūz ibn Bayyah, *Ṣinā‘at al-Fatwā wa Fiqh al-Aqalliyāt*, (Jeddah: Dār al-Minhāj, 1st Edn., 2007), 342.

⁵ Suhaib Webb, Facebook post, 25 December, 2012, <<https://www.facebook.com/suhaib.webb/posts/10151299865648080>>, (accessed 3 August, 2015).

redundancy the opinions of other scholars fall under the general *fatwā* of permissibility especially since they all refer to scholars such al-Qaradāwī and Ibn Bayyah.

4.2.1 Yūsuf al-Qaradāwī

He is one of the most influential scholars of our time whose influence is not confined to the Muslims in the Islamic world but plays a key role, through his *fatāwā*, in shaping the identity of the Muslims in the West.⁶ Even though al-Qaradāwī does not live in the U.S. or the Western world, he is considered to be a *mufīī* for the Muslims living there. In fact he is the current presiding Chairman of the European Council for Fatwā and Research (ECFR) based in Ireland.⁷ He was asked a question by a student studying in Germany on whether or not it is permissible for him to congratulate the non-Muslims on their festivals, especially Christmas, and to exchange gifts with them because he feels that it is rude not to do so. In replying to the question, al-Qaradāwī states that it is permissible based on the following principles:⁸

1. Allah has ordered the Muslims to deal justly with the non-Muslims and to be kind to them based on the verse of the Quran, “Allah does not forbid you to deal justly (*al-birr*) and kindly with those who fought not against you on account of religion and did not drive you out of your homes. Verily, Allah loves those who deal with equity.” (*al-Mumtaḥinah*: 8).

⁶ Sagi Polka, "Constructing Muslims Identity in Western Society: The Rulings (Fatawa) of Shaykh Yusuf Al-Qaradawi for Muslims in the West," in *Arabs in Israel*, edited by Elie Rekhess and Arik Rudnitzky, (Israel: Tel Aviv University, 2013), 49.

⁷ European Council for Fatwā and Research, <<http://e-cfr.org/new/members/>>, (accessed 3 August, 2015).

⁸ Al-Qaradāwī, *fi Fiqh al-Aqalliyāt al-Muslimah*, 145-150.

2. The Prophet ordered Asmā' bint Abi Bakr, when her polytheist mother came and visited her, by saying: "Keep good relations with your mother."⁹ He states that if this is the (good) stance we must have with the polytheists then the stance towards the People of the Book is even more lenient.
3. Allah has allowed for Muslims to eat from the meat of the People of the Book and marry from their womenfolk by stating, "This day [all] good foods have been made lawful, and the food of those who were given the Scripture is lawful for you and your food is lawful for them. And [lawful in marriage are] chaste women from among the believers and chaste women from among those who were given the Scripture before you..." (Qur'an, *al-Mā'idah*: 5). Furthermore, he states the verse of the Quran in which Allah says, "And among His Signs is this, that He created for you wives from among yourselves, that you may find repose in them, and He has put between you affection and mercy. Verily, in that are indeed signs for a people who reflect." (*al-Rūm*: 21). He argues by asking, how is it possible for a man to live in harmony, peace and love with a woman from the people of the Book and not congratulate her or her family on their festivals and holidays?
4. The validity of congratulating the non-Muslims on their festivals is emphasized in the Quran especially in the case when they also congratulate Muslims on Islamic holidays. Allah states, "When you are greeted with a greeting, greet in return with what is better than it, or (at least) return it

⁹ Al-Bukhārī, Muḥammad ibn Ismā'īl, *Saḥīḥ al-Bukhārī*, (Riyādh: Dār-us-Salām, 1997), ḥadīth no. 2620, vol. 3, 164.

equally.” (*al-Nisā*: 86). He argues that it is from the characteristics of a Muslim that he should not be rude and return good with good.

5. The Prophet accepted gifts from non-Muslims including the Christian priest of Egypt, and based on that it is permissible for Muslims to exchange gifts with them on the condition that they do not contain items which are forbidden for Muslims such as pork and alcohol.

It is noteworthy to point out that al-Qaraḍāwī acknowledges and even agrees with the stance of Ibn Taymiyyah when it comes to Muslims partaking in the religious festivals of non-Muslims. He argues that Muslims should not partake in their religious festivals since Muslims have their own festivals, name the two ‘Eīds, to celebrate. However, he disagrees with Ibn Taymiyyah on the issue of congratulating them in their festivals and argues that if he was to be alive in our current times and sees the affairs of the Muslims then he would change his opinion and stance on the issue. Lastly, al-Qaraḍāwī states that the prohibition of Muslims partaking in the festivals is confined to religious-based holidays. As for non-religious holidays such as Independence Day, Mother’s Day, Labor Day, etc., then it is permissible for Muslims to participate and partake in those holidays while keeping in mind to avoid anything that’s prohibited.¹⁰

4.2.2 ‘Abdullah ibn Bayyah/Hamza Yusuf

As mentioned in the Literature Review of Chapter One of this research, the researcher has exhausted his efforts in finding any literature pertaining to congratulating and partaking in the religious festivals of the non-Muslims in the U.S. that can be authentically associated

¹⁰ Al-Qaraḍāwī, *fi Fiqh al-Aqalliyyāt al-Muslimah*, 150.

to Hamza Yusuf. Thus, it can safely be concluded that the views and *fatāwā* given by ‘Abdullah ibn Bayyah are also the views and opinions of Hamza Yusuf, especially given the fact that Hamza Yusuf has studied under the esteemed scholar.¹¹ Ibn Bayyah in his *fatwā* of permissibility, quotes the exact same proofs and principles as Yūsuf al-Qaraḏāwī, but adds the following commentary:

The Scholars have disagreed upon this issue of congratulating the non-Muslims (on their festivals). In the Madhhab of Imām Aḥmad there are three opinions: a) it is prohibited, b) it is disliked and c) it is permissible. It is this last opinion (of permissibility) that Sheikh Taqī al-Dīn Ibn Taymiyyah chose due to its *maṣlaḥah* and this is the opinion that we choose as well. Therefore, it is permissible to congratulate them (non-Muslims), to console them on their grief and to visit their sick. Al-Mardāwī has quoted all of these narrations in his book, *al-Inṣāf*. And what is mentioned in some of the other books in regard to Ibn Taymiyyah may not be in agreement with his confirmed opinions.¹²

Ibn Bayyah stresses that it is forbidden for Muslims to celebrate and partake in the holidays of the non-Muslims that have religious overtones such as Christmas and Easter.

On his official website he states:

With regard to the statement [of the Prophet may the peace and blessings of Allah be upon him] that “Allah [The Exalted] has given you better than those (feasts): Eid al-Adha (Sacrificing) and the ‘Eid al-Fitr”, then “those feasts” were those with strict religious over tones: one a Christian holiday and the other a pagan one. In addition, the Prophet [may the peace and blessing of Allah be upon him] mentioned that the Islamic holidays were two: ‘Eid al-Fitr and ‘Eid al-Adha. But it is not understood from this that he [may the peace and blessing of Allah be upon him] forbade people from gathering and celebrating [other non-religious occasions].¹³

Thus, it can safely be concluded that al-Qaraḏāwī and Ibn Bayyah, hence Hamza Yusuf as well, are of the opinion that it is permissible for Muslims to congratulate the non-Muslims

¹¹ Hamza Yusuf, "Who is Shaykh Abdullah bin Bayyah", YouTube, 22 April, 2012, <<https://www.youtube.com/watch?v=fhi-6BEItPE>>, (accessed 15 June, 2015).

¹² Ibn Bayyah, *Ṣinā‘at al-Fatwā wa Fiqh al-Aqallīyyāt*, 342.

¹³ ‘Abdullah ibn Bayyah, “Holidays Free of Religious Overtones”, The official website of His Eminence Shaykh Abdullah bin Bayyah, 4 November, 2012, <<http://binbayyah.net/english/2012/11/04/holidays-free-of-religious-overtones/>>, (accessed 3 August, 2015).

in their religious and non-religious festivals but it is not permitted for them to partake in any of the festivals that have religious overtones.

4.2.3 Suhaib Webb

Amongst those that also allowed congratulating the non-Muslims on their festivals is Suhaib Webb. On December 25, 2012 he posted on his personal Facebook page what can be considered a justification for greeting the non-Muslims on Christmas and New Year's.

He states:

The European Fatwa Council; made up of 20 of the world's greatest Muslim Jurists, stated that it is permissible to greet people on these days (exchange gifts even) as long as it does not involve approving any creedal differences between us, or open evil (drinking and so on). In other words, a simple happy holidays is not a sin or going to take that person out of Islam. It is reported with authentic chains that Ali (ra) celebrated the Persian New Year, even eating ice cream with Imam Abu Hanifa's relative. Many of the fatwa quoted by sincere folks are rooted in an age of empire and war (the crusades) or a social reality that does not fit ours in the West. Most importantly, a person should ask those who use words like "haram" "kufur" "Halal" and "encouraged" about their religious training. Yelling and over blown emotionalism does not equal training and scholarship. Allah knows best.¹⁴

Webb goes even further than al-Qaraḏāwī and Ibn Bayyah with regard to permitting the celebration of one of the festivals of the non-Muslims. When he was asked by a Muslim revert if it was permissible for him to celebrate Thanksgiving with his parents who see this celebration as very important to them, he responds by saying:

There is a legitimate scholarly difference surrounding this issue. Those who hold such celebrations as forbidden do so contending that such celebrations are "religious in nature" and amount to imitating the religious rites of others. One of my teachers, Shaykh Abdul Jalil al-Mezgouria told me,

¹⁴ Suhaib Webb, Facebook post, 25 December, 2012, <<https://www.facebook.com/suhaib.webb/posts/10151299865648080>>, (accessed 3 August, 2015).

“There is nothing religious about this celebration.” In fact, I remember him giving a *khutbah* about it a number of years back.¹⁵

He further defends his opinion by quoting al-Qaraḏāwī and referring to his position regarding the permissibility of celebrating Mother’s Day and quoting a couple legal axioms that state that the default ruling on things is that they are permissible unless explicitly forbidden with a clear text. He also makes an analogy of Thanksgiving with the festival that the Ṣaḥābah celebrated in the month of Rajab, by stating that it was permissible even though it was before the advent of Islam. He further argues that these days of celebrations can be used for converts to connect with their family and loved ones and use it as a means for furthering the beautiful message of Islam.¹⁶

All in all, the above mentioned scholars and personalities, and those that follow their opinions, such as Hamza Yusuf, are all in agreement in the fact that it is not only permissible for Muslims to congratulate the non-Muslims in their festivals, religious or otherwise, but it is highly commendable and advisable that they do so in order to show the high level of Islamic tolerance, the beautiful manners that Islam teaches to its followers and to use such an opportunity to call them to Islam and to keep the ties of kinship between Muslim and non-Muslim family members. Suhaib Webb, on the other hand, stops short of clearly stating that it is not permissible for Muslims to partake in the festivals that are religiously based, whereas the others scholars made a clear distinction between them.

¹⁵ Suhaib Webb, “Can I Give Thanks & Throw Down on Some Turkey this Week?,” Virtual Mosque, 28 November, 2013, <<http://www.virtualmosque.com/islam-studies/can-i-give-thanks-and-throw-down-on-some-turkey-this-week>> (accessed 3 August, 2015).

¹⁶ Ibid.

4.2.4 Ramification of these Fatāwā on the Muslims

It is without a doubt that Muslims living in the U.S. and the West in general live side by side with the non-Muslims and have established links and ties with them as part of their life. These ties are established through being neighbors, co-workers working together in the same company, studying with classmates in the same school, or even through ties of kinship and marriage. Whatever the case may be, the underlying factor is that they warrant interaction and communication between the Muslims and the non-Muslims. Such interaction in return has certain ramifications that are evident in the Muslims' behavior towards oneself, the Muslim community and towards the non-Muslims. In this section, the researcher would like to highlight the cause and effects of the *fatwā* of permissibility on the Muslim communities in the U.S.

4.2.4.1 Effects on the Muslim as an individual

When a Muslim individual hears and accepts these *fatāwā* that permits him to congratulate the non-Muslims in their festivals a sense of calm and ease overcomes him. He no longer has to think twice whether it is permissible for him to congratulate the non-Muslims on their holidays and does so with a huge smile and full confidence. He feels that Islam is a religion of peace and tolerance and ‘accepts’¹⁷ the diversity that is present amongst humankind in terms of their religion and practices. He feels that it is perfectly acceptable in Islam to take and follow a ‘second opinion’ on this matter, especially if it brings him comfort and ease. When conducting a survey amongst Muslims in the U.S.,

¹⁷ The researcher uses quotation marks on the word *accept* because in reality Islam does not accept other religions and their disbelief in the *Tawhīd* of Allah. It is clearly stated in the Quran: “Indeed, the religion in the sight of Allah is Islam.” (Surat Āli ‘Imrān, 3:19). Therefore, *acceptance* should not be confused with *tolerance* of other religions.

the researcher found that 10% of respondents said that when seeking a 'second opinion' they follow it because: a) it is easy and comforting, and because b) they want to follow the 'easy' path in Islam no matter what.¹⁸ Hence, he feels in himself a sense of satisfaction and contentment in that he is following the manners of Islam by being kind and respectful to other people, regardless of their faith. When asked whether congratulating the non-Muslims is a form of 'kindness' and 'respect' that they show, 34% of respondents said yes.¹⁹

4.2.4.2 Effects on the Muslim community

As soon as a Muslim hears and implements this *fatwā* he feels obliged to share this with his family, friends and Muslim community. He feels that he has found the 'true' message of Islam and the 'correct' opinion of the scholars that he is overwhelmed with joy and happiness. He thinks of others, who choose to abstain from any of this, as narrow minded and being intolerant towards other people. He views the Muslims, who choose not to follow this *fatwā*, as being harsh not only with themselves but also with their families, friends and co-workers. This is one of the reasons that make him reactive in his response and as a result he starts to openly partake and congratulate even the Muslims on the non-religious festivals, because the scholars have allowed it. Though the overwhelming majority of Muslims, 70%, said they do *not* criticize other Muslims that do not congratulate the non-Muslims in their festivals, a good 10% of Muslims said they *do* criticize them for not doing so.²⁰

¹⁸ Appendix, Question 4.

¹⁹ Appendix, Question 6.

²⁰ Appendix, Question 10.

Because of following this *fatwā* the Muslim takes his children out ‘trick or treat’ on Halloween and dresses them up in costumes because he feels that they are harmless and free of any religious overtones. He becomes a *mujtahid* in the sense that he chooses which holidays are religiously based and which ones are not. He takes his wife out to celebrate Valentine’s Day because it is being nice and loving to her as was taught to us by the Prophet. He buys turkey to commemorate Thanksgiving festival, with his family and friends sitting around the table, to give ‘thanks’ to Allah for what they have. He celebrates New Year’s with his family in the park or the beach watching the fireworks display and congratulating one another on a new year.

All of this, without realizing the long-term effects that it is having on his family, especially his children and their ‘*aqīdah*. They are raised in a household environment which condones such practices and celebrates some of them and accepts and gives gifts to others. To them, receiving and giving gifts on Christmas to their non-Muslims, and even amongst themselves, is innocent and full of fun. To collect sweets and candies on Halloween is adventurous and a way to dress up and look cool and silly. To them, the festivals and holidays of non-Muslims are more exciting and fun than the festivals of Islam. When asked whether ‘Eīd was *more* or *less* fun than Christmas, about 10% of respondents said Christmas was *more* fun than ‘Eīd with another 10% saying it was the same.²¹ Some of the respondents commented saying "Children think Christmas is *more* fun", while another respondent saying, "We failed to make ‘Eīd *more* fun."²² It is statements such as these that confirms what the researcher has personally overheard

²¹ Appendix, Question 3.

²² Ibid.

children telling their parents that: “We love celebrating Christmas because it is more fun than ‘Eīd.”

Without a doubt this does not happen overnight, but is part of an evolutionary process that took place. The Muslims first started to hear the sounds of celebration from their non-Muslim neighbors and co-workers. Then they started to watch it on TV and movies broadcasting their rituals and the fun they have on those days. Then their kids are made to participate in the rituals and practices of these festivals at school and at their non-Muslim relative’s house. Thereafter they get invited to celebrate or watch these festivals live at the workplace, streets and shopping malls. They finally accept that these festivals are part of theirs and their children’s lives whether they like it or not. In order to break free from the bondage of guilt, they seek *fatāwā* from scholars, whom are not aware of these long-term ramifications, regarding its permissibility. This evolutionary process that ends up with the Muslims actually celebrating the festivals of the non-Muslims, such as Christmas, can be evident in the *fatwā* of al-Qaraḏāwī when he states:

And I support him (Ibn Taymiyyah) in his opposition to the Muslims celebrating the festivals of the polytheists and the People of the Book, because we see some Muslims celebrating Christmas as they celebrate ‘Eīd al-Fiṭr and ‘Eīd al-Aḏḩā, and maybe to a higher extent and this is not permissible...”²³

Even though the scholars clearly mention in their *fatāwā* that it is ***not*** permissible to celebrate the religious festivals of the non-Muslims, that message clearly does not get across as it gets lost in the 5-10 pages *fatwā*. All the average Muslim sees is that al-Qaraḏāwī or Ibn Bayyah issued a *fatwā* stating it is permissible to partake in the (non-

²³ Al-Qaraḏāwī, *fi Fiqh al-Aqalliyyāt al-Muslimah*, 150.

religious)²⁴ festivals and it is permissible to exchange gifts with the non-Muslims in their festivals. When their children grow up, they could care less about any of the restrictive guidelines set up by these ‘old’ and ‘bearded’ scholars who have no idea what they are going through. The result is total chaos for the future Muslim generation and the good that these scholars intended in their *fatāwā* was misapplied and followed incorrectly as is clearly proven in the above statement of al-Qaraḏāwī.

