

Fiqh Islami Framework As A Da'wah Medium In Addressing Muallaf Issues In The Malaysian Context

Abdul Ghafar Don, Ahmad Irdha Mokhtar, Anuar Puteh
Dakwah & Leadership Research Centre, Faculty of Islamic Studies, Universiti Kebangsaan
Malaysia, 43600, Bangi, Selangor, Malaysia

Fariza Md.Sham

Hadhari Institute, Universiti Kebangsaan Malaysia, 43600, Bangi, Selangor, Malaysia

Ahmad Effat Mokhtar, Siti Marsitah Bt.Mohd.Mokhtar
Universiti Islam Pahang Sultan Ahmad Shah

Ahmad Asmadi Abdul Rahman

Pahang Islamic Religious and Malay Customs Council

Famida Naimi Hasbollah

Research Assistant, UKM Research Grant RH-2022-004

Corresponding Author Email: a.g.don@ukm.edu.my

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Abstract

Fiqh Islami (Islamic Jurisprudence) is dynamic in nature, as it is flexible changes in time and place. However, the question is to what extent the Islamic *fiqh* framework is utilized in the context of da'wah especially in addressing issue such as customs, culture, taboos, name, inheritance, and others related to *muallaf* after embracing Islam or post-conversion? This article aims to discuss the role of Islamic *fiqh* framework as a means of da'wah in addressing issues related to individuals facing challenges after embracing Islam. The method using in crafting this writing is based on the analysis of documents related to the study subject. The collected data is analysed thematically to form discussion themes for the study. Findings show that the framework of Islamic *fiqh* is flexible and plays an important role in dealing with post-conversion issues faced by new Muslims. The implication of the study is that the Islamic *fiqh* framework should be appropriately utilised through the provision of a manual as a guideline

that can be referred to for the purpose of dealing with the issues related to Muslim converts specifically and contributing to da'wah more broadly.

Keywords: Islamic Fiqh, Da'wah, Muallaf, Post Conversion, *Maslahah*.

Introduction

The post-conversion period poses various challenges in the lives of converts (*muallaf*). The new life involves numerous issues related to beliefs, culture, and religious taboos of the original religion, family, social, education, law, and others. Some converts or New Muslims may not encounter significant problems with their new life, but others may face specific challenges as mentioned. Therefore, the Islamic *fiqh* framework is seen as a medium that can play a role in addressing the issues faced by converts after conversion. This is based on the nature of Islamic *fiqh* which is flexible and can accommodate certain customs, cultures, taboos, and other questions faced by converts after embracing Islam.

Methodology

This study utilizes a qualitative approach. Data collection is based on the method of document analysis, referring to materials related to the research subject with a focus on issues related to Islamic Jurisprudence (*Fiqh*) and its ability to address issues concerning converts (*Muallaf*). For this purpose, the Qur'an and Hadith are used as the primary references alongside the practices of the Rashidun Caliphs (the Pious Caliphates). Both classical and modern Islamic scholars such as Imam Abu Yusuf, Al-Shaybani, Ibn Nujaym (representing classical thought), Mustafa al-Zarqa', Abd al-Karim Zaydan, Muhammad al-Ghazali, Said Ramadan al-Buti, Wahbah al-Zuhayli, and Yusuf al-Qaradawi (representing contemporary thought) have been consulted in understanding issues related to Islamic jurisprudence in the face of changing times, particularly concerning converts. Current studies related to the issue of converts in Malaysia are also referred to, in order to strengthen the findings of the research in addition to the enactments of the State Islamic Religious Departments. The data is thematically analyzed to form specific themes related to the field of study.

The Meaning of Muallaf

The concept of *muallaf* is based on the Quran, where *muallaf* are categorized as a group eligible for assistance from zakat funds. It is based on the Quran, Surah At-Tawbah, verse 60 which states:

"Indeed, the zakah expenditures are only for the poor and for the needy and for those employed to collect [zakah] and for bringing hearts together [for Islam] and for freeing captives [or slaves] and for those in debt and for the cause of Allah and for the [stranded] traveler - an obligation [imposed] by Allah. And Allah is Knowing and Wise."

Practically, Prophet Muhammad SAW also mentioned that he used to give zakat to *muallaf* to soften their hearts: "Indeed, I give zakat to the *muallaf* to soften their hearts, and this happened during the time of Jahiliyyah" (Al-Bukhari, 1987).

