



**THE ORAN FATWA AS AN EMERGENCY
FIQH STRATEGY
Addressing the 16th-Century Identity Crisis of Morisco
Muslims**

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Abstract: The Oran fatwa, issued by Ahmad ibn Abi Jum'ah al-Maghrāwī in the early 16th century, emerged as a religious response to the tragic circumstances faced by the Morisco Muslims in Spain following the fall of Granada. This fatwa provides legal guidance for Muslims who maintained their faith while being outwardly compelled to adhere to Catholic practices. This study provides the Oran Fatwa by placing it within the broader discourse of Islamic jurisprudence on minority issues under repressive regimes. The analysis employs a historical-normative framework, concentrating on Islamic legal principles while acknowledging exceptional circumstances, specifically *al-ḍarūrāt tubīḥ al-maḥzūrāt* and *ikrāh*. The results indicate that the fatwa exemplifies a form of contextual *ijtihād* influenced by emergency circumstances, serving not only as a legal concession but also as a strategic measure to protect Muslim identity in the face of systematic conversion pressures. This form of contextual *ijtihād* illustrates the contextual approach of Islamic law in addressing oppressive political circumstances by Spanish Inquisition. This study improves our understanding of how Islamic legal thought has changed over time and how religious scholars have helped to balance law, faith, and authority during times of severe persecution. It is still important for modern discussions about religious freedom and the rights of minorities.

Keywords: Oran Fatwa, Morisco, Minority Fiqh, *Ikrāh*, *al-ḍarūrāt tubīḥ al-Maḥzūrāt*, Islamic Spain.

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Introduction

THE MORISCO MUSLIMS of Spain faced an exceptionally restrictive and coercive environment at the turn of the 16th century, once Christian forces occupied over the Emirate of Granada in 1492.¹ This event marked the end of Muslim rule on the Iberian Peninsula and the beginning of an extended period of suffering for the rest of the Muslim community.² Catholic authorities forced them to convert to Christianity because of a policy of forced conversion. This took away their authority in politics and religious freedom. The Spanish Inquisition, which aggressively hunted down anyone who was secretly following or practicing Islam, made this policy even stronger.³ Under these circumstances of extreme coercion, Morisco Muslims were faced with two equally agonizing options: to maintain their faith and face the threat of execution or expulsion, or to seemingly convert to Christianity to safeguard themselves and their families, thus abandoning their Islamic identity.⁴ This harsh reality resulted in many initiatives to develop both spiritual and legal ways for Muslims to keep their faith during times of horrific religious repression.

In this significant period in history, a Maghribi Islamic scholar named Ahmad ibn Abi Jum'ah al-Maghrawī wrote a particularly significant fatwa.⁵ The fatwa was issued in response to the challenges that the Moriscos faced since they were forced to

¹ Eduardo J. Hernandez, "A Muslim Fifth Column: Morisco Religion And The Performance Of Identity In Sixteenth Century Spain" (the Temple University Graduate Board, 2016).

² Laura U. Marks, "A Deleuzian Ijtihad: Unfolding Deleuze's Islamic Sources Occulted in the Ethnic Cleansing of Spain," in *Deleuze and Race* (Edinburgh: Edinburgh University Press, 2012), 51–72, <https://doi.org/10.1515/9780748669608-005>.

³ James L. Boone and Nancy L. Benco, "Islamic Settlement in North Africa and the Iberian Peninsula," *Annual Review of Anthropology* 28 (1999): 57–71, <https://doi.org/10.1146/annurev.anthro.28.1.51>.

⁴ Amira K. Bennison, *Jihad and Its Interpretation in Pre-Colonial Morocco State-Society Relations during the French Conquest of Algeria*, 1st ed. (London: Routledge, 2002), <https://doi.org/10.4324/9780203220573>.

⁵ Devin Stewart, "The Identity of 'the Muftī of Oran', Abū l-'Abbās Ahcombing Dot Belowmad b. Abī Jum'ah Al-Maghrawī Al-Wahrānī (d. 917/1511)," *Al-Qantara* 27, no. 2 (2006): 265–301, <https://doi.org/10.3989/alqantara.2006.v27.i2.2>.

convert to Christianity and were not allowed to practice Islam. The fatwa enabled Muslims to pursue a legal means of preserving their inner faith (*īmān bāṭin*) even if they had to behave like Catholics on the outside.⁶ Thus, it existed as both a spiritual and juridical framework that permitted practices such as attending mass, donning Christian symbols, or baptizing one's children, provided these actions were undertaken under coercion and without the intention of abandoning Islam. In Islamic jurisprudence, the concepts of necessity (*ḍarūra*) and coercion (*ikrāh*) serve as the core basis for the legitimization of such fatwas.⁷ A broad range of academic studies, drawn from both Orientalist and Muslim scholars, have researched the relevance of this fatwa as an example of the adaptability of Islamic law, such as al-Ghamidi, Devin Stewart, etc. Today, the fatwa is an important part of the larger conversation about minority Islamic law (*fiqh al-aqalliyyāt*).