4.2.4.3 Effects on the Muslims' interaction with non-Muslims

When a Muslim starts to feel the favors of the non-Muslims upon him, starting from being granted residency/citizenship of the U.S., if he was a migrant, to being treated with respect and courtesy for being an ethnic minority, to being helped and assisted with sincerity by his teachers and professors, to the doctors who treats him with honest medical diagnosis, the Muslim feels that he must be as courteous and respectful to them as they are. After all, this is what the teachings of Islam is; to be kind to those who are kind to you and be patient with those who are rude to you.²⁵ So he sees that to congratulate the non-Muslims on the days that they are being greeted on is the least show of respect he can have towards them. When asked whether they feel that being 'kind' and 'respectful' means they should congratulate the non-Muslims on their religious festivals, 34% said yes.²⁶

²⁴ It is in parenthesis to highlight that this restriction is overlooked by the lay Muslim and not paid attention to.

²⁵ See Surat al-Baqarah, 2:109; Surah Āli-‘Imrān, 3:186; Surah Ṭāhā, 20:130; Surah al-Aḥzāb, 33:48; and Surah Qāf, 50:39.

²⁶ Appendix, Question 5.

As for the Muslim who is suffering from mistreatment, discrimination and rudeness from the non-Muslims, he sees the holidays as a means to show them the true *akhlāq* of a Muslim. He does this by either wishing them a Merry Christmas or buying them a gift on their festivals in order to inhibit in himself the mannerism of the Prophet when he was mistreated by the polytheists of Makkah. He also intends that their hearts will open up towards Islam and that they will become curious in knowing more about Islam, eventually leading them to accept Islam as his religion. When the researcher asked whether they use the religious holidays as a form of *da'wah*, 16% replied saying, "yes, I congratulate and partake in the holidays with them to show the beauty and tolerance of Islam."²⁷

It is without a doubt that this Muslim is sincere in his intentions of wanting to present Islam and Muslims in the best form and manner and that he wishes Islam for his non-Muslim colleagues, acquaintances and neighbors so that they may be saved from eternity in the Hell-Fire. He does this in the name of inter-faith dialogue; that maybe there can be a common understanding between him and "them". However, he fails to understand that inviting others towards Islam is a form of worship and in order for that *da'wah* to be accepted it must conform to the *Sunnah* of the Prophet. Additionally, he also fails to realize that no matter what he does, how rude or how kind he is with others, guidance (*hidāyah*) is only in the Hands of Allah. As much as he would like for his kind and quiet neighbor to be Muslim or his generous employer to accept Islam, by him exchanging gifts with them on their holidays, the fact of the matter remains that it is Allah who guides whomsoever He wills as Allah says in the Quran:

²⁷ Appendix, Question 7.

Verily! You (O Muhammad SAW) guide not whom you like, but Allah guides whom He wills. And He knows best those who are the guided. (*al-Qaṣaṣ*: 56).

Lastly, the practice of accommodation, which is to relinquish some aspects of religious identity in order to emphasize similarities and get along more smoothly, diminishes identity. According to Diana Eck, a scholar from Harvard University, who is a strong advocate of pluralism through her works at Harvard, that the whole issue of dialogue is misunderstood. She states:

Dialogue means both speaking and listening, and that process reveals both common understanding and real differences. Dialogue does not mean everyone at the “table” will agree with one another.²⁸

According to Teresa Crist, interfaith dialogue seem to be a largely benevolent interaction on the surface, but in fact has deleterious results. She states that:

Interfaith dialogue poses a threat to that religious identity implicitly, in the form of faulty methodology that can lead to the ignoring and thus erosion of unique differences.”²⁹

It is for all of the above reasons that research would like to debunk the notion that in order to live respectfully, kindly and in harmony with people of other faith that we must compromise any teaching of Islam. Hence, it is the opinion of the researcher that congratulating and/pr partaking in the festivals of the non-Muslims is not a healthy form of inter-faith dialogue that Muslims should pursue both at the individual and communal level.

²⁸ Diana L. Eck, *What is Pluralism?*, The Pluralism Project: Harvard University, <http://www.pluralism.org/pluralism/what_is_pluralism>, (accessed 7 July 2015).

²⁹ Teresa A. Crist, *Maintaining Religious Identity in the Wake of Interfaith Dialogue*, (Master’s Thesis, Claremont Graduate University, 2014), 37.

4.3 FATĀWĀ OF PROHIBITION

There are several prominent contemporary scholars who issued a *fatwā* that it is absolutely prohibited for the Muslims, whether living in the U.S. or anywhere in the world, to congratulate and/or partake in the religious festivals of the non-Muslims. From amongst them is Ṣāliḥ al-Munajjid,³⁰ Yasir Qadhi³¹ and Muzammil Siddiqi.³² Again, for the purpose of this research, the researcher will limit the opinions to the above said scholars for a number of reasons; a) the scholars have a wide influence on the Muslims in the U.S., b) their opinions are sufficient for the reader to get an overall picture of the opinion of prohibition, and c) for the sake of brevity. However, for those that wish to consult the *fatāwā* of those scholars who are more in line with their school of thought and/or methodology, can visit their respected websites.³³

4.3.1 Ṣāliḥ al-Munajjid

Even though al-Munajjid does not live in the U.S. or the Western world, the researcher is including him and his *fatwā* on this issue because he plays a key role, through his famous website, *islamqa.info*, in relaying the opinions of contemporary scholars such as Muḥammad ibn Ṣāliḥ al-‘Uthaymīn, ‘Abdul ‘Azīz ibn Bāz and others to the Muslims across the globe, including the U.S. According to the survey the researcher conducted,

³⁰ Muḥammad Ṣāliḥ al-Munajjid, “Ruling on celebrating non-Muslim holidays and congratulating them”, Islam Question and Answer, <<http://islamqa.info/en/947>>, (accessed 4 August, 2015).

³¹ Yasir Qadhi, “Muslims Celebrating Christmas-Love for Jesus and Mary,” YouTube, 27 December, 2013, <https://www.youtube.com/watch?v=_cJvbl7BzY8>, (accessed 4 August, 2015).

³² Muzammil Siddiqi, “Can Muslims Celebrate Christmas?”, OnIslam, 26 December, 2014, <<http://www.onislam.net/english/ask-the-scholar/morals-and-manners/customs-and-traditions/174414-can-muslims-celebrate-christmas.html?Traditions=>>>, (accessed 4 August, 2015).

³³ Main Khalid Al-Qudah, “Celebrating Non-Muslim Holidays,” Assembly of Muslim Jurists of America, 8 February, 2006, <<http://www.amjonline.org/fatwa-22994/info>> (accessed 4 August 2015); Ikram Ul Haq, “Christmas,” Fatwa Center of America, 18 January, 2015, <<http://askamufti.com/question-details.aspx?qstID=6085>>, (accessed 4 August 2015).

61% of Muslims in the U.S. rely on al-Munajjid and his online *fatwā* website. This, while only 11% of the Muslims relied on al-Qaraḍāwī and Bin Bayyah's books and/or website³⁴ Because of this, the researcher deems him to be the *de facto muftī* for the Muslims living in the U.S. Additionally, his *fatāwā* also shapes the opinions of junior scholars in the U.S., whereby they heavily rely upon him and his website when issuing a *fatwā*. Furthermore, he employs qualified scholars and *muftīs* from different regions to answer the questions of that region. For example, according to the personal knowledge of the researcher, he has employed a *muftī*, Yūnus Kathrāda, from Canada to issue *fatwā* for the Muslims in North America and so on.³⁵ Because of this strategy he has adopted a very important principle for a *muftī* to adhere to and that is; only a scholar of that region, who is familiar with the customs and traditions of its people, should issue a *fatwā*. Finally, the researcher has found that al-Munajjid is the only source that clearly and fully elaborates on each *fatwā* that is issued on his website. It gives the readers and *muftīs* a holistic picture as it contains verses from the Quran, Prophetic ḥadīth and the statements of the scholars, both classical and contemporary. Due to all these reasons, the researcher is justifying his inclusion into this section as the researcher has done with the inclusion of al-Qaraḍāwī in the previous section.

³⁴ Appendix, Question 8.

³⁵ The researcher has exhausted all of his efforts in trying to find a reference that would validate the claim that Younus Kathrada is one of the member *muftīs* for *islamqa*. After contacting Kathrada, the researcher is only able to confirm this claim for the readers by providing the official email that is used by member *muftīs*. For Kathrada it is: *younus@islamqa.info*. This claim by the researcher is being used as a supplement especially since the researcher has backed his claim through other means, such as the empirical data collected from Muslims across the U.S. showing that *islamqa* is widely used and referenced by Muslims in the U.S.

When asked about whether a Muslim can celebrate the holidays of non-Muslims, al-Munajjid states that is prohibited for Muslims to do so. The following is a synopsis of how he based his conclusion:³⁶

1. *Ijmā'* that is highlighted by Ibn al-Qayyim in his book, *Aḥkām Ahl al-Dhimmah*, in which he states: “Congratulating the non-Muslims on their rituals that belongs only to them is ḥarām by consensus, as is congratulating them on their festivals and fasts by saying ‘A happy festival to you’ or ‘May you enjoy your festival,’ and so on. If the one who says this has been saved from disbelief, it is still forbidden. It is like congratulating someone for prostrating to the cross, or even worse than that. It is as great a sin as congratulating someone for drinking alcohol, murder, or having illicit sexual relations, and so on. Many of those who have no respect for their religion fall into this error; they do not realize the offensiveness of their actions. Whoever congratulates a person for his disobedience or *bid'ah* or kufr exposes himself to the wrath and anger of Allah.”³⁷
2. Congratulating the non-Muslims on their religious festivals implies that a Muslim is accepting or approving, indirectly, of their disbelieving customs.
3. Their festivals are innovations in their religions, and even those which may have been prescribed formerly have been abrogated (*mansūkh*) by the religion of Islam. Allah states in the Quran: “And whoever seeks a religion other than

³⁶ Muḥammad Ṣāliḥ al-Munajjid, “Ruling on celebrating non-Muslim holidays and congratulating them”, Islam Question and Answer, <<http://islamqa.info/en/947>>, (accessed 4 August, 2015).

Note: There are several *fatāwā* on the website relating to this topic that covers the issue from various angles. The researcher chose to pick this particular one as it was the most comprehensive amongst the rest.

³⁷ Ibn Qayyim Al-Jawziyyah, Muḥammad ibn Abu Bakr, *Aḥkām Ahl al-Dhimmah*, (Bayrūt: Dār al-Kutub al-‘Ilmiyyah, 2nd Edn., 2002), vol. 1, 162.

Islam, it will never be accepted of him, and in the Hereafter he will be one of the losers.” (*Āli ‘Imrān*: 85).

4. Muslims are forbidden to imitate the non-Muslims by having parties on such occasions, exchanging gifts, giving out sweets or food, etc., because the Prophet said: “Whoever imitates a people, he is one of them.”³⁸
5. Commenting on the above ḥadīth, Ibn Taymiyyah said: “Imitating them in some of their festivals implies that one is pleased with their false beliefs and practices, and gives them the hope that they may have the opportunity to humiliate and mislead the weak (in faith).”³⁹

While quoting the above proofs and principles, al-Munajjid concludes that it is forbidden for Muslims to congratulate the non-Muslims in their religious festivals, to accept invitations to such occasions and to exchange gifts with them on these festivals. He goes as far as saying that if the non-Muslims were to greet the Muslims on their festivals then the Muslims should not return their greeting and remain silent. He argues that politeness and friendliness should not get in the way of compromising with the non-Muslims in their festivals and whoever does congratulate or partake in their festivals with them is a sinner.⁴⁰

4.3.2 Yasir Qadhi

Yasir Qadhi is a well-respected scholar in the U.S., who is the Dean of Academic Affairs at Al-Maghrib Institute based in the U.S. He has studied extensively in the Islamic world

³⁸ Abū Dāwūd, Sulaymān bin Ash‘ath, *Sunan Abū Dāwūd*, (Riyadh: Dar al-Salām, 1st ed., 2008), hadith no. 4031, vol. 4, 388, *Ḥasan*.

³⁹ Ibn Taymiyyah, Aḥmad ibn ‘Abdul Halīm ibn ‘Abd al-Salām ibn ‘Abdullāh, *Iqtidā’ al-Ṣirāt al-Mustaqīm fi Mukhālafati Aṣḥāb al-Jahīm*, (Kuwait: Al-Maktabat Al-Sādisah, 4th ed., 2011), 252.

⁴⁰ Al-Munajjid, “Ruling on celebrating non-Muslim holidays and congratulating them,” Islam Question and Answer, <<http://islamqa.info/en/947>>, (accessed 4 August, 2015).

and in the U.S. and because of this he combines the traditional Eastern Islamic seminary education with the Western academic training of the study of Islam.⁴¹ Throughout his lectures and seminars he emphasizes the importance of tolerance and the need for tackling contemporary issues. One such issue he has talked about is whether it is permissible for Muslims to congratulate and/or partake in the religious festivals of the non-Muslims, such as Christmas. In acknowledging the fact that the young generation of Muslims ask on why Muslims can not celebrate Christmas or congratulate others on this festival he states that it is not permissible based on the following:⁴²

1. Every religion has their own celebrations and days of festivals. Buddhists and Christians do not celebrate the festivals of the Muslims and likewise Muslims should not celebrate the religious holidays of theirs.
2. By celebrating the holidays of other religions it is as if one is celebrating the concept behind those holidays. Therefore, Christmas is celebrated on the 25th of December by the Christians to commemorate the ‘birth’ of Jesus whom they consider to be the son of God, and this is not acceptable in Islam.
3. By wishing the non-Muslims ‘Merry Christmas’ it is problematic in that it is a form of ‘blessing’ their Christmas and Muslims believing in it.

He goes on to offer a solution for Muslims in dealing with the non-Muslims when such religious holidays occur. Instead of using a Christian phrase or terminology that can be problematic, he suggests that Muslims should use generic greetings such as: ‘May God bless you’, ‘May God guide you’ or ‘Happy day today’. On his personal Facebook page,

⁴¹ Al-Maghrib Institute, "Shaykh Yasir Qadhi: Dean of Academic Affairs, Instructor," Instructor Profile, <<http://almaghrib.org/instructors/yasir-qadhi#profile>>, (accessed 4 August 2015).

⁴² Yasir Qadhi, "Muslims Celebrating Christmas-Love for Jesus and Mary," YouTube, 27 December, 2013, <https://www.youtube.com/watch?v=_cJvbl7BzY8>, (accessed 4 August, 2015).

he also addresses this topic and states what should be intended when these generic statements are said:

It is my position (based on many classical scholars) that there is absolutely nothing wrong with saying a generic greeting, even on the occasion of a non-Muslim holiday. Examples of this are: 'May God bless you', and 'Best wishes' and other such neutral phrases (or even Islamically positive statements - for each of these can be a du'a for hidaayah as well.⁴³

4.3.3 Muzammil Siddiqi

Muzammil Siddiqi is a well-respected scholar who is recognized as a highly influential community leader, both by the local government and the Muslim community that he serves, in Southern California. He was the former President of ISNA and is the current vice-chair of Fiqh Council of North America. He issues *fatwā* on various contemporary topics affecting the Muslims in the U.S., including that of celebrating the religious holidays of the non-Muslims. In answering a question whether it is permissible to celebrate Christmas, he states the following:

Christians celebrate at Christmas what they believe to be the "day of the birth of God's Son" or what they call "God Incarnate". Thus it is not only a celebration of another religion, it is also a celebration that is based on a belief that is totally against the teachings of Islam. From the Islamic point of view, the belief in the "Son of God" or "God in the flesh" is a blasphemy and *kufir* (denial of God's Oneness). By participation in Christmas, it is possible that slowly one may lose his or her consciousness of this basic point of difference. Muslims must be very careful in this matter. The greatest danger is for our next generation, who may slowly lose their Islamic faith in *tawhid* and may start believing in Jesus as "more than a prophet and servant of Allah". The argument that "Christmas is, after all, Prophet Jesus' birthday and so there is no harm in celebrating Christmas" is neither logical nor Islamic. Why should Muslims celebrate Jesus' birthday?

⁴³ Yasir Qadhi, Facebook post, 21 December, 2013, <<https://www.facebook.com/yasir.qadhi/posts/10151917993123300>>, (accessed 4 August, 2015).

Why not the birthdays of the other 24 prophets and messengers who are mentioned in the Qur'an by name?⁴⁴

By stating that the youth and the next generation of Muslims will slowly lose their Islamic identity, Siddiqi is confirming the fears the researcher has had and has stated from the beginning of this research; that the Muslim youth are increasingly losing their Islamic identity through many avenues, one of which is through the congratulating and partaking in the non-Muslim holidays. This is further supported by a survey the researcher conducted in which he asked the Muslims whether or not they believe that the future Muslim generation in the U.S. will lose their Islamic identity (eventually) by partaking in the non-Muslim religious holidays. Forty-three percent said *yes* while another 27% said *maybe*.⁴⁵ Furthermore, Siddiqi issued a *fatwā* to a questioner with regard to the Islamic ruling of celebrating Halloween. He states:

Halloween is an old pagan holiday of the witches and the dead. Later some Christians tried to Christianize it by calling it "All Saints Day". However there are still many Christians who resent it and consider it a bad holiday. Some of them even call it a "helliday." Whether Christians accept it or not, we Muslims should not accept this holiday. It is meaningless. Wearing costumes, going tricking and treating and decorating houses with witches, spider nets and wasting so much pumpkins, etc., are all repugnant things. It is strange to see reasonable people acting as weirdo and doing foolish things. It is also becoming quite dangerous nowadays. Some people really act like monsters and witches. Muslims should not participate in this holiday.⁴⁶

On the issue of Thanksgiving, Siddiqi wrote a brief article from an Islamic perspective of “thanks” and its importance in Islam. He states that:

⁴⁴ Muzammil Siddiqi, “Can Muslims Celebrate Christmas?”, OnIslam, 26 December, 2014, <<http://www.onislam.net/english/ask-the-scholar/morals-and-manners/customs-and-traditions/174414-can-muslims-celebrate-christmas.html?Traditions=>>, (accessed 4 August, 2015).