According to Ibn Manzur (1996), the term "*muallaf*" linguistically originates from the Arabic word "*allafa*," which means to make something a thousand, to gather one with another, and to compose a book. Mu'jam Lughat al-Fuqaha' defines *muallaf* as someone who is given zakat to soften their hearts so that they embrace Islam (Qal'ajiyy, 2010). The Islamic scholar Al-Zuhaili (1997) defines *muallaf* as those whose hearts are weak towards Islam and are given zakat to strengthen their adherence to Islam. Meanwhile, Idris al-Marbawi (n.d) defines *muallaf* as new Muslims. The Department of Islamic Development Malaysia (JAKIM,

2013) explains muallaf as individuals who have recently embraced Islam, whether their faith is weak or strong, or non-Muslims whose hearts are inclined towards Islam and can be softened (Jakim, 2013).

In the context of Malaysia, the commonly used terms to refer to *muallaf* are "Saudara Baru," (Malay term for New Brother) "Saudara Kita," (Our Brother) and "saudara Muslim," (Muslim Brother) which are used interchangeably. It is considered a softer term compared to "*muallaf*" for individuals who have recently embraced Islam.

The Issue of Converts Post-Conversion

Life after conversion poses various challenges and issues that challenge the beliefs of new Muslims. Arfah and Hakim (2022) argue that each convert has their own story, which has created problems for them in adapting to their new lives as Muslims, both in terms of the challenges of learning Islam and the acceptance of the people around them. It needs to be handled wisely by taking into account an Islamic jurisprudential approach that is compassionate and accommodating to the needs and realities of converts after embracing Islam. Among the issues that arise that can be addressed based on the framework of Islamic jurisprudence are:

1. Name

Among the issues that often arise for converts when embracing Islam is whether to change their original name to a new one or not. This issue needs to be understood by preachers from the perspective of Islamic law. For the purpose of the welfare of da'wah, if someone's original name who embraces Islam is good, then it is better to retain it. This can serve as a form of da'wah to their original family or other non-Muslim friends to view Islam more positively. However, if the name entails associating partners with Allah, then it must be changed. If someone's name carries a negative meaning, then it is recommended to change it to a name that is appropriate and carries a good meaning. The Prophet once changed the name of Sayyidina Umar's child, Asiah (meaning disobedient), to the name Jamilah (beautiful). There is a story of a companion who refused to change a name that had a negative connotation even though the Prophet suggested changing it. In the end, he experienced continuous sadness because of that name. This is explained in a hadith narrated by Said al-Musayyib from his father:

"His father came to the Prophet (peace be upon him) and asked, 'What is your name?' He replied, 'Hozn' (sorrow). The Prophet said, 'You are Sahl' (easy). He responded, 'I will not change the name given to me by my father.' Said Bin al-Musayyib said: 'After that, we continued to be afflicted with sadness.' (Narrated by Abu Dawood, 4948).

In this hadith, the Prophet (peace be upon him) remained silent (taqrir) regarding the action of a companion who maintained his undesirable name. This is an indication (qarinah) that using a name with a negative meaning is disliked (makruh), but it does not lead to it being forbidden (haram) (Suwaylim, 2013).

2. Inheritance

An issue faced by converts relates to inheritance. According to Islamic law, a Muslim and their non-Muslim heirs do not inherit from each other. Scholars agree on this based on the hadith of the Prophet Muhammad (peace be upon him) narrated by Usamah bin Zayd (may Allah be pleased with him), as mentioned in al-Syawkani (t.t.):

"A Muslim does not inherit from the inheritance of a non-Muslim, and a non-Muslim also does not inherit from the inheritance of a Muslim." (Narrated by Muslim)

[Nayl al-Awtar: Syarh Muntaqa al-Akbar min Ahadith Sayyid al-Akhyar. vol. 5. Cairo: Maktabah Dar al-Turath.]

To address this issue, a convert should plan their inheritance systematically and comprehensively to safeguard the interests of their beloved heirs, especially in terms of providing for heirs who are not Muslims. They should create or prepare documents related to estate planning appointing an executor to administer the estate and plan the distribution method. Any giving or distribution of inheritance by a Muslim should be based on laws and Shariah. Through a Will, no more than 1/3 of the estate can be given to non-Muslim heirs, loved ones, or for charitable purposes. The remaining 2/3 should be distributed among Muslim heirs according to the laws of Faraid. Another alternative in channeling wealth or giving to non-Muslim siblings can be done through a gift instrument, which can be given to the maximum and is not subject to the laws of Faraid.