Mustafa al-Ghāmīdī's thesis offers a critical edition and commentary on the original manuscript, presenting contextual and legal interpretations based on Maliki jurisprudence.⁸ Devin Stewart (2006), on the other hand, examines the fatwa through the lens of textual identity and historiography, highlighting debates surrounding the author's name, origin, and scholarly affiliations, while affirming the fatwa's authenticity and its influence on Morisco legal consciousness.⁹ Luis F. Bernabé-Pons's article, *Taqiyya, niyya y el islam de los moriscos*, discusses how the fatwa offered practical guidance for crypto-Muslims, even though the exact concept of *taqiyya* was never explicitly defined in Morisco literature.¹⁰ These works collectively demonstrate the fatwa's

⁶ Abhay Bansal, "From Religious Edict to Legal Debate: The Journey Of," *DME Journal of Law* 5, no. 2 (2024): 1–13, <https://doi.org/10.53361/dmej.v5i2.01>.

⁷ Chiara Anna Cascino, "Defining the Calling to Islam in Europe: The European Council for Fatwa and Research's Interpretation of Islamic Da'wa," *Journal of Arabic and Islamic Studies* 23, no. 2 (2023): 203–24, <https://unora.unior.it/handle/11574/240800>.

⁸ al-Ghāmīdī, M. A. I. Makhtūṭat Risālat al-Imām Abī al-'Abbās Aḥmad ibn Abī Jum'ah al-Maghrawī; Zamān al-Miḥna: Dirāsa wa Ta'liq [Thesis]. Umm Al-Qura University, 2014.

⁹ Devin Stewart, "The Identity of 'the Mufti of Oran'"

¹⁰ Bernabé-Pons, L. F. *Taqiyya, niyya y el islam de los moriscos*. Al-Qanṭara, 34(2) (2013): 491–527. <https://doi.org/10.3989/alqantara.2013.017>

crucial role in early modern Islamic legal responses to coercion and the preservation of religious minorities.

Other important research, such as the article by Maria del Rosa, argues that Morisco religious practices in sixteenth-century Spain constituted a form of hybrid religiosity that operated beyond institutionalized Christian and Islamic dogma, enabling the preservation of Muslim identity under coercive Catholic rule in the 16th century.¹¹ L. P. Harvey similarly examines the fatwa as a significant theological document in the final phase of Islam in Spain, emphasizing its role in legitimizing alterations to spiritual duties amid systematic persecution.¹² From a social-historical standpoint, Mary Elizabeth Perry's investigation into Morisco women and domestic religiosity underscores the implementation and preservation of legal provisions, as exemplified by the Oran Fatwa, within private spheres, particularly through gender-specific practices of faith preservation.¹³ These studies collectively validate the fatwa's importance as both a legal instrument and a pragmatic strategy for survival in oppressive conditions.

Previous studies have established the context, authenticity, and transmission of the Oran Fatwa. This article—*The Oran Fatwa as an Emergency Fiqh Strategy: Addressing the 16th-Century Identity Crisis of Morisco Muslims*— offers an original analytical contribution by positioning the fatwa within the framework of *fiqh al-naẓā'il* (jurisprudence of emergencies). It argues that Ibn Abī Jum'ah's legal reasoning not only responded to the immediate repressive conditions of Morisco presence but also foreshadowed contemporary dialogues within *fiqh al-aqalliyyāt*, not as a direct precursor, but as a methodological resonance grounded in emergency-based legal reasoning. The study reinterprets the fatwa as a vital element of a comprehensive intellectual response to

¹¹ del Mar Rosa-Rodriguez, M. Simulation and Dissimulation: Religious Hybridity in a Morisco Fatwa. *Medieval Encounters*, 16(1) 2010), 143-180. <https://doi.org/10.1163/138078510X12535199002758>

¹² Harvey, L. P. *Muslims in Spain, 1500 to 1614*. University of Chicago Press, 2005.

¹³ Perry, Mary Elizabeth. *The Handless Maiden: Moriscos and the Politics of Religion in Early Modern Spain*. Course Book ed., Princeton: Princeton University Press, 2013. <https://muse.jhu.edu/book/30692>.

enforced assimilation and religious oppression, presenting it as a dynamic legal system that can guide contemporary approaches for the resilience of Muslim minorities while adhering to the basic principles of Islamic jurisprudence.

This study endeavors to conduct a thorough analysis of the content, structure, and historical context of the fatwa issued by Ahmad ibn Abi Jum'ah al-Maghrawī. It examines the textual content of the fatwa and its dual role as a means of spiritual safeguarding and a survival tactic for the Morisco Muslim community. The research employs a historical-normative methodology to analyze the adaptive responses of Islamic law to substantial political and social pressures. The research also aims to link the fatwa to contemporary issues those faced by Muslim minorities and struggling with various forms of identity pressure. It confirms that Ibn Abi Jum'ah's fatwa gained historical significance and offers crucial insights for the development of a solution-oriented *fiqh* in modern society. This objective is predicated on the assertion that Islamic law offers an epistemological framework proficient in addressing the challenges posed by changing circumstances and is far from inflexible in its response to crises.