⁴⁵ Question 9.

⁴⁶ Muzammil Siddiqi, “Celebrating Halloween,” OnIslam, 30 October, 2013, <<http://www.onislam.net/english/ask-the-scholar/morals-and-manners/customs-and-traditions/174266-celebrating-halloween.html?Traditions=>>, (accessed 4 August, 2015).

The National Day of Thanksgiving in America is a beautiful holiday. It contains a good spirit and noble message. It is not a holiday of any particular religion. It is not a Christian or Jewish holiday but it has many deeply religious and spiritual meanings. America at thanksgiving is America at its best. It is unfortunate that like many other moral and spiritual things this holiday is also turned nowadays into too much indulgence and commercialism. It is important that we remember and remind others about the spirit of thanksgiving.⁴⁷

Siddiqi then delved into the many verses of the Quran and the ḥadīths that talked about giving thanks for the bounties we have. He cautioned that Muslims should not confine or limit giving thanks to a particular day or event but it should be part and parcel of a Muslim's life. He says:

In Islam thanksgiving is not only a particular religious act or service; it is the whole life. The whole life should be lived in obedience to our Ultimate Benefactor, Allah. God has been good to us and so in our thankfulness we should worship Him, obey His commands and orders. Our daily prayers, our fasting during Ramadan, our Zakat and Hajj are all our acts of thanksgiving. We should do them not only as duties that must be performed but as our gratitude to our Lord and Creator.⁴⁸

4.3.4 Ramification of these Fatāwā on the Muslims

It is without a doubt that the above *fatāwā* have certain consequences that are both positive and negative in results. This is due to the fact that, as mentioned above in 4.1.1, Muslims living in the U.S. live side by side with the non-Muslims and have established links and ties with them as part of their life which warrants interaction and communication between them and the non-Muslims. Such interaction in return has certain ramifications that are evident in both the Muslims and non-Muslims behavior towards oneself, the Muslims community and towards the non-Muslims. Therefore, in

⁴⁷ Muzammil Siddiqi, "An Islamic Thanksgiving," IslamiCity, 28 November, 2013, <<http://www.islamicity.com/Articles/articles.asp?ref=IC0511-2855>>, (accessed 4 August, 2015).

⁴⁸ Ibid.

this section the researcher would like to highlight the cause and effects of the *fatwā* of prohibition on the Muslim communities in the U.S.

4.3.4.1 Effects on the Muslim as an individual

When a Muslim hears and accepts these *fatāwā* that prohibits him from congratulating and partaking in the religious festivals of the non-Muslims, a sense of genuinity is felt. He feels that he is following the true teachings of the Quran and the Sunnah as explained by the early generation of Muslim scholars, known as the *Salaf*.⁴⁹ He feels that those were the scholars who were more deserving to be listened to and followed in their opinion because: a) they were free from distorting the Islamic legal texts in order that it may fit into their agendas or desires, b) they had the true understanding of the Islamic legal texts as they were the closest to the time of the Prophet and the *Ṣaḥābah*, and most importantly c) they were not influenced by the destructive cultures of the Romans (West) nor were they ever colonized in a manner which made them adopt the ways and traditions of the Romans into their lifestyle. Thus, this Muslim feels within himself a sense of pride and honor that he is following those scholars that had a pure and orthodox interpretation of Islam, resulting in the protection of his religion.

4.3.4.2 Effects on the Muslim community

No sooner does a Muslim hear and implement this *fatwā* except that he feels obliged to share this with his family, friends and Muslim community. On every major and minor non-Muslim holiday, he makes and posts flyers that states the *fatāwā* of the scholars, both

⁴⁹ See Appendix, Question 4.

classical and contemporary, prohibiting the Muslims from congratulating them or partaking in them. Friday sermons are filled with rhetoric prohibiting the congregation in imitating the non-Muslims in matters pertaining to their religion and holidays. Overzealous youths criticize those that do congratulate and partake in the non-Muslims holidays. When asked whether they criticize those Muslims that congratulate and partake in the religious festivals of the non-Muslims, 24% of them said yes. One went as far as commenting, "I prefer Socratic method with those I disagree with so that they may admit the holes in their arguments."⁵⁰ This clearly shows how polarizing this topic every holiday season. It also shows the lack of Islamic mannerism and *adab* that is present in certain Muslims living in the U.S.

Since the majority of the holidays are days off work and school, Muslims tend to use such holidays to their advantage by having a community potluck, a youth educational camp or any other event that involves giving the Muslim community, the youth in particular, an alternative to having fun. The message that is relayed to the families and Muslim community is: we are Muslims that can still have fun without compromising our religion by partaking in the religious festivals of the non-Muslims.

Additionally, when such holidays arrive, schools hold a celebration and gift-giving ceremonies of their own.⁵¹ By following these *fatāwā*, the Muslim community struggle what to do and how to react when it comes to their children going to school and being corrupted by being forced in partaking in the ceremonies. He chooses not to send his children to school for that day and sacrifices the education that his children would have

⁵⁰ Appendix, Question 10.

⁵¹ John M. Hartenstein, "A Christmas Issue: Christian Holiday Celebration in the Public Elementary Schools is an Establishment of Religion", *California Law Review*, Vol. 80, Issue 4, Article 6 (1992): 982.

gotten. Fortunately, his sacrifice brings about several *maṣlahah* for his children: a) there is no real education or learning taking place during these days, b) he instills in his children the importance of having a Muslim identity, c) he saves his children from partaking in the ceremonies that clearly involves immoral and despicable acts, d) he spends quality time with his children since they rarely see each other except on the weekends, and most importantly d) he will be fulfilling his responsibility as a shepherd who protects and guards his flock (family) from any adulteration and contamination in regard to their Islamic upbringing.⁵²

4.3.4.3 Effects on the Muslims' interaction with non-Muslims

When a Muslim sees the true nature of the disbelief in *tawḥīd* (oneness of Allah) by non-Muslims, he wants to stay as far away from it as possible. This is especially true for revert Muslims, who have left their *kufr* and accepted the beautiful teachings and ways of Islam. One of the ways is abstaining from congratulating the non-Muslims in their festivals which is, according to them, a form of accepting and acknowledging the *kufr* that is associated with it. This is in addition to the paganistic origins of those holidays which is abhorred in Islam and its message of *tawḥīd*. He refuses to congratulate them or partake in their holidays because he is sending a message that, although they (the non-Muslims) are kind and courteous to him and may even be related through the bonds of

⁵² This idea of being a shepherd is taken from a ḥadīth of the Prophet that states: “All of you are shepherds and each of you is responsible for his flock. An Imam is a shepherd and he is responsible for those in his care. A man is a shepherd in respect of his family and is responsible for those in his care. The woman is a shepherd in respect of her husband’s house and is responsible for those in her care. The servant is a shepherd in respect of his master’s property and is responsible for what is in his care. All of you are shepherds and each of you is responsible for his flock.”

See al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*..., ḥadīth no. 893, vol. 5, 2; Muslim ibn al-Ḥajjāj ibn Muslim al-Naysābūrī, *Ṣaḥīḥ Muslim*, (Bayrūt: Dār al-Iḥyā’ al-Turāth al-‘Arabī, n.d.), ḥadīth no 1829, vol. 3, 1459.

kinship, he is different and unique in his lifestyle and religion. This brings about curiosity in the non-Muslim to ask more about his beliefs and religion, and the Muslim takes advantage of this opportunity to convey the message of Islamic *tawhīd* and the true origins of these festivals that are filled with worshipping and revering the pagan gods and even the devils.

Though this may bring about an initial negative backlash upon the (revert) Muslim by his family, nonetheless they will soon come to accept the fact to respect his decision to stay away from them during their holidays. It is because they come to realize that they (non-Muslims) too abstain from partaking in the festivals of their Muslim child(ren). Furthermore, when the Muslim abstains from congratulating any of his co-workers on their religious festivals, he does not put himself in a position of harassment or any threat of being terminated from his work, as the laws in the U.S. prohibit any employer from discriminating based on religion or religious beliefs.⁵³

4.4 ANALYSIS OF THE TWO DIFFERENT TYPES FATĀWĀ

Now that we have been made aware of the two diametrically different *fatāwā* of the scholars, it is important that the researcher presents a critical analysis of those *fatāwā* on congratulating and partaking in the festivals of the non-Muslims. By employing a qualitative method the researcher is intending to achieve a deeper understanding of those *fatāwā*. This is important so that the readers can get a complete and holistic picture of those *fatāwā* from the different angles that will be analyzed. Therefore, in this section

⁵³ U.S. Equal Employment Opportunity Commission, “Religious Discrimination”, <<http://www.eeoc.gov/laws/types/religion.cfm>>, (accessed 12 August, 2015).

the *fatāwā* will be analyzed using a juristic, comparative, content and discourse analysis method.

4.4.1 Juristic Analysis

By using this form of analysis, the researcher will focus on the strength(s) and/or weakness(es) of the arguments used by the various scholars in the U.S. when issuing their *fatāwā*. Those *fatāwā* will be analyzed against the primary and/or secondary sources of Islamic Jurisprudence for their conformity with the Islamic Law.

4.4.1.1 Analysis of Permissibility Fatwā

When scholars such as Yūsuf al-Qaraḍāwī and ‘Abdullah ibn Bayyah/Hamza Yusuf permitted the Muslims to congratulate the non-Muslims on their festivals, they did so based upon certain principles that were mentioned in section 4.2. The analysis of those principles are as follows:

First: Allah has ordered the Muslims to deal justly with the non-Muslims and to be kind to them based on the verse of the Quran, “Allah does not forbid you to deal justly and kindly with those who fought not against you on account of religion and did not drive you out of your homes. Verily, Allah loves those who deal with equity.” (*al-Mumtaḥinah*: 8). By using this verse they are proving that it is permitted to congratulate the non-Muslims in their festivals because this is out of being kind and just to them. However, to make this deduction from this verse is flawed because this verse is general (*‘āmm*) and ambiguous

(*mujmal*) in its ruling.⁵⁴ What this means is that this verse is so general that they need to be particularized by other clear (*khāṣṣ*) "speech" in order to yield any legal binding effects.⁵⁵ Therefore, there are restrictions and limitations in its applicability and, hence, cannot be generalized in every aspect of dealing with the non-Muslims that fall under this category. For example, being kind and just to the non-Muslims is not permissible when there is disobedience to Allah, as the Prophet said: "There is no obedience to any human being if it involves sin; obedience is only in that which is right and proper."⁵⁶ In the explanation of this *ḥadīth* Al-‘Aynī states:

Obedience to humans are in matters that is known to be from the Sharī‘ah. And in the narration of Abū Sa‘īd it states that whoever commands you to commit a sin, then do not obey him. Therefore, the command (of obedience to authority) is *muṭlaq* (unrestricted) but is particularized to those commands that does not involve committing a sin.⁵⁷

In this case, there is clear disobedience to Allah when the non-Muslims commit acts of *shirk* and sin and the Muslim congratulates them on those days in which those acts are committed in. Furthermore, the researcher will present, in section 4.4.3, the ‘correct’ understanding of what ‘justly’ and ‘kindly’ entails in this verse, according to the earlier works of al-Qaraḍāwī

Second: The Prophet ordered Asmā’ bint Abi Bakr, when her polytheist mother came and visited her, by saying: "Keep good relations with your mother."⁵⁸ Again, this is a *ḥadīth* that is ‘*āmm* and *muṭlaq*, thus, it says nothing about their celebrations. In addition,

⁵⁴ Wael B. Hallaq, *A History of Islamic Legal Theories: an Introduction to Sunnī uṣūl al-fiqh*, (New York: Cambridge University Press, 4th ed., 2005), 43-45.

⁵⁵ *Ibid.*, 45.

⁵⁶ Al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, ḥadīth no. 7257, vol. 9, 88; Muslim, *Ṣaḥīḥ Muslim*, ḥadīth no. 1840, vol. 3, 1469.

⁵⁷ Badr al-Dīn Maḥmūd ibn Aḥmad ibn Mūsā Al-‘Aynī, *Umdat al-Qārī Sharḥ Ṣaḥīḥ al-Bukhārī*, (Bayrūt: Dār Iḥyā’ al-Turāth al-‘Arabī, n.d.) vol. 17, 315.

⁵⁸ Al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, ḥadīth no. 2620, vol. 3, 164.

it is an application of "behave with them in this world kindly." To apply this verse to mean that it is permissible to congratulate and/or partake in their festivals would be contradictory to the other Islamic texts such as when Allah ordered us not to listen to our parents if they order us to commit acts of *shirk* or other sins:

But if they strive with you to make you join in worship with Me others that of which you have no knowledge, then obey them not, but behave with them in the world kindly. (Qur'an, *Luqmān*: 15).

While explaining the reason for the verse's revelation the scholars of *tafsīr* stated that it was revealed in the case of Sa'ad ibn Abi Waqās whose mother ordered him to obey her and disbelieve in Islam. Upon this, Allah revealed the above verse ordering all the believers to be obedient to our parents except in the case that involved disbelieving, or *shirk*, in Allah.⁵⁹ And as we have seen in Chapter Three, the celebrations of the non-Muslims are pagan based that involves acts that are not only displeasing to Allah but contains *shirk*.

Third: Allah has allowed Muslims to eat from the meat of the People of the Book and marry from their womenfolk and if a Muslim marries such a woman then how would it be possible for him to live in harmony, peace and love and not congratulate her or her family on their festivals and holidays? This type of *qiyās* is flawed in that one of the major pillars of *qiyās* is missing and that is the '*illah*'.⁶⁰ The '*illah*' in this case is that the Jews and the Christians have a divine Scripture, which entails that the Muslims can eat from

⁵⁹ Ismā'īl ibn 'Umar ibn Kathīr, *Tafsīr al-Qurān al-'Adhīm*, (Bayrūt: Dār al-Kutub al-'Ilmiyyah, 1st ed., 1419H), vol. 6, 239; Muḥammad ibn Jarīr Al-Ṭabarī, *Jāmi' al-Bayān fī ta'wīl al-Qurān*, (Bayrūt: Mu'assat al-Risālah), vol. 20, 12; Aḥmad Ibn 'Ali ibn Muḥammad ibn Ḥajar al-'Asqalānī, *Fath al-Bārī Sharḥ Ṣaḥīḥ al-Bukhārī*, (Bayrūt: Dār al-Ma'rifah, 1379H), vol. 10, 400.

⁶⁰ Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, (Kuala Lumpur: Ilmiah Publishers, 3rd ed., 2000), 200.

their meat and marry from them. However, it is not permissible for anyone to make *qiyās* on this because the ruling is *khāṣṣ* or *muqayyid* (restricted) to only these two acts. And one of the rules for making an allegorical interpretation (*ta'wīl*) is that *khāṣṣ* and *muqayyad* are not open for additional interpretations whereas *āmm* and *mutlaq* is.⁶¹ Therefore, it is not permissible to interpret the above said verse to: a) beyond what the Sharī'ah intended it to be and b) beyond what the Sharī'ah limited it to. Furthermore, making *āmm* what has been made *khāṣṣ* or making *mutlaq* what has been made *muqayyad* and vice-versa is also not permitted.⁶² Additionally, *qiyās* can never be as high in authority as the definitive evidences or an *ijmā'*. What this means is that the end result of *qiyās* must be in conformity with the intentions of the Sharī'ah to determine its harmony with the Islamic texts.⁶³ And in the case of congratulating and partaking in the festivals of the non-Muslims, an *ijmā'* has been reported by Ibn al-Qayyim as we saw earlier in the chapter, hence, rendering this *qiyās* invalid. As for its conformity with the intentions of the Sharī'ah, then it is invalid as well because opposing the non-Muslims (especially in matters of religion) is the ultimate intention of the Lawgiver.⁶⁴

Fourth: The validity of congratulating non-Muslims on their festivals is emphasized in the Quran especially in the case when they also congratulate Muslims on Islamic holidays. Allah states, “When you are greeted with a greeting, greet in return with what is better than it, or (at least) return it equally.” (Qur'an, *al-Nisā'*: 86). Again, the usage of verses from the Quran for purposes other than what it was intended for is a flawed methodology. This verse is specific in the greeting that is common amongst the Muslims,

⁶¹ Ibid., 89.

⁶² Ibid., 104-113 and 114-115.

⁶³ Ibid., 199.

⁶⁴ Ibn Taymiyyah, *Iqtidā' al-Ṣirāt al-Mustaqīm*, 75-76.

which is to say ‘Salām ‘Alaikum’ or what is similar to it. When mentioning this verse, all the scholars of *tafsīr* mention it in the context of saying ‘Salām ‘Alaikum’ and none of them made it general to include all types of greetings.⁶⁵ Additionally, the scholars of *fiqh*, such as Imām Aḥmad,⁶⁶ Al-Jaṣṣās,⁶⁷ Al-Nawawī⁶⁸ and Ibn Qudāmah⁶⁹ stated the limitation to which a Muslim can greet a non-Muslim: a) not to initiate the greeting, b) not to say *wa raḥmat Allah*, and c) to confine it to saying only "and upon you." Furthermore, even if we were allowed to use this verse to contain all types of greetings, then there are other limitations that must be taken into account if we are presented with a greeting that contain *kufīr* connotations. For example, it would be prohibited to return the greeting of a person who greets a Muslim by saying “May the peace of the son of God be upon you”, or “May Jesus, the son of God, be your Savior”. Applying the verse in this scenario according to the methodology that is used by al-Qaraḍāwī and others would necessitate that the Muslim should return the greeting with the same greeting. However, we know that this would be forbidden for the Muslim to do so as it contains phrases of *shirk*, hence, the concept behind it. Likewise, it would be incorrect to use the above verse from the Quran to apply in cases of all types of greetings; one’s that contain a neutral

⁶⁵ Ibn Kathīr, *Tafsīr al-Qurān al-‘Adhīm*, vol. 2, 325-326; Al-Ṭabarī, *Jāmi‘ al-Bayān...*, vol. 8, 87-90; Fakhr al-Dīn Muḥammad ibn ‘Umar ibn Ḥasan ibn Ḥusayn al-Taymīyy Al-Rāzī, *Mafātīḥ al-Ghayb*, (Bayrūt: Dār Iḥyā’ al-Turāth al-‘Arabī, 3rd ed., 1420H), vol. 10, 161-163; Muḥammad Ṭāhir ibn Muḥammad ibn ‘Āshūr, *Al-Tahrīr wa al-Tanwīr*, (Tunisia: Al-Dār al-Tūnisīyyah, 1984), vol. 5, 145.