3. Living Arrangements

Residence or living arrangements are among the primary issues faced by converts. For converts who live with their families, one of the issues that arises and needs to be addressed is the matter of food and the practice of religious rituals, especially prayer and fasting. If the non-Muslim family members understand what is halal and what is not halal for Muslims, it is beneficial for the convert. However, if non-Muslim family members do not understand, it can pose problems for the convert in living their life as a Muslim. In this regard, religious authorities such as the Majlis Agama Islam Selangor (MAIS) or Selangor Islamic Religious Council and the Mufti Office of the Federal Territories have issued guidelines for converts in their dealings with non-Muslim family members, including residence-related matters. MAIS explains regarding food: It is permissible to eat together with non-Muslim family members, and it is permissible to eat food cooked/served by non-Muslims, but it must be ensured beforehand that the food is halal and not mixed with any prohibited substances. Regarding the utensils used by non-Muslim family members, it is also permissible to use those utensils if they are believed to be clean. If it does not bring about suspicion or doubts among other family members, it is better to wash those utensils before using them. (Contemporary Fiqh, <https://mais.gov.my/e-edisi/muallaf-hubungan-dengan-keluarga-non-muslim/> Converts: Relationship with Non-Muslim Families)

4. *Aurah* with Non-Muslim Family

The issue of *aurah* (covering of the body) is among the challenges faced by converts after embracing Islam. The study by Arfah and Hakim (2022) proves the truth of this matter. Through findings from a study on a convert respondent in Mukah, it was found that the issue of *aurah* is among the primary challenges faced. The respondent explained the difficulty in maintaining *aurah*, such as wearing the *hijab*, when with family during Christmas celebrations. To maintain the family's reputation, she had to refrain from wearing the *hijab* because, for them, wearing the *hijab* would be categorized as overly religious. The community's perception in her village always regarded Muslims as having difficulty socializing because they had to wear the *hijab* when meeting others. This issue can be seen from two aspects. First, regarding the *aurah* of converts with non-family members, it still must be covered. However, for the purpose of *maslahah* (public interest), considering they are new

siblings in Islam, they need to be given time and understand the religious responsibilities of a Muslim in covering oneself. A gradual approach (*tadarruj*) by strengthening faith first is necessary. Second, *aurah* among family members is still considered mahram and not obligatory to cover. This view can be referred to, for example, in religious Q&A issued by the Mufti Office of the Federal Territories, Al-Kafi #1193: The Aurah of Female Converts with Their Families.

5. Pre-Islamic Mistakes

One of the merciful characteristics of Islam is its ability to forgive sins and mistakes committed before embracing Islam. It is among the features of Islam known as '*adamul haraj*,' which means not causing difficulty or burden to individuals. Islam implements the principle of *al-islām yajubbu mā qablahu* (Islam erases any past mistakes). This needs to be understood by preachers when explaining the goodness of Islam to converts. It can serve as a factor attracting da'wah to the families or non-Muslim acquaintances of converts, besides being an additional motivation for converts themselves.

Fiqh Islami (Islamic Jurisprudence) Framework

Fiqh literally or literally means understanding and knowing in detail about something, usually in religious knowledge because religion is the foundation and pillar of every knowledge (al-Nadawi, 1998: 48). The use of the term *fiqh* has its basis and foundation from the evidence of the Qur'an. For example, Allah mentions the concept of *tafaqquh fi al-din* in Surah al-Tawbah. The Qur'an says:

"It is not appropriate for the believers to go forth [to battle] all at once. For there should separate from every division of them a group [remaining] to obtain understanding in the religion and warn their people when they return to them that they might be cautious.

Muslim scholar, Imam al-Baydawi defines fiqh as the knowledge concerning the practical or practical laws of Shariah taken from detailed evidences (which are partial in nature) (al-Baydhawi, 1969: 22). Based on this evidence, it is explained that all laws related to the actions of a responsible person (*mukallaf*) regarding matters that are obligatory and prohibited cover aspects of what is permissible, impermissible, obligatory, recommended, permissible, disliked, conditions necessary to validate worship, and matters that bring about harm (Bakr, 1997: 15). Ibn Nujaym, on the other hand, views fiqh as the knowledge of legal or Shariah law. A person who specializes in the knowledge of fiqh is known by the title *al-faqih*, meaning a person who is an expert in fiqh-related issues (Ibn Nujaym, 1997: 13).