The author argues that the fatwa of Ahmad ibn Abi Jum'ah represents the flexibility and adaptability of Islamic law in urgent needs. He utilized fundamental principles from *uṣūl al-fiqh* and legal maxims like *al-ḍarūrāt tubīḥ al-maḥẓūrāt* (necessities allow the forbidden) and *al-ikrāh yusqit al-ta'aqīb* (coercion eliminates punishment) to make actions that would normally go towards Islamic teachings suitable. Ibn Abi Jum'ah used this approach to demonstrate that Islamic law is not rigid but rather responsive to the various political and social situations that the Muslim community faces. This argument also shows that the fatwa can be seen as a form of spiritual resistance that is not confrontational but still works to help the Muslim community keep its faith while avoiding physical harm. The author additionally states that these intellectual legacies should not be considered only as historical records but also serve as sources of inspiration in the formulation of a responsive *fiqh al-aqallīyyāt* able at dealing with the challenges of religious existence in environments opposed to Islam.

This study utilizes a historical-textual methodology based on the examination of authoritative secondary editions and translations of the Oran Fatwa. The fatwa attributed to Aḥmad ibn Abī Jum‘ah al-Maghrawī appears in a limited number of manuscripts, which are not easily accessible. Previous research has identified four existing manuscripts: one Arabic copy found by Muḥammad ‘Abd Allāh ‘Inān in the Vatican Library in 1951 (Borgiano collection), and three *aljamiado* (Spanish written in Arabic script) translations preserved in Aix-en-Provence and Madrid, with the exact location of one manuscript presently unknown.

Although this research does not directly examine the manuscripts codicological or philological, the authors try to find out about the manuscript through the Vatican Library's digitization project (*DigiVatLib*). This search was unable to discover any digital copies of the Oran Fatwa manuscripts that are available to the public. Consequently, the research depends on authoritative scholarly transcriptions and translations—most notably the nearly complete English translation by L. P. Harvey—which have historically served as the main sources for academic studies on the Morisco fatwa tradition.

The data for this study has been collected through library research, analyzing various authoritative textual and well-known scholarly sources. This study uses sources which is thought to have been written by Aḥmad ibn Abi Jum‘ah. It also uses classical Islamic legal texts that helped shape its legal reasoning, such as *uṣūl al-fiqh* and Islamic legal terms (*qawā'id fiqhiyyah*). These materials serve as the principal analytical texts for analyzing the normative framework of the fatwa. The data gathering method, involving the selection of appropriate sources based on thematic relevance, scholarly authority, and historical context, thus ensuring that the collected materials sufficiently support the study's analytical aims.

It used content analysis to look at the fatwa text in context, using reliable scholarly editions, and then our team assessed the Islamic legal principles that were used in the argumentation. The researcher investigated the argumentative basis of the fatwa, highlighted the legal principles and maxims referenced, and

assessed their alignment with the doctrines of necessity (*darūra*) and coercion (*ikrāh*) within Islamic jurisprudence. Furthermore, the fatwa's legal reasoning has been reviewed in connection with the contemporary framework of *fiqh al-aqalliyāt* as a jurisprudential response to the challenges faced by Muslim minorities. This study aims to illustrate the strategic importance of the Oran Fatwa both in its historical context and in contemporary Islamic legal discourse.

Tracing the Life and Contributions of Aḥmad ibn Abī Jum‘ah al-Maghrāwī

Abū l-‘Abbās Aḥmad ibn Abī Jum‘ah al-Maghrāwī al-Wahrānī (died 917 AH/1511 CE), known as the "Mufti of Oran," was a well-known Islamic lawyer in the late 1400s and early 1500s. Although associated by nisba "al-Wahrānī" with the city of Oran, he originated from the Maghrāwah region in northwestern Algeria, near Mustaganem¹⁴. Ibn Abī Jum‘ah pursued his religious education in Tlemcen before ultimately settling in Fez, Morocco, where he held a position as an expert of Islamic law.

*"Originario de Orán, Aḥmad estudió en Tremecén y acabó por establecerse en Fez, donde consiguió un puesto como profesor de ley islámica"*¹⁵

(Originally from Oran, Aḥmad studied in Tlemcen and eventually settled in Fez, where he obtained a position as a professor of Islamic law)

Abū l-‘Abbās Aḥmad ibn Abī Jum‘ah al-Maghrāwī, a scholar on Islamic law in Fez, released *Jāmi‘ Jawāmi‘ al-Ikhtiṣār wa al-Tibyān*, a book about how to teach the Qur‘an and the moral issues that come with it¹⁶. This work demonstrates his academic contribution along with legal perspectives, particularly when directing teaching methods and the ethical behavior of educators.

Furthermore, detailed information about al-Maghrāwī's birth or personal life is very limited; nevertheless, his unique position in Islamic legal history makes him an important figure in studies

¹⁴ al-Ghāmīdī, M. A. I. *Makhṭūṭat Risālat al-Imām Abī al-‘Abbās Aḥmad ibn Abī Jum‘ah al-Maghrāwī; Zamān al-Miḥna: Dirāsa wa Ta‘līq*.

¹⁵ Bernabé-Pons, L. F. Taqiyya, niyya y el islam de los moriscos.

¹⁶ al-Maghrāwī, A. b. A. J. *Jāmi‘ Jawāmi‘ al-Ikhtiṣār wa al-Tibyān fīmā ya‘ruḍu bayna al-mu‘allimīn wa abā’ al-ṣibyān*. al-Marzūqī, n.d.

concerning Islamic minority communities and Islamic dissimulation. His fatwa, issued in 910 AH/1504 CE, became highly significant as it permitted the Morisco community in Spain to practice religious dissimulation—outwardly exhibiting Christian practices explicitly forbidden in Islamic law, while inwardly maintaining their Islamic beliefs¹⁷.