⁶⁶ Ibn al-Qayyim, *Aḥkām Ahl al-Dhimmah*, vol. 152-157; Al-Khallāl, Abū Bakr Aḥmad ibn Muḥammad ibn Hārūn ibn Yazīd al-Baghdādī, *Aḥkām Ahl al-Milal*, (Bayrūt: Dār al-Kutub al-‘Ilmiyyah, 2nd ed., 2003), 387-391.

⁶⁷ Aḥmad ibn ‘Alī Abū Bakr al-Rāzī Al-Jaṣṣās, *Aḥkām al-Qur‘ān*, (Bayrūt: Dār Iḥyā’ al-Turāth al-‘Arabī, 1405H), vol. 3, 571.

⁶⁸ Abū Zakariyyā Yaḥyā ibn Sharaf al-Dimashqī Al-Nawawī, *Al-Minhāj Sharḥ Sahīḥ Muslim*, (Bayrūt: Dār Iḥyā’ al-Turāth al-‘Arabī, 2nd ed., 1392H), ḥadīth 2163, vol. 14, 144-145.

⁶⁹ Abū Muḥammad ‘Abdullāh ibn Aḥmad ibn Muammad ibn Qudāmah, *Al-Mughnī*, (Cairo: Maktabat al-Qāhirah, 1968), vol. 9, 363.

meaning or those that contain a religious concept behind it as is in the case of Christmas, etc.

Fifth: The Prophet accepted gifts from non-Muslims including the Christian priest of Egypt, and based on that it is permissible for Muslims to exchange gifts with them, on their festival, on the condition that they do not contain items which are forbidden for Muslims such as pork and alcohol. Again, it should be clear by now that the methodology of using texts that are *'āmm* for specific examples is incorrect. There is no doubt that we are allowed to exchange gifts and food with the non-Muslims on the basis of humanitarian gesture or having good manners. But to use the example of the Prophet accepting a gift from a Christian priest to mean that it is permissible for Muslims to accept gifts without any restrictions, besides it containing pork or alcohol, is incorrect. It is similar to saying that it is permissible for a Muslim to give a 'gift' that is intended as a bribe to a person of authority, such as a judge, and to justify it with the above ḥadīth. Clearly, it can be said that such a 'gift' would be forbidden in this case due to the intention or reasoning behind it. Similarly, the exchanging of gifts during the non-Muslims holidays is forbidden due to the intention and reasoning behind it.

As mentioned in Chapter Three, there is nothing wrong with giving gifts to people that we love and those that we want to show an appreciation for. The Prophet encouraged his Ummah to exchange gifts, by saying, "exchange gifts as that will lead to increasing your love for one another."⁷⁰ However, the problem arises when such gift giving is connected with a specific occasion or is heavily influenced with a certain religious overtone which then becomes problematic. If Muslims are to give gifts to their loved

⁷⁰ Muḥammad ibn Ismā'īl ibn Ibrāhīm ibn al-Mughrah Al-Bukhārī, *Al-Adab al-Mufrad*, (Bayrūt: Dār al-Bashā'ir al-Islāmiyyah, 3rd ed., 1989), hadith no. 240, vol. 1, 221.

ones or even Christian neighbors, etc., then it should not be given on such occasions. In doing so, it will be imitating the heathens in their traditions. Therefore, we should not let the ancient paganism traditions dictate or select the day on which we, as Muslims, decide to give gifts to one another or even the non-Muslims.

Additionally, Ibn Bayyah makes a further comment by saying that:

The Scholars have disagreed upon this issue of congratulating the non-Muslims (on their festivals). In the Madhhab of Imām Aḥmad there are three opinions: a) it is prohibited, b) it is disliked and c) it is permissible. It is this last opinion (of permissibility) that Sheikh Taqī al-Dīn Ibn Taymiyyah chose due to its *maṣlahah* and this is the opinion that we choose as well. Therefore, it is permissible to congratulate them (non-Muslims), to condole them on their grief and to visit their sick. Al-Mardāwī has quoted all of these narrations in his book *al-Inṣāf*. And what is mentioned in some of the other books in regard to Ibn Taymiyyah may not be in agreement with his confirmed opinions.⁷¹

Upon further juristic examination and analysis of the statement of Ibn Bayyah, the researcher discovered that the statements of Ibn Bayyah is incorrect for the following reasons:

1. The scholars did *not* differ on this issue at all as there was *ijmā'* on the prohibition of congratulating the non-Muslims on their festivals. This consensus was reported by Ibn al-Qayyim when he said, "Congratulating the non-Muslims on their rituals that belongs only to them is ḥarām by consensus."⁷² Therefore, this *ijmā'* that was established cannot be broken under any circumstances as is well known amongst the scholars of *fiqh* and *uṣūl*. And for those that claim that *ijmā'* was not established on this issue, then the burden of proof lies upon them to establish their statement. And

⁷¹ Ibn Bayyah, *Ṣinā'at al-Fatwā wa Fiqh al-Aqalliyāt*, 342.

⁷² Ibn al-Qayyim, *Aḥkām Ahl al-Dhimmah*, vol. 1, 162.

bringing proof that would nullify the statement of *ijmā'* by Ibn al-Qayyim was not brought up by scholars such as Ibn Bayyah and al-Qaraḍāwī.

2. There are only two opinions in the Madhhab of Imām Aḥmad, *harām* and *makrūh*, and not three as Ibn Bayyah stated. Additionally, the context of the two opinions in the Madhhab was not in regard to congratulating the non-Muslims in their festivals, but rather it was in the context of visiting them when they are sick. This is proven when the author, al-Mardāwī, states, “The second opinion is that it is not prohibited but disliked as reported in the books of *Ri'āyah* and *al-Ḥāwiyayn* in the chapter of *janā'iz*.”⁷³ Al-Mardāwī goes on to quote the example of the Prophet visiting the sick Jewish boy in order that he may accept Islam. Thus, it can be said without a doubt that the context of *makrūh* was *not* in regard to congratulating the non-Muslims in their festivals but with regard to visiting their sick.
3. With regard to Ibn Taymiyyah choosing the opinion of permissibility in congratulating the non-Muslim in their festivals this is incorrect as al-Mardāwī states the context in which Ibn Taymiyyah chose this ‘permissibility’ by saying, “It (visiting their sick) is permissible for a clear *maṣlahah* such as the hope that they will accept Islam. This opinion was preferred by Ibn Taymiyyah.”⁷⁴ Furthermore, how can it be possible for Ibn Taymiyyah to choose the opinion of permissibility when he clearly and unequivocally is of the opinion that congratulating and partaking in the

⁷³ ‘Alā’ al-Dīn ‘Alī ibn Sulaymān Al-Mardāwī, *al-Inṣāf fi Ma‘rifat al-Rājiḥ min al-Khilāf*, (Bayrūt: Dār Ihyā’ al-Turāth al-‘Arabī, 2nd Edn., n.d.), vol. 4, 234.

⁷⁴ Ibid, vol. 4, 234.

festivals, regardless of it being religious or non-religious, is completely forbidden?⁷⁵ Additionally, for Ibn Bayyah to state that Ibn Taymiyyah's 'confirmed' opinion is that of permissibility is incorrect and inaccurate, because his 'confirmed' opinion is what is relayed by him in his famous masterpiece, *Iqtidā' al-Ṣirāṭ al-Mustaqīm fi Mukhālafati Aṣḥāb al-Jahīm*, which is completely and solely dedicated to the issue of congratulating and partaking in the festivals of the non-Muslims.

As for the analysis of what Suhaib Webb said in his statement, that it was reported with an 'authentic chain' that 'Alī celebrated the Persian New Year's by eating ice cream with the relatives of Imām Abū Ḥanīfah, then this is inaccurate as well. Although Webb does not mention the source of this story, the researcher found it in the book of, *Siyar A'lām al-Nubalā'*, by al-Dhahabī.⁷⁶ Upon further examination of the story, the researcher found a defect in the chain of narration which renders this story to be weak and not 'authentic' as Webb alleges. The chain contains Ismā'īl ibn Ḥammād ibn Nu'mān ibn Thābit, the grandson of Imām Abū Ḥanīfah, whom the scholars of Ḥadīth have declared to be 'weak' and 'someone who cannot be trusted' due to his statements and position in regard to the creation of the Quran.⁷⁷ There are other defects in the chain, but suffice is to say that based on this analysis of one of the narrators it can be concluded, at the very least, that this story is not 'authentic' as Webb claims.

⁷⁵ Ibn Taymiyyah, *Iqtidā' al-Ṣirāṭ al-Mustaqīm...*, 210-213; Ibn al-Qayyim, *Aḥkām Ahl al-Dhimma*, vol. 1, 162.

⁷⁶ Muḥammad ibn Aḥmad ibn 'Uthmān Al-Dhahabī, *Siyar A'lām al-Nubalā'*, (Cairo: Dār al-Ḥadīth, 1st Edn., 2006), vol. 6, 395.

⁷⁷ See Muḥammad ibn Aḥmad ibn 'Uthmān Al-Dhahabī, *Mizān al-I'tidāl*, (Bayrūt: Dār al-Ma'rifah, 1st Edn., 1963), vol. 1, 226; Aḥmad Ibn 'Ali ibn Muḥammad ibn Ḥajar al-'Asqalānī, *Tahdhīb al-Tahdhīb*, (India: Dāirat al-Ma'ārif al-Nidhāmiyyah, 1st Edn., 1326H), vol. 1, 290; Aḥmad Ibn 'Ali ibn Muḥammad ibn Ḥajar al-'Asqalānī, *Lisān al-Mizān*, (India: Dāirat al-Ma'ārif al-Nidhāmiyyah, 2nd Edn., 1971), vol. 1, 398-399.

4.4.1.2 Analysis of Prohibition Fatwā

Upon examining and analyzing the *fatāwā* of the scholars that prohibited the Muslims in congratulating the non-Muslims in their festivals, the researcher finds the following:

1. The claim of consensus on the prohibition being attributed to Ibn al-Qayyim is valid and correct as was proven by the researcher upon his investigation.⁷⁸ Those that may argue that there is no *ijmā'* then the burden of proof lies upon them to show that such an *ijmā'* indeed does not exist.
2. The statement that regard congratulating the non-Muslims on their religious festivals implies that a Muslim is in agreement, indirectly, with their disbelieving customs is a statement that have been said by the classical scholars of all the four school of thought such as Abū al-Qāsim al-Shāfi'ī, Abu al-Ḥasan al-Āmidī, Sufyān al-Thawrī, Ibn al-Qāsim and the companions of Abū Ḥanīfah as reported by Ibn Taymiyyah⁷⁹ and Ibn al-Qayyim⁸⁰ in their books.
3. The fact that these holidays are an innovation in the religion of those that celebrate it, namely the Christians, have been established in Chapter Three of this research as well as by the statement of Ibn Taymiyyah who said, “And all of these (holidays) are innovations which they invented in their religion

⁷⁸ Ibn al-Qayyim, *Aḥkām Ahl al-Dhimmah*, vol. 1, 162.

⁷⁹ Ibn Taymiyyah, *Iqtidā' al-Ṣirāṭ al-Mustaqīm*..., 240-241.

⁸⁰ Ibn al-Qayyim, *Aḥkām Ahl al-Dhimmah*, vol. 2, 156-158.

according to their (scholars) consensus. They contradicted and opposed their religion with which their Prophets came with and distorted the *Sharī'ah*.⁸¹

4. Besides for al-Munajjid, the *fatāwā* of prohibition lacked any scholarly references to the Islamic texts that will give the readers an assurance that these *fatāwā* are based on sound Islamic texts and the sayings of the classical scholars. As mentioned in Chapter Two, it is imperative that a *mufī* explains the Islamic legal justification(s) for issuing any given *fatwā*. And even al-Munajjid's references to Islamic texts were limited in that the researcher had to find those references for some of the claims made by him.
5. Besides for Qadhi, none of the scholars gave an alternative solution for the Muslims to follow when confronted with congratulating the non-Muslims on their festivals. Additionally, all of them, including Qadhi, did not go into the reasoning behind why this issue of congratulating and partaking in the festivals of the non-Muslims has gained momentum in recent times. By doing so, they will be in a better position to determine the root cause of it and offer a more effective solution(s) to the Muslim community in the U.S.

4.4.2 Comparative Analysis of the two kinds of Fatwā

When a scholar or student of Islamic knowledge reads, studies and compares the two different *fatāwā*, their analysis will come to the following conclusion:

1. One of the *fatāwā* is stronger in its reliance and deductions from the Islamic legal texts, both primary and secondary, that clearly support their opinion.

⁸¹ Ibn Taymiyyah, *Iqtidā' al-Şirāṭ al-Mustaqīm*..., 242-243.

Whereas the other *fatwā* lacks any substance or deductions and actually even contradicts the Islamic legal texts.

2. One of the *fatāwā* is found to contain no juristical or deductional mistakes while referring to the Islamic legal text, while the other *fatwā* is clouded with misrepresentations, misquotations and misinterpretations.
3. One of the *fatāwā* clearly takes into account the *maqāṣid al-Sharī'ah*, that seeks to protect one or more of the five essential principles (*ḍarūriyyāt al-khamsa*) while the other *fatwā* has resulted in destroying atleast one of the main principle.

As for the first analysis, the researcher is convinced, after carefully examination, that the *fatwā* of prohibition is stronger than the *fatwā* of permissibility in that their reliance and deduction from the Islamic legal text is more apparent and cohesive. The scholars used proofs from the Quran, Ḥadīth, *ijmā'*, employed *qiyās* as well as the understanding of the classical scholars in the application of those evidences. They used specific proofs that were very specific in concluding the prohibition stance they took. On the other hand, the *fatwā* of permissibility used very general and ambiguous textual proof that clearly contradicted the basic application of *'āmm* and *khāṣ*, *muṭlaq* and *muqayyad* in the science of *usūl al-fiqh*, as we saw in the previous section of this chapter. Their application of using such general proofs was rebutted by the researcher by presenting examples of scenarios and trying to apply their principles.

As for the second analysis, the researcher discovered that the *fatwā* of permissibility contained statements, quotes and deductions that amounted to misrepresentation, misquotation and misinterpretation of them. For example, to state that

the story of ‘Alī eating ice cream on the Persian New Year’s was ‘authentic’ and not providing proof for such a claim amounts to misleading the audience. And in the science of *jarḥ wa ta’dīl* (critiquing the chain of narration in a ḥadīth), such a misleading statement could lead to a person being labeled as a *mudallis* (one who conceals a defect).⁸² Additionally, they also stated that Ibn Taymiyyah took a position of permissibility based on *maṣlahah*, which is also misleading in that it is misquoting him out of context, as was proven above by the researcher. Furthermore, to also state that this was the stronger or more preferred opinion of Ibn Taymiyyah is to misrepresent him, to say the least. Whereas the *fatwā* of prohibition, contained no such discrepancy and defect in their evidences, deductions or (mis)attribution of the legal text or sayings of the scholars.

Lastly, in the third comparative analysis the researcher found that the *fatwā* of prohibition had taken into account the *maqāṣid al-Sharī‘ah* in order to preserve the most important principle: the protection of religion (*ḥifẓ al-dīn*). On the other hand, the *fatwā* of permissibility has failed to take into account this important principle, but rather has based their *fatwā*, albeit partly, on *maṣlahah*. However, even though their intention may have been sincere to invoke *maṣlahah* in their *fatwā* of permissibility, this was done at the expense of the clear *mafsadah* to the religion. And the well-known *qā‘idah fiqhiyyah* of, “warding off a *mafsadah* is given precedence over the attainment of a *maṣlahah*”⁸³ applies in this case. In other words, even though the *fatwā* of permissibility may contain

⁸² Muḥammad ibn Aḥmad ibn ‘Uthmān Al-Dhahabī, *Al-Mūqazat fi ‘Ilm Muṣṭalah al-Ḥadīth*, (Ḥalab: Maktabat al-Maṭbū‘āt al-Islāmiyyah, 2nd ed., 1412H), 47; Muḥammad ibn Ṣāliḥ ibn Muḥammad Al-‘Uthaymīn, *Sharḥ al-Manzūmat al-Bayqūniyyah fi Muṣṭalah al-Ḥadīth*, (Cairo: Dār Ibn Jawjīyy, 1st ed., 2008), 95-97.

⁸³ Al-Shāṭibī, *al-Muwāfaqāt*, vol. 3, 465.

in it a *maṣlaḥah*, it is overlooked and disregarded because of the clear *mafsadah* that results from it, i.e. the destruction of the Islamic identity of the future Muslim generation. And this has been proven both by the researcher and the scholars in the U.S. such as Muzammil Siddiqi in their *fatwā*.

4.4.3 Content Analysis

In this analysis the researcher seeks to enrich the readers with ‘behind the scenes’ scenario. What this entails is that the researcher would like to bring into light the writings of the scholars, what they have included and/or excluded in and how they interpreted them over the course of their scholarship. The researcher is concentrating only on the content analysis of the *fatwā* of permissibility for its obvious discrepancies, since the opinion of prohibition has not changed since *ijmā’* was established.