The legislation contained in the Quran and Sunnah is summarized in two components: *al-thawabit* (the immutable) and *al-mutaghayyirat* (the mutable). *Al-Thawabit* are the fundamental principles of Islam, which are pillars, foundations, and religious principles that do not change until the Day of Judgment, while *al-mutaghayyirat* are branches or subsidiary laws that can change according to circumstances and times. Laws that can change are subject to *waqi`* or current reality, which usually refers to the current cultural values, customs, or 'urf and the needs of a community in a locality. According to al-Qaradawi (1990), these changes aim to preserve the well-being of human life in accordance with the objectives of Sharia. The *al-mutaghayyirat* component consists of jurisprudential laws in various fields of fiqh, which can be further developed by Islamic jurists. In other words, Islamic law is fixed on fundamental matters and flexible (*murunah*) on subsidiary matters that involve contemporary issues in any dimension of human life (Al-Qaradawi, 1990: 240-247).

Today's world also witnesses increasingly advanced technology, leading to emerging legal issues that never arose in the past and for which legal answers are not found in the works of classical Islamic jurists. Most contemporary issues that are subsidiary or *furu`* in nature do not have detailed legal answers in the Quran and Sunnah. Typically, the majority of these issues fall within the realm of *mutaghaiyyirat*. However, the general principles, which are fundamental or *thawabit*, have already been outlined in both sources and continue to serve as basic guidelines in determining the law for subsidiary matters. Mahaiyadin & Osman (2018) believe that the practice of *fiqh* relevant to today's society should present Islamic law in a more practical, simplified manner, and demonstrate characteristics of *rahmatan lil alamin* (Mercy to all).

If we trace the history of the development of Islamic law, we find various *fiqh* laws that were derived through *ijtihad* by different scholars based on the circumstances of their time. This is evident from the era of the Companions, the *Tabi'in*, and the generation after them, up to the present day. For example, Caliph Umar ibn al-Khattab did not enforce the punishment of *hudud* on thieves due to economic factors during his time, while Caliph Uthman ibn Affan added an additional call to prayer on Fridays in the markets of Medina due to social factors. Some of the *Tabi'in* established the *al-ra'yi* (school of thought) based on the *fiqh* of urban communities in Baghdad. Mujtahid imams in a particular era or place may have different *ijtihad* than what was decided by mujtahids and jurists who came after them or in other places. In fact, there are jurists within a particular school of thought who do not follow the original views of their school's imam, such as Imam Abu Yusuf and Al-Shaybani, who often presented views that differed from Abu Hanifa, despite being loyal students of his. A similar pattern can also be seen in other schools of thought. This occurs because even though they are loyal followers of their imam, their *ijtihad* needs to be adjusted to fit the changing realities of society. Imam Al-Shafi'i himself had both *qawl al-qadim* (old fatwas/legal maxim) and *qawl al-jadid* (new fatwas/legal maxim) in his *fiqh*, based on the differences that occurred in the regions of Hijaz and Egypt (Al-Hajawi, 1995: 225-245).

Therefore, Islam provides a solution to these issues by allowing space for mujtahids to engage in *ijtihad* to address new legal problems. Based on this premise of legal thought, the concept of contemporary *fiqh* is developed, commonly referred to in terminology as *al-fiqh al-muasir* (contemporary *fiqh*) or *al-fiqh al-waqi'* (*fiqh* of reality).

The terminology of contemporary *fiqh*, or *al-fiqh al-muasir*, or *al-fiqh al-waqi'*, refers to the understanding of Islamic law in the current context, particularly the legal rulings on new issues that require fresh *ijtihad* and have never been addressed in any religious sources or previous juristic interpretations. Al-Qaradawi defines *fiqh al-waqi'* as understanding reality thoroughly, rather than merely having superficial knowledge of it, as this would be deceitful and misleading to others (al-Qaradawi, 2008: 228). Therefore, it can be formulated that contemporary *fiqh* refers to jurisprudence based on reality, considering the balance between benefits and harms, and it is not based on fantastical assumptions or conjectures (*iftiradi*). Hence, a jurist or scholar of *fiqh* in their *ijtihad* regarding any issue should understand and live within the existing reality, focusing their deliberations on the balance between benefits and harms, guided by Sharia texts, and then applying them appropriately to the current reality.