As a jurist affiliated with the Maliki school, al-Maghrawi took a bold stance that differed significantly from the dominant opinion among Maliki scholars of his time, such as Ahmad ibn Yahya al-Wansharisi, who emphasized the obligation for Muslims to migrate to Muslim lands if they lived under non-Muslim rule¹⁸. Al-Maghrawi on the other hand, asked them to stay in Spain with an adaptive attitude, in the context of emergency.

In the context of the Moriscos, the concept of religious dissimulation or *taqiyya*¹⁹ is described as follows:

“La afirmación de que los moriscos conocieron e hicieron uso del concepto islámico de ta qiyya se ha convertido casi en una obligación para todos aquellos que se acercan a las cir cunstancias de sus vidas de criptomusulma nes. Sin embargo, ese término no se encuentra en toda la producción escrita de los moriscos, por más que desde la fetua del muftí de Orán tienen unas claves para desarrollar su religión en un entorno hostil”

(The assertion that the Moriscos were familiar with and made use of the Islamic concept of *taqiyya* has almost become an obligation for all those who examine the circumstances of their crypto-Muslim lives. However, this term does not appear throughout the written production of the Moriscos, although since the fatwa of the Mufti of Oran they possessed the key principles for practicing their religion within a hostile environment.)

Although scholars often claim that Moriscos practiced the Islamic concept of *taqiyya*, the term itself does not appear in any of their surviving writings. However, the fatwa of the Mufti of Oran provided implicit guidance for maintaining their faith in a hostile Christian environment.

¹⁷ Nawaz, A. Sixteenth Century Morisco Devotional Manuscripts in their Mediterranean Contexts [Thesis Master]. University of Cambridge, 2016.

¹⁸ Devin Stewart, “The Identity of ‘the Mufti of Oran’

¹⁹ Bernabé-Pons, L. F. *Taqiyya, niyya y el islam de los moriscos*.

Historical Context of Ahmad ibn Abi Jum'ah's Fatwa: An Emergency for the Morisco Community

The fatwa issued by Ahmad ibn Abi Jum'ah al-Maghrawi in the early 16th century is one of the most profound examples of how the law changes when there is a crisis. This legal statement is inseparable from past events. Specifically, it happened after Granada fell in 1492, which was a big deal because it marked the end of Islamic political power in the Iberian Peninsula and the beginning of the Spanish Inquisition by the Catholic Spanish monarchy.²⁰ The fall of the Nasrid Kingdom of Granada was more than just a political loss; it was the end of an Islamic civilization that had been around for hundreds of years and the start of a long and violent effort to erase Islamic religious and cultural identity from Spain.

The Oran Fatwa should be viewed as a direct legal response to the last stage of the Reconquista, which ended not only with the conquest of land but also with the systematic destruction of Muslim life in Iberia. The fall of Granada in 1492 was a symbolic end to Islamic political power, but the real effect of the Reconquista was that it became a project to convert Christians.²¹ The gradual shift from military conquest to legal and confessional coercion presented major difficulties for Muslims who remained in Spain. In this time after the Reconquista, when people were forced to convert, their beliefs were watched, and Islamic practices were made illegal, the fatwa issued by Ahmad ibn Abi Jum'ah was seen as a legal tool to deal with a religious emergency rather than a normal legal question.

After the fall of Granada, the Muslims who stayed in Spain, who later were referred to to be called Moriscos, had to deal with an environment that was getting more hostile.²² At first, the terms

²⁰ Perry, Mary Elizabeth. *The Handless Maiden: Moriscos and the Politics of Religion in Early Modern Spain*. Course Book ed., Princeton: Princeton University Press, 2013. <https://muse.jhu.edu/book/30692>.

²¹ Harvey, L. P. *Muslims in Spain, 1500 to 1614*. University of Chicago Press, 2005.

²² Fernando Bravo López, "Moorish Blood: Islamophobia, Racism and the Struggle for the Identity of Modern Spain BT - Antisemitism, Islamophobia and the Politics of Definition," ed. David Feldman and Marc Volovici (Cham: Springer

of capitulation promised Muslims religious freedom and the right to keep their traditions. But these promises didn't last long. Policies changed a lot toward forced assimilation in just ten years. The Spanish Crown, with the help of the Catholic Church, made a lot of rules that tried to get rid of any signs of Islamic belief and practice. The Spanish Inquisition (est. 1478) was a state-run legal system that made it illegal to not follow the rules of religion and kept an eye on Moriscos, prosecuting them and punishing them harshly for any signs of following Islam.²³ The Moriscos had to convert to Christianity or face violence or expulsion, and it was against the rules to show Islam in public.²⁴ Arabic, the language of the Muslim community's religious and intellectual life, was banned. Mosques were destroyed or turned into churches. Traditional Islamic clothing was banned, and Moriscos had to go to Catholic Mass.²⁵

This oppression didn't just affect religious practices; it affected all parts of life, including social, economic, and cultural life. The goal was to make Moriscos completely blend in, which would mean losing their identity. Because of this systemic oppression, the Morisco community was in a terrible situation. They had to balance the demands of a hostile outside regime with the need to protect their religious identity and moral integrity. In such extreme situations, it was almost impossible to follow religious customs. Consequently, Muslim scholars and legal authorities were compelled to address unprecedented questions: Could Muslims simulate Christian behavior under compulsion? Was it

International Publishing, 2023), 67–88, https://doi.org/10.1007/978-3-031-16266-4_4.