If we look carefully at the works of certain scholars that wrote books on the Islamic perspective of dealing and interacting with the non-Muslims, we find that the tone and rhetoric or the inclusion and/or exclusion of certain *fiqhi* rulings they used was different in one time-era as compared to a later era. For example, al-Qaraḍāwī wrote two books on the Islamic perspective of non-Muslims. In his first book which he wrote in 1977, *Ghayr al-Muslimīn fī al-Mujtama’ al-Islām*, he talks about the freedom Islam gave to non-Muslims to practice their religion without compulsion, their responsibilities as *dhimmi* and the level of tolerance Islam has shown to non-Muslims throughout history and continues to do so. He defends the unequivocal usage of the title of *dhimmi* for non-Muslims living in Muslim countries and the obligatory payment of *jizya* (protection tax) by them and goes as far as refuting those who see it as a form of cruelty against the non-

Muslims.⁸⁴ Al-Qaraḍāwī also mentions several obligations that non-Muslims must adhere to while practicing their religion, one of which is taking into consideration the sensitivity of Muslims. He states:

And everything that Islam sees as bad for its followers, they should not announce it and make a display of it even if it is permitted in their religion.⁸⁵

Al-Qaraḍāwī concludes his book by saying:

Melting the essential differences between religions has nothing to do with tolerance, such that *tawhīd* becomes equal to the concept of trinity and that which is abrogated with that which abrogates. Such ideas actually bring about opposite consequences other than what they are designed for. Therefore, they alienate and do not bring closer, they separate and do not unite and they destroy and do not construct. Every religion has its fundamental and essential constituents and its own specific characteristics, therefore, such characteristics cannot be ignored for the sake of superficial flattery/courtesy or for making imaginary gains.⁸⁶

Analyzing the content of these statements by al-Qaraḍāwī, the researcher is concluding that although Islam has indeed provided many rights to non-Muslims living in the lands of Islam, it has restricted their beliefs, or the display thereof, so as not to conflict with the fundamentals of Islamic ‘*aqīdah* and show the supremacy of their false religion. It can be argued that this is only specific to *dhimīs* living in Muslim countries, it cannot be applied to the Muslims living in the U.S. with regard to the festivals of the non-Muslims. Though the Muslims in the U.S. cannot control whether or not the non-Muslims can make a display of or congratulate each other in their festivals, yet the Muslims do have control of themselves by not congratulating or partaking in their festivals. This is so that Muslims do not lend the non-Muslims the false notion that Islam is receptive or accepting

⁸⁴ Yūsuf al-Qaraḍāwī, *Ghayr al-Muslimīn fī al-Mujtama‘ al-Islām*, (Cairo: Maktabah Wahbah, 1st ed., 1977), 31-34.

⁸⁵ Ibid., 42.

⁸⁶ Ibid., 83.

of their false ideology. This position of the researcher is supported by the concluding remarks of al-Qaraḍāwī where he states that such fusing or melting of differences between differing religions is *not* from tolerance, but rather are false and superficial flattery that bring about negative and opposite (intended) consequences. It is further supported by what al-Qaraḍāwī firmly states:

The fundamental reason behind many of the deviated and corrupt *fatāwā* of our times is: obedience and submission to the views and culture of the West...The West is not the 'mother of the world' (*umm al-dunyā*), nor is their history the (complete) history of the world...nor is their culture the most prestige over all other cultures and nor is their views and thoughts the source of inspiration for the rest of mankind. The West has their own set of cultures, views and traditions and we (Muslims) have our own culture, tradition, views and our values that arises from our *aqīdah*. Hence, we are not obliged to follow in the footsteps of the West to the point that if they were to enter a lizard hole then we must do so as well.⁸⁷

The second book the researcher wishes to analyze is also a book by al-Qaraḍāwī titled, *Al-Aqalliyyāt al-Dīniyyah wa al-Ḥal al-Islāmī*, written in 1998. Though this is a 3rd edition of this book, the researcher was unable to get a hold of the other earlier editions of the book so as to do the content analysis of them as well. However, for the purposes of this research, the researcher believes that the objective that is trying to be achieved will be met, especially given the fact that this book was written prior to 11/09/2001. In this book, al-Qaraḍāwī argues that Islam has given so many rights and benefits to the non-Muslims that he believes that the laws of Islam would be better for them rather than any other law, such as secular or democratic law. And when referring to non-Muslims, al-Qaraḍāwī has repeatedly used Christians and non-Muslims synonymously and has even gone as far as

⁸⁷ Yūsuf Al-Qaraḍāwī, *Al-Fatwā Bayna al-Indībāt wa al-Tasayyub*, (Bayrūt: al-Maktab al-Islāmī, 2nd ed., 1995), 79-81.

calling them ‘our Christian brothers’.⁸⁸ Furthermore, al-Qaraḍāwī has softened his tone by not declaring or labeling the non-Muslims as *dhimmīs*, but rather has labeled them as ‘citizens’ of *Dar al-Islam*.⁸⁹ Lastly, al-Qaraḍāwī, under the subject of the spirit of Islamic tolerance, gave many examples from the Quran and *Sunnah*, similar to those mentioned above in his *fatwā* of permissibility, such as the Prophet accepting a gift from a Christian priest, ordering Asmā’ to be kind to her mother and the verse of 60:8 in which Allah ordered the Muslims to be kind and just towards the non-Muslims that do not fight them. Quoting the famous Jurisprudential Scholar, Shihāb al-Dīn al-Qarāfī, al-Qaraḍāwī gives the meaning of what it means to be kind (*al-birr*) and just towards the non-Muslims in verse 60:8:

To be lenient with their (non-Muslims who do not fight you) weak, providing for their poor, feeding their hungry, clothing them, being gentle in speech towards them for the sake of being of kindness and mercy (towards them) and not for the sake of fear and oppression (from them), making sure no harm will befall them as a kind gesture and not for reasons of fear or greed, to supplicate for them that they may attain guidance and happiness, to advice them in all their worldly and religious affairs, to protect them in their absence if anyone attempts to harm them, to protect their wealth, children, honor and all their rights in order to ensure that no oppression befalls them and to get them all their rights.⁹⁰

While doing a content analysis of the above, the researcher would like to highlight the following points:

1. When referring to the rights of non-Muslims, almost every time al-Qaraḍāwī refers to Christians only. This becomes apparent when he uses these two words in the same paragraph or even in the same sentence interchangeably.

⁸⁸ Yūsuf Al-Qaraḍāwī, *Al-Aqalliyāt al-Dīniyyah wa al-Ḥall al-Islāmī*, (Bayrūt: Al-Maktab al-Islāmī, 3rd Edn., 1998), 7-13, 33.

⁸⁹ Ibid, 14, 32-34.

⁹⁰ Ibid, 45-46.

By doing so, this may give the impression to the readers that the rights and tolerance that Islam offers to non-Muslims, only or mostly is applicable to Christians and not Jews, Hindus or other religious sects. The implication of this point will become apparent in the analysis of al-Qaraḍāwī's third book.

2. By calling the Christians, he refers to them on more than a couple of occasions as 'our Christian brothers'.⁹¹ Such a tone and use of words is problematic in that Allah has referred to *only* the believers as being brothers amongst each other.⁹² Additionally, al-Qaraḍāwī chose to use the term 'citizens' rather than the term *al-dhimmī* for non-Muslims, which is a deviation from his prior, more orthodox stance in his first book. Thus, the researcher deems that these two are the setting stone for the stance al-Qaraḍāwī will eventually take in his *fatwā* of permissibility, as will become more evident in the coming paragraphs.
3. When al-Qaraḍāwī quotes the same examples that he also uses in his *fatwā* of permissibility, such as the verse of 60:8, the Prophet's acceptance of a gift from a non-Muslim and his ordering of Asmā' to be good towards her (polytheist) mother, then they are all done under the context of Islamic spirit of tolerance. The researcher failed to find, after an exhaustive and thorough reading, a single deduction from those same examples to justify the congratulating and/or partaking in the festivals of the non-Muslims. And this, while the researcher considers is the perfect and most suitable platform for al-Qaraḍāwī to mention so, especially given the fact that he made other

⁹¹ Al-Qaraḍāwī, *Al-Aqalliyāt al-Dīniyyah...*, 13 and 33-34.

⁹² Surat al-Ḥujurāt, 49:15.

concessions on his earlier stances. However, it is not done so and the reason the researcher theorizes will become evident in the following paragraph.

4. While quoting the famous Scholar, al-Qarāfī, al-Qaraḍāwī does justice to the readers by giving them the true meaning of what Allah intended by using the words ‘just’ and ‘kindly’ in verse 60:8.⁹³ However, this is not the case when he tries to explain and use the verse for his *fatwā* on permitting the Muslims in congratulating and partaking in the festivals of the non-Muslims.⁹⁴

Finally, when analyzing al-Qaraḍāwī’s third book, *Fi Fiqh al-Aqalliyyāt al-Muslimah*, written in 2005, the author discusses certain jurisprudential issues that the Muslim minority faces living in the West. After rightfully justifying the need for such a *fiqh*, al-Qaraḍāwī tackles issues relating to the spiritual *‘ibādāt*, economic, social, political and even creedal matters affecting the Muslims in the West. From amongst those issues, the researcher would like to highlight two of them due to its importance and relevance to the topic at hand.

First, when talking about the legality of marrying a woman from the people of the Book, al-Qaraḍāwī stipulates certain conditions that need to be met before it is allowed for a Muslim man to do so. One of those conditions is that they are not in enmity or are fighting the Muslims because of the statement of Allah:

It is only as regard those who fought against you on account of religion, and have driven you out of your homes, and helped to drive you out, that Allah forbids you to befriend them. (Qur'an, *al-Mumtaḥinah*: 9).

⁹³ Al-Qaraḍāwī, *Al-Aqalliyyāt al-Dīniyyah...*, 45-46.

⁹⁴ Al-Qaraḍāwī, *fi Fiqh al-Aqalliyyāt al-Muslimah*, 146.

Using the above verse from the Quran as well as other *'āmm* text, al-Qaraḍāwī deduces that it is not permitted for Muslims to marry Jewish women as long as there is a war between Israel and us (Muslims). He makes no distinction between a Jewish Zionist or a 'regular' Jew because, according to him, the common denominator and reference for their intellectual and character is their divine Scripture, the Torah.⁹⁵ When analyzing the above statement, the researcher wishes to highlight the following:

1. When talking about the legality of marrying the women from the people of the Book, al-Qaraḍāwī does not simply take the *'āmm* text of the verse 5:5 without placing any conditions on how to apply that verse. Rather, he places four conditions that a Muslim man must take into consideration before his marriage to a woman from the people of the Book is considered Islamically legal.⁹⁶ Such a correct approach by al-Qaraḍāwī, in regard to the implementation of textual evidences that are *mujmal* and *'āmm* with restrictive measures, is what the researcher has been arguing throughout this chapter, i.e. general textual evidences *cannot* be acted upon without specific limitations and restrictions. However, al-Qaraḍāwī does not place any restrictive conditions when deducing from verse 60:8, one verse prior to the above, the permissibility of congratulating and partaking (in exchanging gifts) with the non-Muslims on their festivals. Therefore, the researcher is of the opinion that if a certain methodology of deduction and hence, the implementation of that deduction, is going to be employed then it must be uniform and consistent throughout.

⁹⁵ Al-Qaraḍāwī, *fi Fiqh al-Aqalliyāt al-Muslimah*, 98-100.

⁹⁶ *Ibid*, 97-100.

2. When al-Qaraḏāwī does not distinguish between a ‘regular’ Jew or a Zionist Jew, he is setting a precedence of generalization that *all* Jews are guilty of being enemies and at war with the Muslims because of the Palestinian-Israeli conflict. If such a generalization and deduction is correct, which it probably is, then the same principle of generalization should and must be applied to the government of the U.S. and, hence, its (Christian) citizens; that they are also an enemy the Muslims because of their (continuing) support of the aggression of Israel and the wars they have conducted against the Muslims in Afghanistan, Pakistan, Iraq, Syria to name just a few countries. This, on top of the covert and secret operations that is concocted by the U.S. in their aggression against Islam. Hence, it is the opinion of the researcher that if al-Qaraḏāwī places all Jews in one basket because of the Palestinian-Israeli conflict, then he should also apply that same principle to the Christians in the U.S. because of their aggression against the Muslims around the world. This classification is important because the Muslims would then be prohibited from congratulating the non-Muslims in the U.S., even according to al-Qaraḏāwī, based on his deduction of verse 60:8-9.
3. By placing all Jews as those that are at war with the Muslims, al-Qaraḏāwī is setting the foundational argument that Muslims are not allowed to congratulate them on their festivals. That is why the researcher has not found a single instance in his above writings where he has called them ‘our Jewish brothers’ or has spoken about them using a softer rhetoric or has permitted the Muslims to congratulate or partake in the exchanging of gifts on their festivals

such as Hanukah. Such a position by al-Qaraḍāwī can be argued that it is rightfully justifiable because of the clear aggression of their government against the Muslims in Palestine. However, the researcher feels that if al-Qaraḍāwī is going to take a position on a particular group of people based on a certain principle, then he must also take that same position on another group of people if the same principle applies to them equally as well. This is important because it has a direct correlation to many of the jurisprudential rulings that al-Qaraḍāwī brings up in this book, simply based on the above principle.

Second and most importantly, al-Qaraḍāwī talks about the permissibility of congratulating the non-Muslims on their festivals. The title of the chapter in which he discusses this is, “Congratulating the People of the Book on their festivals”. It contains his textual evidences, proofs and deductions that has been discussed throughout this chapter from various angles. Here, the researcher would like to analyze, from a content analysis perspective, the following:

1. This is the first time that al-Qaraḍāwī has talked about this issue than in any of his previous writings.⁹⁷ According to the researcher, this was because of the events of 9-11 and the perceived dangerous and fragile position that the Muslims were in as minorities in the U.S. According to the FBI's annual hate crimes report it found that incidents targeting people, institutions and businesses identified with Islam increased from 28 in 2000 to 481 in 2001 - a jump of 1,600 percent! This, while Muslims had been among the least-

⁹⁷ This is because al-Qaraḍāwī, never mentioned this issue in any of his books prior to 2001, the year of 9-11. The above book was first written in 2001 with a second edition in 2005.

targeted religious groups.⁹⁸ Because of the merciful, caring and compassionate feelings the scholars, al-Qaraḍāwī being one of them, felt towards the potential threat and alienation of the Muslim minority in the U.S., that they believed there was a need for a change in their rhetoric, tone and *fatāwā* on certain issues. One such issue is their laxity, and eventual permissibility, of congratulating and partaking in the religious festivals of the non-Muslims in America. It is as if they were invoking a (new) *qā'idah fiqhiyyah* that states, "Changing of *fatwā* by the change of political pressure".⁹⁹

2. When referring to "The People of the Book" or "festivals", al-Qaraḍāwī singles out "Christians" and "Christmas" in his *fatwā* and does not mention the Buddhists, Hindus or their festivals.¹⁰⁰ The question the researcher posed, albeit unsuccessful, to al-Qaraḍāwī is, "Is the permissibility of congratulating and partaking in Christmas connected only because of the fact that it is a Christian holiday with its roots in a heavenly Divine Book, or is the permissibility general to include all religions regardless if they are Divine or not." If the answer is that it is *only* connected to the heavenly Divine religions and not to any other religions, because of their *shirk*, then the researcher has proven, in Chapter Three, that Christmas and other "Christian" holidays have their roots in paganistic origins and has nothing to do with

⁹⁸ Curt Anderson, "FBI: Hate Crime v.s. Muslims Rise," Associated Press, 25 November, 2002, <<http://www.apnewsarchive.com/2002/FBI-Hate-Crimes-Vs-Muslims-Rise/id-5e249fb6e4dc184720e3428c9d0bd046>>, (accessed 17 August 2015).

⁹⁹ The researcher has changed the original *qā'idah fiqhiyyah* that states, "Changing of *fatwā* according to the change in time and space", which was discussed in Chapter Two.

¹⁰⁰ Ibid, 145.

Christianity. Therefore, congratulating the Christians on their holidays should also be prohibited for the same reason. And if the *illah* of prohibition of congratulating the Buddhists and Hindus on their festivals is due to the clear *shirk* that is involved, then the same *illah* is also present in the “Christian” holidays, though it is hidden. And if the answer is that the permissibility applies to all religions, regardless whether they are polytheistic in nature or not, then why has al-Qaraḏāwī never mentioned them, especially given the fact that there is almost an equal population of non-Muslims in the world that comprise of Buddhists, Sikhs, Hindus and other polytheists, in his *fatāwā*?¹⁰¹

In concluding the above analysis, it is the opinion of the researcher that al-Qaraḏāwī only passed such a *fatwā* due to a silent political pressure and in order to lift the politically-motivated Islamophobia and hate-filled harassment from the Muslim minority in the West. However, the slow, but gradual, loss of the Islamic identity that results from such a *fatwā* has and will continue to have negative repercussions amongst the future Muslim generation in terms of their ‘*aqīdah*’.

4.4.4 Discourse Analysis

In this type of analysis the researcher seeks to enrich the readers with ‘beyond the statements’ of the scholars that gave their *fatāwā*, particularly that of permissibility. The researcher will present to the readers the rhetoric, proofs and deductions used in their

¹⁰¹ Pew Research Center, “The Future of World Religions: Population Growth Projections, 2010-2050”, Religion & Public Life, 2 April, 2015, <<http://www.pewforum.org/2015/04/02/religious-projections-2010-2050/>>, (accessed 17 August, 2015).

fatāwā, interpret them and how the different scholars talked about this issue. This will be done by analytically examining the *fatāwā* of those scholars as mentioned in section 4.2.

When al-Qaraḏāwī argues and states that, "how is it possible for a man to live in harmony, peace and love with a woman from the people of the Book, which he is allowed to marry, and not congratulate her or her family on their festivals and holidays",¹⁰² he is feeding into the emotional state of mind of his constituencies. By using such language al-Qaraḏāwī is stating that those who do *not* congratulate their family on their festivals then they will be living in a state of constant discord and disagreement with hatred and feud in the family. Thus, he is suggesting that for the sake of keeping the family intact and at peace he should congratulate them on their holidays and exchange gifts with his family and (non-Muslim) in-laws.