In current times, there are many contemporary scholars who suggest that *ijtihad* should be conducted based on current needs. Among the legal scholars who propose ideas for the renewal of *fiqh* knowledge and advocate for contemporary *fiqh* are Mustafa al-Zarqa', Abd al-Karim Zaydan, Muhammad al-Ghazali, Said Ramadan al-Buti, Wahbah al-Zuhayli, Yusuf al-

Qaradawi, and many others. Among them, Yusuf al-Qaradawi is the most prolific and has written extensively on current realities. Some of his fiqh ideas that can be categorized within the discipline of contemporary fiqh thought include *Fiqh al-Awlawiyyat* (Understanding of Priorities), *Fiqh al-Aqalliyyat* (Understanding Minority), *Fiqh al-Muwazanat* (Fiqh of Balancing), *Fiqh al-Taysir* (Fiqh of Facilitation), and others. His ideas on contemporary fiqh can be studied in many of his diverse works

Based on the premise, it can be formulated that the framework of Islamic fiqh, or contemporary fiqh, is dynamic and open to any changes and new developments that may contribute to the betterment of the Islamic mission. Therefore, the scholars of the past have provided a solid foundation for addressing new issues that did not exist in their time. Contemporary fiqh adopts a flexible nature and is capable of accommodating or adapting to the customs, traditions, and practices of society for the purpose of da'wah, as long as it does not lead to associating partners with Allah and undermining human moral values, including the practices, customs, and traditions of society.

Accommodation of Customs With Religion

"Accommodation" is a term in communication theory. It refers to achieving a balance and making efforts to alleviate a conflict (Roza, 2020). The collision or conflict between customs and culture is unavoidable. For instance, Muridan (2008) holds the view that religion will inevitably encounter clashes with local culture.

If we delve into history, the arrival of Islam in the Malay world brought about transformations within the society in this region. It occurred through an evolutionary process via a persuasive approach to da'wah, opposed to radicalism. The scholars and preachers of the past wisely utilized the principle of wisdom in advancing Islamic propagation. The customs and taboos of the society being proselytized were not drastically abolished to avoid confrontation with the local populace. This can be seen, for example, in the da'wah efforts of the Wali Songo to the Javanese community, which strongly adhered to Hinduism. The Wali Songo adopted a da'wah approach through social activities, economics, education, and the arts.

Sunan Bonang, for example, was skilled in playing the bonang musical instrument. This is because the majority of the people in Tuban enjoyed gamelan music. Therefore, he utilized this folk art for the purpose of propagation. His proficiency in playing the musical instrument accompanied by religious songs in the form of religious poetry succeeded in attracting and influencing the people of Tuban to learn the songs and eventually learn about Islam. One of the famous songs is titled "Tombo Ati." One of the verses of "Tombo Ati" is:

*Tamba ati iku lima sak warnane,
Maca Qur'an angen-angen sak maknane,
Kaping pindo, sholat wengi lakonana,
Kaping telu, wong kang soleh kencana,
Kaping papat kudu wetheng ingkang luwe,
Kaping lima dzikir wengi ingkang suwe.*

It means there are five types of "heart remedies" or soul healers for those whose souls are "sick". Namely, reciting the Quran, performing the tahajjud prayer, befriending righteous people, engaging in remembrance (zikr), and living a humble life. This demonstrates the wisdom of the Wali Songo in understanding the culture of the community while simultaneously leveraging the accommodating nature of Islam to adapt to local customs and traditions. They adjusted outdated practices that were superstitious by infusing them with

Islamic spirit and incorporating them into the local culture, thus making Islam well-received by the Javanese community.

According to Ramli (2000), the dynamic nature of Islamic Shariah has enabled it to tolerate and assimilate with the lifestyles of local communities. The development of Islam in the Malay world, particularly in Malaysia, and its acceptance by the local community is attributed to Islam's ability to accommodate local cultures. Preachers need to understand that da'wah, especially at the initial stages, should avoid approaches that are punitive and adopt a softer (lax) approach in matters that are not definitive (*zanni*). This foundation must be understood to ensure the smoothness of the da'wah movement and its effectiveness in guiding converts, especially in helping post-conversion converts maintain their Islamic faith and live as perfect Muslims based on religious principles.

Conclusion

The post-conversion life of converts (*muallaf*) is a challenging and critical transitional phase. Some of them are still bound by customs, cultures, and taboos from before their conversion to Islam. Additionally, other issues such as family relationships, names, inheritance, and past mistakes before Islam are among the problems they face. These post-conversion issues need to be addressed with wisdom so that they can continue to remain steadfast in Islam while becoming Muslims capable of fully following the teachings of Islam in all aspects of life. To address this, Islamic fiqh that accommodates certain customs and old beliefs of converts provides space for this group to practice and experience Islam without confronting their old traditions. However, continuous, systematic, and gradual advocacy approaches are needed to handle this matter effectively.

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