²³ Harvey, L. P. *Muslims in Spain, 1500 to 1614*. University of Chicago Press, 2005.

²⁴ Mercedes García-Arenal and Yonatan Glazer-Eytan, "Forced Conversion in Christianity, Judaism and Islam: Coercion and Faith in Premodern Iberia and Beyond" (Leiden, The Netherlands: Brill, 2019), 1–31, <https://doi.org/10.1163/9789004416826>.

²⁵ Mercedes García-Arenal, "The Converted Muslims of Spain: Morisco Cultural Resistance and Engagement with Islamic Knowledge (1502–1610)," in *Routledge Handbook of Islam in the West* (Routledge, 2022), 57–72, <https://www.taylorfrancis.com/chapters/edit/10.4324/9780429265860-7/converted-muslims-spain-mercedes-garcia-arenal>.

permissible to utter blasphemous words or consume prohibited food if one's life was in danger? Could religious obligations be suspended or modified under duress?

In 1504, Ahmad ibn Abi Jum'ah al-Maghrawi, a North African Islamic scholar who worked in Oran (now Algeria), answered these important questions with a fatwa. This fatwa provided the Moriscos an opportunity to remain in both legal and religious terms. It offered precise guidance on how to live a religious life in secret while remaining in compliance with the Christian regulations set by the Spanish government. The fatwa explicitly recognized the principles of *ḍarūra* (necessity) and *ikrāh* (coercion) as fundamental concepts that could be used to justify apparent disregards of Islamic law under conditions of pressure. From a jurisprudential perspective, these principles are not marginal; they have a solid foundation in the *usūl al-fiqh* (principles of Islamic jurisprudence) tradition.²⁶ Scholars have utilized the term "*al-ḍarūrāt tubīḥ al-maḥzūrāt*" (reasons to allow the forbidden)²⁷ for a while in order to allow do things that are prohibited, when they are in difficulty or in a crisis.

Al-Maghrawi's fatwa precisely used this legal principle to a number of actual-life circumstances that the Moriscos faced. It allowed the simulation of Christian practices, such as attending church services, consuming prohibited food/drink, and conveying statements of disbelief, which depended due to these actions being performed under pressure and lacking of genuine conviction.²⁸ The fatwa stressed the importance of *niyyah* (intention) and stated that as long as the person's belief in Islam remained strong, following Christian rituals under threat did not mean they were

²⁶ Hafiz Falak Shair Faizi and Hafiz Sfarish Ali, "The Core Principles of Islamic Jurisprudence within Legal Theory: A Comprehensive Analysis," *Online Journal of Research in Islamic Studies* 11, no. 2 (2024): 57–72, <https://doi.org/10.22452/ris.vol11no2.4>.

²⁷ Ron Shaham, "Legal Maxims (Qawid Fiqhiyya) in Yusuf Al-Qaradawi's Jurisprudence and Fatwas," *Journal of the American Oriental Society* 140, no. 2 (2020): 435–53, <https://doi.org/10.7817/jameroriesoci.140.2.0435>.

²⁸ Daniel Enstedt, "Understanding Religious Apostasy, Disaffiliation, and Islam in Contemporary Sweden," in *Moving In and Out of Islam*, Edited by Karin van Nieuwkerk, ed. Karin van Nieuwkerk (University of Texas Press, 2018), 67–90, <https://doi.org/10.7560/317471-004>.

apostate.²⁹ The fatwa also encouraged Muslims to practice their rituals in secret, declaring the *taqiyya* (precautionary dissimulation),³⁰ to enabled Muslims to keep their faith in a hostile environment.

Al-Maghrawi's demonstrates how Islamic law can change when faced with unusual situations, which goes against the idea that it is too strict or too literal. The fatwa was not an aberration from religious norms; rather, it was an innovative and faithful application of its principles to an unusual context of adversity. But this flexibility does have some limits. Al-Maghrawi was careful to set specific that the fundamental principles of faith could not be changed. The temporary suspension of legal obligations under violence did not signify a complete abandonment of religious identity; instead, it constituted a strategy for its preservation in the face of existential threat.

The issuance of the fatwa also demonstrates a comprehensive epistemological perspective in Islamic legal theory that emphasizes the *maqāṣid al-sharī'ah* (objectives of Islamic law). Some of these goals are to protect religion (*hifẓ al-dīn*), life (*hifẓ al-nafs*), the mind (*hifẓ al-'aql*), children (*hifẓ al-nasl*), and property (*hifẓ al-māl*). Islamic law allows for the suspension of certain rulings to protect the greater good when these goals are at risk. Al-Maghrawi's fatwa is a perfect example of this way of thinking in action. The fatwa served the higher purpose of protecting religion and life by allowing the Moriscos to keep their faith in secret while still following outside orders under threat.