However, this statement of al-Qaraḏāwī is contradictory with his earlier *fatwā* in which he prohibits a Muslim man from marrying a woman from the people of the Book. This, after he acknowledges the legality of such a marriage and outweighs and prefers (*tarjīḥ*) the opinion of the scholars that say it is permitted. Despite this, he concludes that it should be prohibited for a man to marry a woman from the people of the Book because of the numerous *mafsadah* that accompanies it, some of which are cultural and some of which are Islamic. Thus, by invoking the concept of *sadd al-dharī'ah* and the *qā'idah fiqhiyyah* of, "warding off a *mafsadah* is given precedence over the attainment of a *maṣlahah*" he issues a *fatwā* of prohibiting such a marriage.¹⁰³

In light of this, the researcher would like to use that earlier principle of al-Qaraḏāwī in the case of congratulating and partaking in the festivals of the non-Muslims

¹⁰² Al-Qaraḏāwī, *fi Fiqh al-Aqalliyāt al-Muslimah*, 147-148.

¹⁰³ *Ibid.*, 91-104.

as well; for the sake of *sadd al-dharī'ah* and the above *qā'idah fiqhiyyah* the Muslim should *not* congratulate or partake in the exchange of gifts with his non-Muslim family. This applies in the case of a Muslim man who has already married a woman from the people of the Book. As for the one who has not, then the researcher agrees with al-Qaraḏāwī in his prohibition for several reasons, one of which is so he is not in a position of compromising his religion and *aqīdah* during the festivals of his (non-Muslim) family.

On the other hand, al-Qaraḏāwī states that Muslims should not be rude when they do not return the congratulatory greetings of the non-Muslims on their festivals but that he should return good with good.¹⁰⁴ By stating this, he is (indirectly) accusing all the scholars of the past who harshly warned the Muslims from congratulating the non-Muslims on their festivals. Furthermore, he is under the impression that the non-Muslims in the U.S. congratulate, and even partake, in the festivals of the Muslims, thus rendering the Muslims to return the favor. This, of course, is not the case in the U.S. as the non-Muslims are not even aware of the festivals of Muslims, let alone congratulating them on it.¹⁰⁵ In fact, Muslims in the U.S., with the exception of New York,¹⁰⁶ are not given the luxury of having their festivals honored as an official holiday in which they are afforded a day off from work or school.

¹⁰⁴ Ibid., 148.

¹⁰⁵ Rosalie Ambrosino, Joseph Heffernan, Guy Shuttlesworth and Robert Ambrosino, *Social Work and Social Welfare: An Introduction*, (Canada: Cengage Learning, 8th ed., 2015), Chapter 4, 109; Shirin Taber, *Muslims Next Door: Uncovering Myths and Creating Friendships*, (Michigan: Zondervan, 2009), **Note:** This book contained no page numbering. However, the book can be found online at, <https://books.google.com.my/books?id=P0CvQiPL9q4C&pg=PT93&lpg=PT93&dq=Americans+ignorant+of+Muslim+holidays&source=bl&ots=Mu8xAtNBZ4&sig=efMAzr7nEjSM2xkj_IS1Jlzmsu0&hl=en&sa=X&redir_esc=y#v=onepage&q=Americans%20ignorant%20of%20Muslim%20holidays&f=false>, (accessed 17 August 2015).

¹⁰⁶ Christopher Mathias, "New York City Officially Adds Two Muslim Holidays To School Calendar," Huffington Post, 5 March, 2015, <http://www.huffingtonpost.com/2015/03/04/new-york-city-muslim-holidays-school-calendar-de-blasio_n_6800382.html>, (accessed 17 August 2015).

Furthermore, al-Qaradāwī feels that the only way for a Muslim to be ‘good’ and ‘polite’ on this day is for them to congratulate the non-Muslims on their festivals. This is clearly not the case as there are some people in the U.S. that do not congratulate each other on this day because they either do not celebrate it or do not believe in it. According to a Pew Research study, 10% of Americans do not celebrate Christmas.¹⁰⁷ This, while in 2014 Muslims made less than one percent (0.9%) of the total U.S. population.¹⁰⁸ This begs the question, who are the other 9% of Americans that do not celebrate or partake in the U.S. holidays such as Christmas? The answer was given in Chapter Three; certain denomination of Christians do not celebrate these holidays because of the paganistic origins. Furthermore, some take offence if they were to be initiated with a congratulatory statement such as “Merry Christmas” as was the case recently in the Christmas of 2014.¹⁰⁹ Therefore, it is the opinion of the researcher that if a Muslim does not return the greeting of “Merry Christmas”, then it is understood by the other party that he does not celebrate it and does not intend to be rude.

Lastly, al-Qaradāwī "disagrees with Ibn Taymiyyah on the issue of congratulating them in their festivals and that if he was to be alive in our current time then he would change his opinion and stance on the issue".¹¹⁰ First of all, the researcher would like to point out that such a statement cannot be made as it is from the knowledge of the unseen,

¹⁰⁷ Pew Research Center, "Celebrating Christmas and the Holidays: Then and Now," Polling and Analysis, 18 December, 2015, <<http://www.pewforum.org/2013/12/18/celebrating-christmas-and-the-holidays-then-and-now/>>, (accessed 18 August 2015).

¹⁰⁸ Pew Research Center, "America's Changing Religious Landscape," Demographic Study, 12 May, 2015, <<http://www.pewforum.org/2015/05/12/americas-changing-religious-landscape/>> (accessed 18 August 2015).

¹⁰⁹ Michael Liss, Daniel Prendergast and Philip Messing, “Passenger tossed after flipping out over staff’s ‘Merry Christmas’”, New York Post, 25 December, 2014, <<http://nypost.com/2014/12/25/plane-passenger-tossed-after-angry-reaction-to-merry-christmas/>>, (accessed 29 August, 2015).

¹¹⁰ Al-Qaradāwī, *fi Fiqh al-Aqalliyāt al-Muslimah*, 149-150.

or it can be said, at the very least, that it is a statement based on conjecture. Second, Ibn Taymiyyah truly did witness such a time when he saw the Muslims being involved in congratulating and partaking in the festivals of the Persians, Romans and the Arab Christians.¹¹¹ Because of this, Ibn Taymiyyah wrote a thorough and comprehensive treatise on this topic in his famous book, *Iqtidā' al-Şirāṭ al-Mustaqīm fi Mukhālafati Aşhāb al-Jahīm*.

As for Webb, he states, quoting the European Fatwa Council, that it is permissible to greet people on these days and to exchange gifts as long as it does not involve approving any creedal differences between us, or open evil such as drinking and so on. While analyzing his statement, the researcher observed that Webb considers 'approving' of other religions is only in the form of verbal statements and not in the form that involves the approval of the heart or approval by action such as participating in their festivals. In other words, approval of the festivals that contain *shirk* and other religious overtones can occur by a Muslim actively participating in them which in of itself proves that a person approves of their festival. Furthermore, how the scholars know when a particular Muslim, who might be weak in his Islamic 'aqidah, will not 'approve' of their creed or the concept behind their festivals in his heart? It is similar to the statement of Ibn Taymiyyah who said:

Some of what the non-Muslims do on their festivals is considered *kufir*, some *ḥarām* and some *mubāḥ* if they do not involve the *mafsadah* of imitation. Most of the times it can be distinguished (between the three categories), however, sometimes it will be difficult for the layman to differentiate between them (three categories). Hence, imitating (the non-Muslims in their festivals) which (sometimes) are not (even) clear for the scholars, will (surely) make the layman fall into that which is *ḥarām*.¹¹²

¹¹¹ Ibn Taymiyyah, *Iqtidā' al-Şirāṭ al-Mustaqīm*..., 242-247 and 258-261.

¹¹² Ibid, 252.

Therefore, it is the opinion of the researcher that a Muslim cannot be deemed safe from ‘approving’ the creed of the non-Muslims, whether it is by his verbal statement, actions or heart, especially when this Muslim is living as a minority in the U.S. with little to no access to scholars that can guide them to those acts that are *kufṛ*, *ḥarām*, or *mubāḥ* will be in an environment in which it is surrounded by everyone except the Angels (*Malā’ikah*).

Furthermore, Webb’s restrictive statement suggests that such days or gatherings do not contain open evil such as drinking and so on, is a contradiction. It is well known, through any interaction with the non-Muslims on their days of festivities, that it is filled with indecent, immoral (*faḥṣhā’*) and sinful (*munkar*) acts. Lewdness, open serving and drinking of alcohol and hugging, kissing and shaking hands amongst the opposite gender is common and expected during their celebration, all of which have been strictly prohibited by numerous verses and ḥadīth.

Lastly, Webb’s statement that the *fatāwā* (of prohibition) were given during the times of war with the Christians or in a society that does not fit ours in the West, is problematic. First of all, the *fatāwā* of prohibition was given from the time of the Prophet till our recent times. During this period of about 1,450 years, the Muslims were not involved in constant wars and crusades with the Christians. In fact, the Crusade was only 200 years from 1095 till 1291 C.E. and it was not during this time that the early scholars first issued their *fatāwā* of prohibition, as we have seen above in 4.4.1.2 in the section of “Analysis of Prohibition”.¹¹³ Second, during the history of Islam, the Muslims went through a series of phases which included them ruling over much of the known world, to

¹¹³ Richard Abels, “Timeline for the Crusades and Christian Holy War to c. 1350”, United States Naval Academy, 2009, <http://usna.edu/Users/history/abels/hh315/crusades_timeline.htm>, (accessed 15 August, 2015).

losing territory to the Crusades and Mongols to losing the Ottoman Empire and being divided and conquered by colonial powers.¹¹⁴ Throughout these phases, scholars issued *fatāwā* prohibiting Muslims from congratulating and partaking in the festivals of the non-Muslims. As a matter of fact, a well known and respected scholar of our recent times, Sheikh ‘Alī Maḥfūz, who was one of the senior members of scholars at al-Azhar University, whom Webb is a graduate of, and was well aware of the developing norms and customs that was occurring throughout the world, wrote on the prohibition of participating in the festivals of the non-Muslims. After mentioning the evil that are committed on such days and its historic paganistic origins of some of their festivals, Maḥfūz concludes by saying:

So whoever wishes to safeguard his religion and honor, he must seclude himself in his home and prevent his family, kids and everyone under his protection from leaving the house so they may not participate with the Jews and Christians in their rituals and the sinners and evildoers in their dwellings and as a result will acquire success by the Grace and Mercy of Allah.¹¹⁵

Lastly, if we were to look at the time of Ibn Taymiyyah, who exhaustively wrote on this topic, we would find that the society and climate he lived in was very similar to our current times. For example, the Abbasid *khilāfah* was destroyed by the invading forces of the Mongols, Muslims were divided and splintered into several countries, Muslims were well educated in the various worldly disciplines and science such as philosophy,

¹¹⁴ Qamaruddin Khan, *The Political Thought of Ibn Taymiyyah*, (Lahore: Islamic Book Foundation, 1st ed., 1983), 7 and 16-20; Muḥammad Abū Zahrah, *Ibn Taymiyyah: Ḥayātuhū wa ‘Aṣruhū Ārā’uhū wa Fiqhahū*, (Cairo: Dār al-Fikr al-‘Arabī, 1st ed., 2000), 32-42; Roderic H. Davison, "From Paris to Sèvres: The Partition of the Ottoman Empire at the Peace Conference of 1919–1920" edited by Paul C. Helmreich in *Slavic Review*, (University of Illinois: Vol. 34, No. 1 Mar. 1975), 186–187; Brigham Young University Library World War I Document Archives, "Sykes-Picot Agreement," 28 May, 2009, <http://wwi.lib.byu.edu/index.php/Sykes-Picot_Agreement>, (accessed 18 August 2015).

¹¹⁵ Sheikh ‘Alī Maḥfūz, *Al-Ibdā’ fi Maḍār al-Ibtidā’*, (Bayrūt: Dār al-Kutub al-‘Ilmiyyah, 1st Edn., 2001), 275-277.

chemistry, medicine, etc. Additionally, Muslims had interactions and dealings with people of other faiths and even lived under their rule when the *khilāfah* was demolished, which affected their (strong, fundamental) commitment to Islam. The above picture of Ibn Taymiyyah's time indicates that the political, social and educational atmosphere was very similar to our current society, except without the cars, airplanes and electronic gadgets. Yet, we find in the writings of Ibn Taymiyyah (d. 1328),¹¹⁶ Ibn al-Qayyim (d. 1350),¹¹⁷ Ibn Naḥḥās (d. 1411)¹¹⁸ amongst others, that they sternly warned the Muslims from congratulating and/or partaking in the festivals of the non-Muslims.

4.5 CONCLUSION

After reading this chapter it can safely be concluded that the reader has a holistic view on the two diametrically opposing *fatāwā* of the scholars; one which permits the Muslims in congratulating and partaking in the festivals of the Muslims while the other prohibits the Muslims from doing so. After analyzing the two *fatāwā* from a juristic, comparative, content and discourse analysis the researcher is concluding that the arguments presented by those that allowed the Muslims in congratulating the non-Muslims on their festivals to be: a) weak in argument, b) weak in deductions of Islamic texts, c) using Islamic texts out of context, d) contradictory to *ijmā'*, and e) contradictory to their earlier *fatāwā* and sometimes even in the same book. On the other hand, those that prohibit the Muslims from congratulating and partaking with the non-Muslims on their festivals have: a) strong references to Islamic texts and classical scholars, b) maintained *ijmā'*, c) taken into

¹¹⁶ See previous footnotes.

¹¹⁷ See previous footnotes.

¹¹⁸ Ibn Naḥḥās, Aḥmad ibn Ibrāhīm al-Dimishqī, *Tanbīh al-Ghāfilīn 'an A'māl al-Jāhilīn* (Bayrūt: Dār al-Kutub al-'Ilmiyyah, 1st Edn., 2001), 500.

consideration the Islamic identity crisis amongst Muslims, and d) given an alternative to congratulating the non-Muslims on their festivals that do not indicate the approval of their holidays or what it represents.

Furthermore, it should be well known to all the scholars, through an inductive textual readings of the Quran and *ḥadīth*, the plots and tricks of Shaytān (Satan). He has corrupted and lead astray many people and nations before the nation of the Prophet Muḥammad and will continue to do so till the Day of Judgement. He uses many tactics and tricks in order that the people of Sunnah and *tawḥīd* may fall into *bid'ah* and *shirk*. He slowly and gradually introduces acts that outwardly appear to contain goodness and kindness but in fact are evil and corrupt in the sight of Allah. Take for example the following *ḥadīth*, in which the Prophet described to his *Ummah* how *shirk* was introduced by Shaytān to the previous generations:

The names (of the idols) formerly belonged to some pious men of the people of Noah, and when they died Satan inspired their people to (prepare and place idols at the places where they used to sit, and to call those idols by their names. The people did so, but the idols were not worshipped till those people (who initiated them) had died and the origin of the idols had become obscure, whereupon people began worshipping them.¹¹⁹

This *ḥadīth* can be used to say that Shaytān lured the early Christians, who were initially people of *tawḥīd*, to concoct a plan that would attract the pagans of Europe towards Christianity. This plan involved, as explained in Chapter Three, the adoption and practice of the pagan festivals in order to be kind and attract them. This lead to, not only an innovation in their religion but also, the adoption of *shirk* over a period of several generations. Similarly, if Muslims adopt this methodology and fall into the trap of

¹¹⁹ Muḥammad ibn Ismā'īl ibn Ibrāhīm ibn al-Mughīrah Al-Bukhārī, *Saḥīḥ al-Bukhārī*, (Riyādh: Dār-us-Salām, 1997), ḥadīth no. 4920, vol. 6, 160.

Shaytān, then they too would fall into, at the very least, *bid'ah* and major sin in the short term, *shirk* and *kufr* in the long term by the future Muslims generations. This is why it is so important for Islamic scholars to be farsighted, and not just look at the short term *maṣlahah*, if any, when issuing their *fatāwā* as discussed briefly in Chapter Two.

CHAPTER FIVE

CONCLUSION

In conclusion to all the preceding discussions, the researcher would like to highlight a few points in this final chapter. First, there are two types of people in this world; a) the knowledgeable and leaders and b) the ignorant and followers. In Islam, Allah has given the responsibility of leadership to the most learned from amongst us and has obligated others to follow them and obey them, as long as it is in accordance with the Islamic legal texts. With the responsibility of Islamic knowledge and leadership comes the task of conveying the orders of Allah and the Sunnah of the Prophet to the lay Muslims, without succumbing to any pressures, both internal and external. This role of leadership by Islamic scholars and personalities is more apparent and visible in the U.S. and the West than it probably is in the Islamic world. This is due to a few factors; a) the minority status that the Muslims have in the U.S. which makes them a tight-knit community and hence, unite behind their scholars and leaders, b) the many responsibilities that an Islamic scholar and/or personality assumes in the U.S. such as being involved in civil rights, political and social activism, and c) the fact that everyone, including Muslims, are afforded the right to freely express their views, religious or otherwise, to freely say or not to say what they feel is in line with their ideological beliefs.

It is because of this (c) reason that the researcher believes the Islamic scholars should base their *fatāwā* in order to ensure that the Muslim community will have their Islamic identity intact for generations to come. The Muslims in the U.S. are *not* compelled to hold a particular political, social, economical or religious view in order for

them to be ‘accepted’ as Americans or to free themselves from persecution. Because if that was the case, then there would be no Muslims remaining in the U.S., primarily due to the lack of freedom of religion and expression. And in the (theoretical) scenario that Muslims are living in the U.S. under such circumstances then the scholars have (already) given *fatāwā* that permit them to congratulate the non-Muslims on their festivals and even to say words of *kufir* if they fear their life is in danger, by stating the verse of the Quran

However, the Muslims in the U.S. are not in this situation, where their life, wealth and occupation are in jeopardy if they did not congratulate the non-Muslims in their festivals and holidays. Rather, the Muslims in the U.S. are in a state where their religious identity and Islamic ‘*aqīdah* are in danger of being diluted with the teachings of other ideologies and beliefs. Already the new generation of Muslims are, not only congratulating the non-Muslims in their festivals, but also partaking in them. This is, without any regards to the restrictions laid down by al-Qaraḍāwī and Ibn Bayyah; that it not be a religious festival. But because we live in an age of hearing and reading what we *want* to hear and read, the restrictive details gets lost in the fine print towards the end of their *fatāwā*.

Furthermore, the reasoning that al-Qaraḍāwī and others used that congratulating the non-Muslims would be a means of inviting them to Islam cannot be substantiated and needs further research. In fact, 50% of respondents said that they do *not* use the religious holidays of the non-Muslims as a platform to give *da‘wah* with another 34% saying they do *not* see a connection between congratulating and/or partaking in the religious festivals as a form of *da‘wah*. That is because non-Muslims are already entering into Islam on a daily basis, not because Muslims congratulated them on their festivals or compromised

any portion of their religion, but because Islam challenges the status quo and does not accept the practices and rituals of other faiths. Their acceptance of Islam is, despite the fact that Muslims are ‘rude’¹ and do not congratulate them on their holidays, because of the unique message of Islam itself regardless of how Muslims act or behave. The scholars’ reasoning(s), such as al-Qaraḏāwī, given in their *fatwā* is well-intended and is meant to establish the good relations Muslims so direly need in the U.S. right now. However, their reasoning is flawed as it was the same reasoning the early Christians used to justify acceptance of the festivals of the pagans in Europe as a means of them entering Christianity, as proven in Chapter Three.

Additionally it is flawed because Muslims in the U.S. are in dire need of scholars to protect their Islamic identity, which already is under pressure from the media and other right-wing political parties for Muslims to be more ‘moderate’ and ‘accepting’. Some Muslims have already succumbed to those pressures and have gone as far as accepting homosexuals as a norm in their society. According to the Pew Research, 39% of Muslim Americans say that homosexuality should be accepted in their society.² Such a large percentage of Muslims accepting homosexuality did not come into existence if it were not for the ‘accepting’ and ‘welcoming’ stance that some Islamic personalities and organizations took with regards to homosexuality. Likewise, the acceptance of the religious festivals being incorporated into the daily lives of Muslims in the U.S. will be inevitable due to the *fatwā* of permissibility given by the scholars, as discussed in Chapter Four.

¹ One of the reasoning al-Qaraḏāwī used in his permissibility *fatwā*, see Chapter Four, section 4.2.1.

² Pew Research Center, “Muslim Americans: No Signs of Growth in Alienation or Support for Extremism”, 30 August, 2011, <<http://www.people-press.org/files/2011/08/muslim-american-report.pdf>>, (accessed 25 August, 2015), 10.

And if al-Qaraḏāwī and Ibn Bayyah's *fatwā* is intended to appease the non-Muslims, namely the Jews and Christians, so they may lift the pressure, whether political, religious or social, from the Muslim community in the U.S. and around the world, then no where would the verse of the Quran be more applicable than in this case:

And never will the Jews or the Christians approve of you until you follow their religion. Say, "Indeed, the guidance of Allah is the [only] guidance." If you were to follow their desires after what has come to you of knowledge, you would have against Allah no protector or helper. (*al-Baqarah*: 120).

Therefore, it is of utmost importance that our scholars take into consideration the *maqāṣid al-Sharī'ah*, especially *ḥifẓ al-dīn*, and *sadd al-dharī'ah* when issuing a *fatwā* that involves the Islamic 'āqīdah. This is particularly true when it has been established through numerous sources in Chapter Three, by both historians and devout Christians alike, that the festivals which are celebrated in the U.S. have paganistic origins and involves *shirk*, albeit hidden. And if we could learn anything from the Christians, who are so adamantly opposed to any of the religious festivals in the U.S., it would be the statement of Elisha J. Israel, a minister, educator and author of several books:

It is a grave contradiction to believe in the God of Abraham, Isaac, and Jacob and simultaneously celebrate Christian holidays.³

According to the researcher, the Islamization of the above statement would be:

Whoever believes in Allah, His Messenger and the Last Day would not congratulate or celebrate the festivals of the non-Muslims.

The second point the researcher would like to highlight is that, we no longer live in a world in which Muslim lands, with the exception of Palestine, are taken, occupied and

³ See Chapter Three, section 3.1.

usurped as was the case in the era of colonialism. It is because the extreme cost of lives and wealth that is associated with such a task, which ultimately ends up in the country gaining independence from their colonialist decades or even centuries later. However, that same colonialist mentality still exists, although now it does not involve overtaking and occupying any physical entity, but rather involves the occupation and adulteration of the minds, hearts and belief system of the Muslims. During such an ‘occupation’ Muslims, laymen and scholars alike, are tacitly pressured into conforming their ideologies, views, practices and even *fatāwā* into a specific worldview. That worldview is void of any God-consciousness (*taqwā*), sticking to one’s true roots and beliefs and an opposing Islamic worldview. In order to achieve the goal of occupying the minds of practicing Muslims, they target the scholars with their scare and pressure tactics, knowing very well that the scholars are the leaders of the Muslims. The scholars in turn, either succumb to these pressures or resist it through their *fatāwā*. In either cases, it is done by taking into consideration the *maṣlahah* of the Muslims and *maqāṣid al-Sharī‘ah*, though from different angles. It is similar to the *fatāwā* of the scholars who lived under colonialism, whether to succumb to the occupation or resist; both had taken the *maṣlahah* of the Muslim community and *maqāṣid al-Sharī‘ah* into consideration when passing their *fatwā*.

From an *usūl al-fiqh* and *maqāṣid al-Sharī‘ah* point of view, was it in the interest of the Muslims to forego *ḥifẓ al-dīn* and, in certain circumstances, *ḥifẓ al-nasl* (protection of lineage) in order to attain *ḥifẓ al-māl* (protection of wealth) and *ḥifẓ al-nafs* (protection of life)? If the answer is no, then *a fortiori*⁴ the answer should be no when it comes to the

⁴ In Arabic this is roughly translated as من باب أولى

mental occupation of the minds, hearts and beliefs of the Muslims. It is the belief of the researcher that congratulating and partaking in the religious festivals of the non-Muslims, is one such ‘occupational’ tactic which requires that the scholars of Islam should and must resist in order that the Muslims can achieve *ḥifẓ al-dīn* for generations to come. This is even more so, when none of the other four essential principles, such as *ḥifẓ al-nafs*, *ḥifẓ al-māl*, *ḥifẓ al-nasl* and *ḥifẓ al-‘aql* (protection of intellect), are in danger of being sacrificed given the fact that Muslim in the U.S. are not under threat or danger if they do not congratulate their fellow Americans on their holidays.

Third, the researcher made some (theoretical) assumptions regarding al-Qaraḍāwī’s stance on the permissibility of congratulating the non-Muslims on their religious festivals and partaking in their non-religious festivals. It is important to note that the researcher has made those conclusion remarks keeping in mind the high status of knowledge and contribution to Islam, including *fiqh*, that al-Qaraḍāwī has made for the benefit of this *Ummah*, for which the researcher himself is grateful for and has benefited tremendously from his works. In fact, such a conclusion by the researcher about al-Qaraḍāwī could not have come about if it was not for the fact that the researcher has read many of his works and researches. However, as with all great scholars of Islam, both present and past, this issue of congratulating the non-Muslims on their festivals, religious or otherwise, and partaking in them is where, according to the researcher, al-Qaraḍāwī may have erred. This does not mean, however, that the researcher is calling upon the *Ummah*, especially the layman, to abandon him or not take from any of his other numerous and beneficial scholarly work.

That being said, the researcher has made those assumptions based on an exhaustive textual reading (*istiqrā'*) of al-Qaraḏāwī's books on issues relating to the topic at hand. Having found that his earlier books, written prior to 2001 (9-11 specifically), al-Qaraḏāwī has dedicated two complete books to the *fiqh* of Muslims dealing with non-Muslims. None of those books contained anything that would support his *fatwā* of permissibility on this issue. In fact, al-Qaraḏāwī has gone as far as making statements, as discussed in Chapter Four, that would support the notion of disintegration and disengagement with the non-Muslims and their values, culture, traditions and religious practices. However, these opinions of his, supported by all the classical scholars, slowly evolved into taking a much softer tone, whereby he all, but abrogates the concept and usage of term such as *jizyah* and *ahl al-dhimmī*. It is possible that such a stance by al-Qaraḏāwī may have eventually led to his *fatwā* of permissibility on celebrating the non-Muslims on their festivals after the event of 9-11.

Therefore, the researcher believes that such a stance came after there was immense pressure, both internal and external, that not only changed his opinions regarding the *fiqhi* dealing with non-Muslims, but the opinion of other personalities and scholars. It is the fear of the researcher that if such stances and opinions of scholars, that were based more on pressure and emotions than it was on sound and unbiased methodology of *fiqh* and *usūl al-fiqh*, is not curbed and independently analyzed from all the Islamic sciences then there would be nothing left in the future generation of Muslims in the U.S. except that their names are Aḥmad and Muḥammad. Already we are seeing a trend in the U.S. that points to this sad, but avoidable, situation of the Muslims in which they are slowly losing their core Islamic values. Hence, the researcher is of the opinion that if the scholars of

Islam want to reverse the downward spiral of the Muslims in the U.S., they, such as al-Qaraḏāwī, Ibn Bayyah, Hamza Yusuf and others, must revisit their old *fatāwā* that may have been done under duress (*ikrāh*) and clarify for the Muslims in the U.S. the (correct) position in the light of agreed upon *fiqh* and its *uṣūl*. Such a reversal of a *fiqhi* issue is much needed and overdue, especially now that the dust of ‘The War on Terror’ has settled and the downward spiral of the degeneration of Muslims in the U.S. is well underway.

Findings

Based on the survey conducted by the researcher of 100 Muslims across the U.S., the following are the important highlights of that questionnaire:⁵

1. 53% of respondents said they do *not* congratulate or partake in the religious festivals of the non-Muslims in the U.S. About 11% said they *do* while another 24% said *sometimes*. Some, 7%, made a distinction between congratulating and partaking in the religious festivals.
2. 54% of respondents said they do *not* congratulate the non-Muslims on their religious festivals based on the *fatāwā* of the scholars that prohibit them from doing so. 18% of them said they *do* congratulate based upon the *fatāwā* of the scholars allowing it, while another 20% said they *do* congratulate but were unaware of any *fatāwā* allowing congratulating them. Another 7% said they use general statements such as "happy holidays" when congratulating them.

⁵ Some of the respondents, chose to write their own answer in the "Other" section of the multiple choice questionnaire. The researcher has extensively studied their responses and found that some fit into one of the multiple choices provided to them. For the purpose of this findings, the researcher would include those responses in their proper category/option. Care and precaution was taken so as not to count a response more than twice and the total percentage does not exceed 100%.

3. When comparing 'Eīd and Christmas, 68% said that 'Eīd was *more* fun than Christmas, 17% said Christmas was *more* fun than 'Eīd while 12% said both were the same. 3% were undecided or were not sure.
4. Regarding following a 'second opinion' on matters of Islam, including congratulating and partaking in the religious holidays of non-Muslims, 60% of respondents said they do so as long as it is backed by proofs from Quran and Sunnah. 10% of respondents said they do so no matter what because they always follow the easy path in Islam, while 25% said they (blindly) follow their scholars regardless if it is 'easy' or 'hard'.
5. When asked if they partake in the religious holidays in the U.S. because it was part of their and their family's lives, 17% said they do because there is no way around it. 83% said they try to avoid it.
6. 34% of respondents said they congratulate and some even partake in the religious festivals of the non-Muslims because they felt it was a gesture of being 'kind' and 'respectful', while 66% said they do not because it was not a matter of being 'nice' or 'kind'.
7. When asked whether they use the religious holidays in the U.S. as a platform for giving *da'wah*, 16% said they congratulate and partake in it to show the 'beauty' and 'tolerance' of Islam, while 34% said they do *not* congratulate or partake in it as a form of *da'wah*. Half of the respondents said they do not use such holidays as a form of *da'wah* at all.
8. When asked which *fatwā* website they use to answer their Islamic questions, IslamQA.com (Sheikh Ṣāliḥ al-Munajjid) received 61%, AMJA received

10%, binbayyah.net/english (Sheikh ‘Abdullah bin Bayyah) received 3%, virtualmosque.com (Suhaib Webb) received 3%, IslamWeb.net received 25%, and Yūsuf al-Qaraḏāwī (website and books) received 8%.⁶

9. When asked whether they believed the Islamic identity of future Muslims will eventually be lost if Muslims start to partake in the religious holidays of the non-Muslims, 45% said yes, while 29% said maybe and 26% said no.
10. Finally, when asked whether they criticize other Muslims for following a *fatwā* that permits or prohibits them in congratulating and partaking in the religious festivals of the non-Muslims, 7% said they criticize Muslims for *not* doing so, 24% said they criticize Muslims for *doing* so and 68% said they do not criticize at all.

Researcher’s Proposed solution for the Muslims in the U.S.

Concerned and practicing Muslims in the U.S. face the dilemma numerous times a year in whether or not they should congratulate their non-Muslim colleagues, neighbors, co-workers and others on their festivals. They are presented with two diametrically opposing *fatāwā* on this issue and, as a result, creates a sense of confusion and entrapment. Confusion in the sense whether those that gave the *fatwā* of permissibility did so taking into consideration one of the most basic fundamentals of *uṣūl al-fiqh*, i.e. *ijmā’* of the past scholars not being broken. Entrapment, because those that gave a *fatwā* of prohibition did not, in most cases, give an alternative solution to it. And as it is well known from the

⁶ A few respondents chose one or more of the options available to them, while others wrote down individual scholars and Imams of their local masjid/community. Because such numbers for each individual were insignificant (1% or less), the researcher will not include it as part of the survey statistic in this section. However, for purposes of referencing, it is will included in the Appendix.

beauty of Islam that nothing is made prohibited by the Shari‘ah except that there is a alternative provided. For example, in the case of the prohibition of usury (*ribā*), Allah provides an alternative to countless lawful businesses. In the case of the prohibition of alcohol, Allah permits the consumption of every other non-intoxicating drink. And the list goes on. Likewise, when it comes to the issue of congratulating and partaking in the festivals of the non-Muslims, the researcher believes that it is prohibited, given the overwhelming evidence presented throughout this research. Therefore, following the same methodology that the Shari‘ah uses by providing an alternative, the researcher would also like to make alternative suggestions. This will remove confusion and a sense of entrapment by concerned Muslims while safeguarding their Islamic identity as well as being ‘polite’ and keeping with the norms of the society in the U.S.

As it is well known to those that live in the U.S., it is a country where almost everyone’s sensitivity is taken into consideration, and religious sensitivity is amongst them. For this reason there are rules put in some major companies, shopping malls and educational institutions which have removed any display of religious overtones when it comes to, say Christmas. In fact, some companies require their employees to be sensitive to the beliefs of others when it comes to congratulating them on Christmas.⁷ For example, the use of phrases such as “Merry Christmas” and the likes are discouraged so as not to offend anyone that does not believe in the concept of Christmas or those that do not celebrate it. In fact, in the Christmas of 2014 a man made national news headlines

⁷ Paul Jankowski, "Is Saying Merry Christmas Politically Correct? Good for Business?", Forbes Entrepreneurs, 15 December, 2011, <<http://www.forbes.com/sites/pauljankowski/2011/12/15/is-saying-merry-christmas-politically-correct-good-for-business/>>, (accessed 29 August 2015).

when he became ‘angry’ at the flight attendants for wishing him a “Merry Christmas”.⁸ This shows how far even non-Muslims are willing to go to stand up for their beliefs and not having anyone’s festivals be imposed on them. Therefore, generic and neutral phrases such as “Happy Holidays” has been introduced and is widely used amongst the non-Muslims so as not to offend anyone that do not celebrate it. Based upon this the researcher proposes the following:

1. Muslims should not initiate congratulatory phrases so as not to put themselves in a critically, difficult and awkward situation.
2. If a Muslim receives a statement of congratulation such as “Merry Christmas” then they should reply back with either “And to you”, “Happy Holidays” or “Have a nice day”.
3. If a Muslim receives a gift due to one of the festivals of the non-Muslims, whether religious or otherwise, then it is permissible for him to accept it. This is different than *giving* gifts as this leads to a Muslim partaking in their festivals and helping them in their *kufir*.
4. Muslim families should engage themselves with extracurricular activities on such festival days. Already there are Muslim centers and Masjids that organize either potlucks, youth camps or a one-night spiritual retreat on the days of the non-Muslim festivals. This will give families, and the Muslim community as a whole, to divert their attention from something that is *harām*

⁸ Michael Liss, Daniel Prendergast and Philip Messing, “Passenger tossed after flipping out over staff’s ‘Merry Christmas’”, New York Post, 25 December, 2014, <<http://nypost.com/2014/12/25/plane-passenger-tossed-after-angry-reaction-to-merry-christmas/>>, (accessed 29 August, 2015).

to be involved in something that will be fun, educational and a source of bonding and uniting the Muslim community.

5. Muslim families should create a fun and exciting environment on the Islamic holidays of ‘Eīd in which there are Islamic art and decorations inside the houses and Masjids, exchange of gifts between family and even community members, and an outdoor picnic involving a time for play and amusement. An excellent example of this has been set up by ICNA every ‘Eīd, in which they set up for Muslims across the U.S. to, “enjoy Halal foods, open-air bazaars featuring Muslim merchants, congregational prayers, informative lectures and a constant stream of Islamic nasheed.”⁹ When children and kids receive such enjoyments on the days of ‘Eīd, then they would not wish to partake in the festivals of the non-Muslims.
6. Muslim families should, and in fact must, invite at least one revert Muslim so that they can also witness the celebratory atmosphere of the Islamic holidays. Very often, we find in the U.S. revert Muslims being neglected and forgotten on such a joyous occasion that they don’t fully enjoy and witness, besides the ‘Eīd prayer, the beautiful rituals of the Islamic holidays. During the survey questionnaire, a couple of revert Muslims responded that they do not know whether ‘Eīd is more or less fun than Christmas because they have not had anyone to celebrate ‘Eīd with.¹⁰ That is why, according to the researcher’s personal observation and opinion, revert Muslims tend to celebrate with their

⁹ Islamic Circle of North America, “Muslim Fun Day”, <<http://www.icna.org/about-icna/muslim-family-day/>>, (accessed 29 August, 2015).