Modern readers, underestimating the severity of threats faced by the Morisco community, could assume that the fatwa supports hypocrisy or religious laxity. In fact, the fatwa is a very brave ethical and legal act that was meant to protect a community who was under attack. It emphasizes that Islamic law is not just a set of

²⁹ Youssef Belal, "Islamic Law, Truth, Ethics: Fatwa and Jurisprudence of the Revolution," *Comparative Studies of South Asia, Africa and the Middle East* 38, no. 1 (2018): 107–21, <https://doi.org/10.1215/1089201x-4390015>.

³⁰ Mahmoud Jaraba, "Khul' in Action: How Do Local Muslim Communities in Germany Dissolve an Islamic Religious-Only Marriage?," *Journal of Muslim Minority Affairs* 40, no. 1 (2020): 26–47, <https://doi.org/10.1080/13602004.2020.1737414>.

rules, but a living tradition that can respond to human suffering with compassion and moral clarity.

The Oran fatwa, while crafted in a distinct historical context, continues to address enduring inquiries. The Moriscos' predicament—how to perform religious obligations under coercion—echoes in contemporary scenarios marked by Islamophobia, heightened surveillance, and social ostracism. Instead of providing a universal principle, the fatwa illustrates the functioning of Islamic legal reasoning when adherence to normative practice became practically unfeasible, compelling jurists and believers to reevaluate the distinctions between external compliance and internal conviction.

From an academic standpoint, the fatwa further complicates the perceptions of premodern Islamic jurisprudence as socially isolated or doctrinally inflexible. It exemplifies a legal reasoning approach that is responsive to political influence and empirical experience while remaining grounded in established legal doctrines. Simultaneously, it presents methodological challenges for contemporary researchers, especially in the interpretation of legal texts created under severe duress and their contextualization within the historical evolution of Islamic law, including contemporary discussions related to *fiqh al-aqalliyyāt*. In this regard, al-Maghrawī's 1504 fatwa not only records a pivotal moment but also provokes continuous reflection on the equilibrium of legal traditions concerning continuity, limitation, and moral obligation.

Content of the Fatwa: Sharia Justification for Outward Compromises

Ahmad ibn Abi Jum'ah's 1504 fatwa is not just a normal legal answer to a legal question; it is a deep theological and legal work that shows how Islamic legal theory and the real-life problems of historical crisis interact with each other. This fatwa was issued at a time when the Moriscos, who were forcibly converted Muslims in Spain, were being very oppressed. It is a good example of how Islamic law (*fiqh*) can be flexible and how people should act morally when they are under stress. Abi Jum'ah's fatwa deals with the actual social and political issues in Iberia; not just an abstract

exercise in doctrine. It gives Moriscos a well-thought-out religious guide for how to maintain their faith while dealing with threats of execution from the Catholic Monarchs.

The fatwa is based on an important Islamic theological and legal principle: that the inner state of belief (*īmān*) is more important than how you show your faith, especially when you are forced to do so. This differentiation is based on a fundamental Hadith of the Prophet Muhammad (peace be upon him): “Actions are judged by intentions, and each person will be rewarded according to their intention” (*innamā al-a‘māl bi-l-niyyāt*). Ibn Abi Jum‘ah uses this idea to reassure Muslims that they are not sinning if they are forced to do things that look like Christian practices, like going to church, eating pork or drinking wine, or not praying in the Islamic way, as long as their faith stays strong and they don't choose to do these things.

The fatwa bases its argument on well-known legal principles (*qawā‘id fiqhīyyah*) and well-known cases, mostly from Mālikī legal thought.³¹ Ibn Abī Jum‘ah cites the views of prominent scholars like Imām Mālik and al-Ghazālī to support the notion that concealing one's faith is acceptable when the public practice of Islam poses a threat to life or significant harm to believers. These references are used on purpose, not just for decoration. They make up a clear legal and moral framework that protects both individual conscience and group religious identity. The Qur‘an provides additional support for this argument, especially in the case of ‘Ammār ibn Yāsir, whose forced public renunciation did not undermine his faith as long as his belief remained intact at the level of intention.³²

This legal reasoning is based on a long-term study of *taqiyyah* in situations of *ikrāh*. The fatwa does not see coercion as a rare exception. Instead, it sees it as part of a larger moral framework based on *dar’ al-mafāsīd*, which means putting stopping bigger

³¹ Ayman Shabana, “Custom and Modern Constructions of Shari‘a: Transnational Juristic Discussions on the Status of ‘Urf,” *Journal of Islamic Ethics* 3, no. 2 (2019): 30–63, <https://doi.org/10.1163/24685542-12340025>.

³² Andi Aderus et al., “How Salafism Forms Millennials’ Religious Understanding: A Case Study from an Indonesian University,” *Ulumuna* 23, no. 1 (2023): 291–314, <https://doi.org/10.20414/ujs.v27i1.615>.

harm first. Actions typically deemed sinful—or regarded as external manifestations of disbelief—are redefined when executed under duress, not as ethical shortcomings but as essential compromises to safeguard life and faith. In this regard, the fatwa neither nullifies legal standards nor idealizes martyrdom. Instead, it lays out a carefully thought-out "middle path" that recognizes the terrible political situation the Moriscos are in while also fighting against the idea that Islamic law should be strict and formal.³³

One of the most important things about the fatwa is that it realistically recognizes the social and political problems that the Moriscos face.³⁴ Ibn Abi Jum'ah is against heroic martyrdom and open rebellion, which would have hurt a population that was already weak. Instead, he suggests a practical and caring approach: a "middle way" that lets people follow Christian customs when they need to while also encouraging them to stay true to their Islamic beliefs. This method is an example of a legal system that is based on past cases and is very aware of the moral, psychological, and social needs of Muslims who are being persecuted.³⁵

The fatwa's structure shows that it is practical. Ibn Abī Jum'ah starts by giving a detailed description of the Moriscos' situation. Then he talks about important ideas from fiqh and *uṣūl al-fiqh*, and finally he gives specific advice on how to behave in public, what to eat, how to speak, and how to perform rituals.³⁶ These rules are

³³ Misbahus Surur et al., "Depiction of Islam'S Collap Ses in Andalusia from the Novel Sangkala Di Langit Andalusia," *Journal of Arabic Literature* 4, no. 2 (2023): 84–93.

³⁴ Thomas Glesener and Daniel Hershenzon, "The Maghrib in Europe: Royal Slaves and Islamic Institutions in Eighteenth-Century Spain*," *Past & Present* 259, no. 1 (2023): 77–116, <https://doi.org/10.1093/pastj/gtac011>.

³⁵ Muhammad Arshad, "The Position of Islamic Jurisprudence within Islamic Legal Theory: A Study of Foundational Principles," *Al Haqeeqah* 1, no. 1 (2021): 1–9, <https://alhaqeeqah.pk/index.php/journal/article/view/3>.

³⁶ Amrin and Amirullah, "Contemporary Legal Istimbat: Study on the Theory of Changes in Fatwa According to Yusuf Qardhawi," *Mizan: Journal of Islamic Law* 6, no. 1 (2022): 89–108, <https://doi.org/10.32507/mizan.v6i1.1244>.

about things like how to act in public, what to eat, language problems, and religious rituals.³⁷

The fatwa also says that secret networks should be set up to spread Islamic knowledge, which is even more important.³⁸ The fatwa places necessity (*darūra*) within the larger goals of the law (*maqāṣid al-sharīʿa*) by putting the preservation of life (*hifẓ al-nafs*) and inward commitment to *tawhīd* ahead of outward conformity. In doing so, it shows a kind of contextual *ijtihād* that responds to a historical crisis without losing its moral substance.³⁹ It also provides a legal model that is still relevant to current discussions about the lives of Muslim minorities in difficult situations.

Relevance of the Fatwa in Contemporary Fiqh al-Aqalliyyāt Discourse

In the last few decades, modern Islamic law has seen the rise of a new field of study called *fiqh al-aqalliyyāt* (jurisprudence of Muslim minorities).⁴⁰ This discourse seeks to furnish legal guidance for Muslims residing within a framework that addresses the legal and ethical dilemmas encountered by Muslims living as minorities in societies where non-Muslims predominate, especially in contexts influenced by globalization, migration, and cultural pluralism. The Morisco experience of the sixteenth century was characterized by overt coercion and the criminalization of Islamic practice. In contrast, many contemporary minority contexts feature

³⁷ Rusli Rusli and Nurdin Nurdin, "Understanding Indonesia Millennial Ulama Online Knowledge Acquisition and Use in Daily Fatwa Making Habits," *Education and Information Technologies* 27, no. 3 (2022): 4117–40, <https://doi.org/10.1007/s10639-021-10779-7>.

³⁸ Rusli Rusli, Muhammad Syarif Hasyim, and Nurdin Nurdin, "A New Islamic Knowledge Production and Fatwa Rulings: How Indonesia's Young Muslim Scholars Interact with Online Sources," *Journal of Indonesian Islam* 14, no. 2 (2020): 499–518, <https://doi.org/10.15642/JIIS.2020.14.2.499-518>.

³⁹ Mustapha Tajdin, "Sharīʿa As State Law: An Analysis of 'allāl Al-Fāsī's Concept of The Objectives of Islamic Law," *Journal of Law and Religion* 35, no. 3 (2020): 494–514, <https://doi.org/10.1017/jlr.2020.41>.

⁴⁰ Waheeda Amien, "Judicial Intervention in Facilitating Legal Recognition (and Regulation) of Muslim Family Law in Muslim-Minority Countries The Case of South Africa," *Journal of Islamic Law* 1, no. 1 (2020): 65–114, <https://doi.org/10.53484/jil.v1.amien>.

more subtle forms of pressure, including demands for social integration, legal restrictions, and cultural norms that may indirectly contradict Islamic teachings.

In this context, the fatwa promulgated by Ahmad ibn Abi Jum'ah al-Maghrawī regains significance as a historical legal precedent. While the socio-political contexts are markedly distinct, the legal rationale of the Oran Fatwa closely aligns with the methodological principles of *fiqh al-aqalliyyāt*. Principles such as necessity (*darūra*),⁴¹ concession (*rukhsah*),⁴² and public interest (*maṣlahah*) are the foundations for flexible legal responses to minority situations.⁴³ Contemporary scholars like Yūsuf al-Qaraḍāwī and Ṭahā Jābir al-'Alwānī adopt analogous methodologies, focusing on contextual reasoning to address the realities of Muslim communities in Europe and North America.