¹⁰ Appendix, Question 2 & 3, see responses.

non-Muslim families their religious festivals in order to fill in the emptiness that is brought about them due to the neglect of the Muslim community as a whole. For this reason, the researcher strives to find and invite at least one revert Muslim to share the happy and joyous event of the two 'Eids.

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APPENDIX

PAGE 1

Q1

Do you congratulate or partake in the religious holidays in the U.S.?

- Answered: 99
- Skipped: 1

Answer Choices	Responses
– Yes	11.11% 11
– Yes, sometimes	24.24% 24
– No, never	52.53% 52
– Responses Other (please specify)	12.12% 12

Showing 12 responses

Congratulating is different than partaking.

9/13/2015 12:59 PM [View respondent's answers](#)

I don't live in the west so no issue

9/13/2015 9:54 AM [View respondent's answers](#)

if they wish me merry Christmas I say. same to u

9/13/2015 9:25 AM [View respondent's answers](#)

Congratulate but never partake

9/13/2015 2:44 AM [View respondent's answers](#)

No, but if need be, I would say "happy holidays"

9/13/2015 12:49 AM [View respondent's answers](#)

Not in the West. Only among my Chinese family members during Chinese New Year

9/12/2015 8:58 PM [View respondent's answers](#)

Only wishing them happy holidays

9/12/2015 6:07 PM [View respondent's answers](#)

I congratulate but not partake in the sense of celebration.

9/11/2015 7:58 AM [View respondent's answers](#)

very rarely

9/8/2015 11:53 AM [View respondent's answers](#)

I do my best not to. Sometimes I forget.

9/8/2015 1:45 AM [View respondent's answers](#)

Remins nuteral to other's holidays.

9/8/2015 1:13 AM [View respondent's answers](#)

I sometimes congratulate. Never partake.

9/8/2015 12:57 AM [View respondent's answers](#)

Total

99

Q2

Do you, or do you not, congratulate the non-Muslims on their religious holidays in the U.S. based on the verdicts of the scholars?

- Answered: 100
- Skipped: 0

Answer Choices	Responses
– Yes, I do NOT congratulate them based on the verdicts of the scholars prohibition	51.00% 51
– Yes I DO congratulate them based on the verdicts of the scholars allowing it	16.00% 16
– Yes I DO, but I do not know of any verdicts allowing congratulating the non-Muslims on their festivals	20.00% 20
– Responses Other (please specify)	13.00% 13

Showing 13 responses

- I do it because they wish me Eid Mubarak, but deep down i feel it's wrong to wish them. I do it out of courtesy of politeness
9/13/2015 12:20 PM [View respondent's answers](#)
- No I live in a Muslim country
9/13/2015 9:54 AM [View respondent's answers](#)
- I say Happy Holidays keeping it general and make a doa for guidance
9/13/2015 8:12 AM [View respondent's answers](#)
- I just say Happy holidays instead of merry Christmas for instance because i do not share the same belief but wish to show respect.
9/13/2015 12:49 AM [View respondent's answers](#)
- I congratulate them on any non religious occasions like marriage, deaths but not religious based on scholars fatwas.
9/13/2015 12:33 AM [View respondent's answers](#)
- I do because of family politics
9/12/2015 10:45 PM [View respondent's answers](#)
- Only out of respect but i do not celebrate
9/12/2015 6:07 PM [View respondent's answers](#)
- I don't congratulate them based on my knowledge and based on verdicts from scholars.
9/10/2015 8:26 AM [View respondent's answers](#)
- If someone wishes me happy 4th or merry Christmas I'll just reply back by smiling or saying thanks you too.
9/8/2015 11:57 AM [View respondent's answers](#)
- If I say enjoy your time with family, is that congratulations for the holiday?
9/8/2015 1:45 AM [View respondent's answers](#)
- I avoid it hoping not to make it an issue.
9/8/2015 1:13 AM [View respondent's answers](#)
- If I congratulate, I focus on the "holiday season" rather than the specific holiday they are celebrating.
9/8/2015 1:08 AM [View respondent's answers](#)
- I do but use general statements like "happy holidays" since I don't find that prohibited
9/8/2015 12:28 AM [View respondent's answers](#)

Total

100

Q3

Do you or your children find Eid to be MORE or LESS fun than holidays such as Christmas?

- Answered: 100
- Skipped: 0

Answer Choices	Responses
– Eid is MORE fun than Christmas	66.00% 66
– Christmas is MORE fun than Eid	9.00% 9
– Both are the same	10.00% 10
– Responses Other (please specify)	15.00% 15

Showing 15 responses

I don't compare them. They are completely different.

9/14/2015 3:00 AM [View respondent's answers](#)

We don't celebrate as nicely as the christian do. We should make Eid nicer for children especially

9/13/2015 12:20 PM [View respondent's answers](#)

It depends on the efforts put towards Eid. We can make it as fun when we out the effort in. Christmas is everywhere so it's hard to compete

9/13/2015 10:59 AM [View respondent's answers](#)

I live in a Muslim country so not an issue

9/13/2015 9:54 AM [View respondent's answers](#)

Children think christmas a nore fun like

9/13/2015 9:52 AM [View respondent's answers](#)

You cannot compare. We only celebrate Eid. The children are attracted to tje Christmas tree decorations but they understand that it is just a decoration.

9/13/2015 12:49 AM [View respondent's answers](#)

Christmas is celebrated more

9/12/2015 8:56 AM [View respondent's answers](#)

It is one thing to find something more fun and it is another to be part of it. Christmas is as much or perhaps more fun than Eid but my children know that Christmas is haram so they don't like it.

9/10/2015 8:26 AM [View respondent's answers](#)

Don't know

9/8/2015 12:52 PM [View respondent's answers](#)

I try to make eid a happy occasion so that our young ones don't crave other holidays but unfortunately the Muslims I'm arounddont make a big deal out of eid

9/8/2015 11:57 AM [View respondent's answers](#)

Eid is good for community fun, Christmas for family fun--that's the perspective of a convert Muslim who doesn't have a Muslim family but remembers their Christian family

9/8/2015 9:27 AM [View respondent's answers](#)

I don't know. I have no one to celebrate eid with and I didn't celebrate christmas for many years before reverting to Islam

9/8/2015 1:45 AM [View respondent's answers](#)

I think this question should have been rephrased in a better way. Celebrating Christmas is Kufur but Eid is Sunnah. These two cannot be compared like that.

9/8/2015 1:17 AM [View respondent's answers](#)

We failed to make eid equal fun or mor.

9/8/2015 1:13 AM [View respondent's answers](#)

Unfortunately Christmas time is much more fun :(

9/8/2015 12:57 AM [View respondent's answers](#)

Total

100

Q4

Do you feel that following a 'second' opinion on ANY matter of Islam including congratulating and partaking in the religious holidays of non-Muslims to be more easy and comforting?

- Answered: 100
- Skipped: 0

Answer Choices	Responses
– Yes, no matter what	5.00% 5
– Yes, but only if it is supported with proofs from Quran and Sunnah	59.00% 59
– Yes, because I always follow the easy path in Islam	5.00% 5
– No, I only follow my scholars regardless if it is 'easy' or 'hard'	25.00% 25
– Responses Other (please specify)	6.00% 6

Showing 6 responses

this question is confusing

9/13/2015 12:59 PM [View respondent's answers](#)

I follow the teachings of the first 3 generations of Muslims

9/13/2015 9:54 AM [View respondent's answers](#)

No. I don't partake but I wish them well

9/12/2015 6:07 PM [View respondent's answers](#)

I try my best to follow my scholars regardless, hence I ask for Allah's Mercy.

9/8/2015 1:45 AM [View respondent's answers](#)

Plz rephrase it as well.

9/8/2015 1:17 AM [View respondent's answers](#)

Acknowledgemnt of holidays should be a two way street.

9/8/2015 1:13 AM [View respondent's answers](#)

Total

100

Q5

Do you feel that religious holidays in the U.S. are part of yours and your family's daily lives, and thus you partake in it because life just becomes 'difficult'?

- Answered: 89
- Skipped: 11

Answer Choices	Responses
– Yes there is no way around it	16.85% 15
– No, we avoid it at all cost	83.15% 74
Total	89

[Comments\(14\)](#)

Showing 14 responses

we partake in it only for harmony reaasons...no compulsion.

9/13/2015 8:07 PM [View respondent's answers](#)

We like seeing the decorations and lights and eating the deserts, but we don't get a tree or get gifts so I'm not sure where that puts us

9/13/2015 10:59 AM [View respondent's answers](#)

Again I live in a Muslim country

9/13/2015 9:54 AM [View respondent's answers](#)

Kind of in between

9/13/2015 8:12 AM [View respondent's answers](#)

I see the bigger picture by telling them what we do as muslims. Its my form of dawah

9/12/2015 10:45 PM [View respondent's answers](#)

A holiday is a holiday

9/11/2015 11:09 PM [View respondent's answers](#)

I live in egypt. For us its not westsrn holidays

9/11/2015 9:16 PM [View respondent's answers](#)

We choose to partake in certain holidays that are not religious in nature.

9/11/2015 7:58 AM [View respondent's answers](#)

Overall your questions are ambiguous because we all have to take off from work or school during Christmas.

9/10/2015 8:26 AM [View respondent's answers](#)

niether extremes

9/8/2015 11:53 AM [View respondent's answers](#)

I try my best to avoid it. However, my mom was a former Catholicism which she still misses celebrating things like birthdays etc. it is always a hard time balancing and explaining these things

9/8/2015 10:43 AM [View respondent's answers](#)

We just ignore them and keep going with normal life.

9/8/2015 8:17 AM [View respondent's answers](#)

Holidays are a part of everything around me including my own family history. Birthdays at work are my greatest challenge.

I try my best to avoid the rest.

9/8/2015 1:45 AM [View respondent's answers](#)

It should not.

9/8/2015 1:13 AM [View respondent's answers](#)

Q6

Do you feel that being 'kind' and 'respectful' means that you should congratulate the non-Muslims on their religious festivals and even partake in it?

- Answered: 88
- Skipped: 12

Answer Choices	Responses
– Yes, it is what Islam teaches	34.09% 30
– No, it is not about being 'nice' and 'respectful'	65.91% 58
Total	88

[Comments\(15\)](#)

Showing 15 responses

you can congratulate but not necessary for u to partake in it

9/13/2015 8:07 PM [View respondent's answers](#)

No, I do not partake in it just because I congratulate them

9/13/2015 12:59 PM [View respondent's answers](#)

Be nice all 365 days of the year, not just the one day.

9/13/2015 8:12 AM [View respondent's answers](#)

We congratulate on Christmas only out of kindness but never in Easter and definitely do not partake in either

9/13/2015 2:44 AM [View respondent's answers](#)

I just say "Happy Holidays"

9/13/2015 12:49 AM [View respondent's answers](#)

But i do not take part

9/12/2015 6:07 PM [View respondent's answers](#)

I believe in being respectful to their religion, but not the the extent of partaking in it

9/11/2015 9:12 PM [View respondent's answers](#)

I believe that it could entail congratulating them, and since there's scholarly backing for that I do. I do not think it's necessary to partake.

9/11/2015 7:58 AM [View respondent's answers](#)

Well, the trend in US is to say "happy holidays", does that count as congratulating them on their religious festival? I don't think so. So we can congratulate them on matters that are non-religious and be nice.

9/10/2015 8:26 AM [View respondent's answers](#)

Depends. I'll never wish them happy anything but if they wish me a happy holiday I'll just say thanks you too.

9/8/2015 11:57 AM [View respondent's answers](#)

it is following quran and sunnah

9/8/2015 11:53 AM [View respondent's answers](#)

I don't congratulate them but I will say I do at times feel awkward in those given situations

9/8/2015 10:43 AM [View respondent's answers](#)

Yes, but not partaking in it.

9/8/2015 9:32 AM [View respondent's answers](#)

I think its horrible to congratulate people for shirk.

9/8/2015 1:45 AM [View respondent's answers](#)

Nice, polite are muim manners.

9/8/2015 1:13 AM [View respondent's answers](#)

Q7

Do you use the religious holidays as a form of giving Dawah in the U.S.?

- Answered: 96
- Skipped: 4

Answer Choices	Responses
– Yes, I congratulate and partake in the holidays with them to show the beauty and tolerance of Islam	15.63% 15
– Yes, but I do NOT congratulate them nor partake in the holidays as a form of Dawah	34.38% 33
– No, I dont use these holidays as a form of Dawah	50.00% 48
Total	96

[Comments\(7\)](#)

Showing 7 responses

i personally dont get to meet many non muslims, coz im a house wife

9/13/2015 6:58 AM [View respondent's answers](#)

It depends on the circumstances

9/13/2015 12:33 AM [View respondent's answers](#)

I sometimes use them as an opportunity for Dawah. Depends on the person I am conversing with.

9/13/2015 12:24 AM [View respondent's answers](#)

Only my family non family I do not partake.

9/12/2015 10:45 PM [View respondent's answers](#)

Yes, I congratulate and do not partake

9/12/2015 8:32 PM [View respondent's answers](#)

Sometimes.

9/8/2015 1:45 AM [View respondent's answers](#)

How we behave should be the dawah.

9/8/2015 1:13 AM [View respondent's answers](#)

Q8

Which fatwa website do you use for answering your Islamic questions?

- Answered: 93
- Skipped: 7

Answer Choices	Responses
– IslamQA.com (Sheikh Salih al-Munajjid)	61.29% 57
– Assembly of Muslim Jurists of America (AMJA)	9.68% 9
– binbayyah.net/english (Sheikh Abdullah bin Bayyah)	3.23% 3
– virtualmosque.com (Suhaib Webb)	3.23% 3
– IslamWeb.net	24.73% 23
– Sheikh Yusuf al-Qaradawi books and website	7.53% 7
– Responses Other (please specify)	34.41% 14

Showing 14 responses

- we follow sheikh assim al hakeem
9/13/2015 2:14 PM [View respondent's answers](#)
- Local trusted imam/sheikh and sheikha
9/13/2015 12:59 PM [View respondent's answers](#)
- deoband. india
9/13/2015 9:25 AM [View respondent's answers](#)
- for personal fitwas and questions we refer to my husband's teacher
9/13/2015 6:58 AM [View respondent's answers](#)
- My local masjid's Imam
9/13/2015 1:18 AM [View respondent's answers](#)
- www.islam21c.com
9/12/2015 5:31 PM [View respondent's answers](#)
- several including the above
9/11/2015 1:29 PM [View respondent's answers](#)
- I use all of the above and weigh the answers based on evidence, precedent, and what works for my situation.
9/11/2015 7:58 AM [View respondent's answers](#)
- Actual shaykhs via social media or masjid
9/8/2015 11:57 AM [View respondent's answers](#)
- I usually ask people with more knowledge in the community
9/8/2015 10:43 AM [View respondent's answers](#)
- I read multiple sources and come to my own conclusions
9/8/2015 9:27 AM [View respondent's answers](#)
- I was not aware of most of these! Time for "screen shot!"
9/8/2015 1:45 AM [View respondent's answers](#)
- I do not use a fatwa website as I have direct access to scholars that I defer my matters to in person / on the phone.
9/8/2015 1:08 AM [View respondent's answers](#)
- Hudatv
9/8/2015 12:37 AM [View respondent's answers](#)

Q9

Do you believe that the future Muslim generation in the U.S. will lose their Islamic identity (eventually) by partaking in the non-Muslim religious holidays?

- Answered: 99
- Skipped: 1

Answer Choices	Responses
– Yes, definately	43.43% 43
– No.	24.24% 24
– Maybe	27.27% 27
– Responses Other (please specify)	5.05% 5

Showing 5 responses

depends on the extent of their immersion

9/13/2015 8:07 PM [View respondent's answers](#)

Not identity but more their faith can be affected with time. Wallahi aalam

9/13/2015 12:33 AM [View respondent's answers](#)

Those who stay away from Islam. Nothing to do with partaking in non-muslim activities.

9/10/2015 8:26 AM [View respondent's answers](#)

We failed so far. But, I pray not.

9/8/2015 1:13 AM [View respondent's answers](#)

Idk to be honest

9/8/2015 12:57 AM [View respondent's answers](#)

Total

99

Q10

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Do you criticize Muslims for following a fatwa that prohibits or permits congratulating and partaking in the religious festivals of the non-Muslims?

- Answered: 95
- Skipped: 5

Answer Choices	Responses
– Yes, I criticize the Muslims NOT congratulating or partaking it with them	7.37% 7
– Yes, I criticize the Muslims FOR congratulating or partaking it with them	24.21% 23
– No, I neither criticize nor praise them	68.42% 65
Total	95

[Comments\(9\)](#)

Showing 9 responses

Why is congratulating or greeting "happy new year" or "happy holidays" have to be the same as partaking? I wouldn't say "Merry Xmas" but your questions lead the participant to believe that there's only one way to understand this issue

9/13/2015 12:59 PM [View respondent's answers](#)

No I praise them

9/13/2015 9:54 AM [View respondent's answers](#)

i dont criticize them, rather try to give them dawah with hikmah

9/13/2015 6:58 AM [View respondent's answers](#)

I follow what is written in Quran and sunnah and what scholars go flow sunnah are saying...

9/13/2015 12:33 AM [View respondent's answers](#)

Depending on their intellect and/or state of Emaan.

9/13/2015 12:05 AM [View respondent's answers](#)

I always advice my family members and friends not to do it.

9/8/2015 12:34 PM [View respondent's answers](#)

I prefer Socratic method with those I disagree with so that they may admit the holes in their arguments.

9/8/2015 9:27 AM [View respondent's answers](#)

If I see a Muslim congratulating a non-Muslim on their festival or holiday I try to remind them it is not allowed and discourage it.

9/8/2015 8:17 AM [View respondent's answers](#)

I am not perfect in anything I do, so I feel guilty for judging actions of my brothers and sisters in Islam. May Allah make things better for us Ameen.

9/8/2015 1:45 AM [View respondent's answers](#)