More significantly, the Oran Fatwa illustrates the pivotal function of contextual *ijtihād* in circumstances of profound vulnerability. Ibn Abi Jum'ah did not adhere to a strict or literal interpretation of legal norms; rather, he utilized a *maqāṣid*-oriented framework that emphasized the preservation of faith and communal survival in the face of existential threats. His reasoning demonstrates a profound awareness that legal decisions must be attuned to actual experiences and historical contexts, especially when religious identity is jeopardized. This approach highlights a fundamental principle for modern minority jurisprudence: the imperative to sustain a balance (*tawāzun*) between normative obligations and socio-political realities, ensuring that legal adaptability does not undermine the essential aims of Islamic law.

⁴¹ Wahbah Al-Zuhaili, *Nazhariyat Al-Dharuriyat Al-Syar'iyah; Muqaranah Ma'a Al-Qanun Al-Wadh'i*, 4th ed. (Beirut: Dar al-Fikr, 2013).

⁴² Syahrul Nizam and Mulham Jaki Asti, "Is There Any Rukhsah in Performing Praying During Covid-19? Maqashid Sharia Analysis," *Mazahibuna* 3, no. 1 (2021): 98–117, <https://doi.org/https://doi.org/10.24252/mh.v3i1.19687>.

⁴³ Ayelet Harel-Shalev and Rebecca Kook, "Ontological Security, Trauma and Violence, and the Protection of Women: Polygamy Among Minority Communities," *Frontiers in Psychology* 12, no. October (2021), <https://doi.org/10.3389/fpsyg.2021.743478>.

In *fiqh al-aqalliyāt* discourse,⁴⁴ this is referred to as *tawwāzun*—the balance between principle and reality. For instance, Muslims living in the West often have a hard time keeping their religious beliefs while also following the rules of the law and fitting in with society. Ibn Abi Jum'ah's method serves as a source of inspiration and important lessons for creating a minority *fiqh* that is both flexible and open to all.

Nonetheless, the contemporary significance of the Oran Fatwa must be delineated within explicit normative parameters. In the Morisco context, there was a lot of coercion, forced conversion, and almost no religious freedom. The extraordinary legal concessions articulated in the fatwa—particularly the permissibility of outward conformity—were justified solely under conditions of compelling coercion (*ikrāh*) and genuine necessity (*darūra*). These concessions are not universally applicable to all contemporary Muslim minority contexts, particularly where alternative means for religious observance and legal safeguarding are available.

Furthermore, current instances of severe repression endured by Muslim minorities—such as mass surveillance, coerced assimilation, or collective punishment—demonstrate structural conditions that are significantly different from the Morisco experience. In these situations, Islamic legal responses might necessitate alternative strategies, including migration (*hijrah*), collective advocacy, or lawful forms of resistance, rather than relying exclusively on the maintenance of internal faith. This study emphasizes that the Oran Fatwa should be regarded as a distinct jurisprudential response to an exceptional historical crisis, rather than a universal principle of accommodation. Its enduring value derives from its responsiveness to context, proportionality, and necessity, rather than its adherence to specific rulings.

In this sense, Ahmad ibn Abi Jum'ah's fatwa is an important part of Islamic legal thought. In addition to its historical significance, it provides a methodological framework for addressing contemporary legal and ethical challenges encountered

⁴⁴ R. Rusli, "Progressive Salafism in Online Fatwa," *Al-Jami'ah* 52, no. 1 (2014): 205–29, <https://doi.org/10.14421/ajis.2014.521.205-229>.

by Muslim minorities globally. By revisiting such precedents, contemporary Islamic jurisprudence can enhance current discussions on *fiqh al-aqalliyyāt*, affirming the validity of adaptive legal reasoning based on ethical integrity, contextual awareness, and adherence to the overarching goals of Islamic law. This legacy affirms that Islamic jurisprudence, when applied judiciously, has the potential to sustain both spiritual fortitude and social adaptability in the face of challenges.

Conclusion

This study discovers that Ahmad ibn Abi Jum'ah's fatwa was not only a legal document made in an emergency but also a way for the Morisco Muslims to fight back spiritually and keep their religious identity even though they were being pressured to convert under Spanish Inquisition. After Granada fell, oppression forced the Moriscos to abandon their Islamic faith and assume a Catholic identity. The fatwa permitted actions that appeared to contradict Islamic teachings, provided that the faith remained strong within. It used emergency legal principles like *al-ḍarūrāt tubīḥ al-maḥẓūrāt* (necessities permit prohibitions) and the condition of coercion (*ikrah*). These findings demonstrate that Islamic jurisprudence is not only normative but also adaptable to extreme socio-political contexts, playing a strategic role in safeguarding the faith of minority communities.

As a result, the study enhances academic understanding of the adaptability of Islamic law and makes a substantial contribution to the discourse on Islamic legal responses in minority and emergency contexts through a methodological combination that integrates normative-historical analysis of minority *fiqh*. Nonetheless, the study has some limitations, mainly because it focuses on just one fatwa document from a specific period. Thus, applying its conclusions to contemporary Muslim minority contexts requires prudence. The study has not yet comprehensively analyzed the internal dynamics of the Morisco community or the persistent communal response to the fatwa, nor does it compare this fatwa with those of contemporary scholars. Thus, further research employing comparative and multidisciplinary approaches is essential to attain a more

comprehensive understanding of the role and status of Islamic jurisprudence in alleviating the oppression of Muslim minority communities throughout history.

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