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# “Shaykh Yusuf al-Qaradawi: Standard Bearer of the ‘New Purposive Fiqh’”

In one sense, Qatar-based Yusuf al-Qaradawi is no “emerging voice” in Islamic jurisprudence. Arguably, the Azhar-educated mufti is the most influential global cleric, through his immensely popular shows on al-Jazeera satellite TV (“Shari’a and Life”) and his double presidency of the International Association of Muslim Scholars and the European Council for Fatwa and Research. One of the most frequented Islamic websites, IslamOnline.net, runs under his authority and his sermons, addresses, and fatwas are dissiminated on his own website, Qaradawi.net, several TV outlets besides al-Jazeera, and many print outlets as well. Author of over 120 books, it is his ability to exploit the new media, nevertheless, that sets him apart from other ulama (Muslim jurists).

 Despite his active participation in international Islamic organizations and conferences and his intended image as a leader of the “moderate” current (*al-tayar al-wasatiyya*), Qaradawi has since his youth been associated with the Muslim Brotherhood. Many call him their global mouthpiece, though he has been at pains since the 1990s to distance himself from them officially. Still, Qaradawi’s Egyptian Brotherhood credentials were dramatically on display on February 18, 2011, as he led the Friday prayers in Tahrir Square before a crowd close to a million people, celebrated the people’s revolution, the fall of President Mubarak, and called for a peaceful, united progression of the revolution. A book came out this year with eighty colored photographs, sermons, speeches and fatwas by Qaradawi to emphasize his crucial political role as an *‘alim* in that revolution. The title in English is “The January 25 Revolution of the People: Sheikh Qaradawi and the Egyptian Revolution.”

 So we come to our topic today on Qaradawi’s embrace of the “Objectives al-Shari’a” emphasis with an eye on his longstanding expertise in legal theory and practice; but also with an eye on the wider issue of the political implications of what he chooses to write, and on the role he seeks to play in reviving the prominence of the ulama in contemporary Muslim societies.

**Intellectual Roots of Qaradawi’s purposive Fiqh**

 Several of us in the past decade have written about the growing movement of an Islamic jurisprudence built around the “objectives of Shari’a.” In fact, the Arabic literature has become so abundant that the expression “*al-fiqh al-maqasidi*” has now come into common usage. Wael Hallaq has written about the “utilitarianist” trend with roots in the 19th century which placed an unprecendented emphasis on *maslaha*, “benefit” or “welfare” or even “the common good.” In my 2004 ILS article, “An Epistemological and Hermeneutical Turn in Twentieth-Century *Usul al-Fiqh*,” I pointed to the growing emphasis in usuli works on Ghazali’s three levels of *maslaha*, of which the top level had five necessary values protecting religion, life, mind, progeny and property. But jurists only start with Ghazali; most of them go on to Ibn Qayyim al-Jawziyya’s famous statement, “The Shari’a is built upon the foundation of wisdom and people’s welfare (*maslaha*) in this world and the next. It is entirely justice and mercy, entirely welfare and wisdom”; then on to the Andalusian jurist from Granada, Shatibi; and/or the Hanbali jurist, Najm al-Din Tufi, rediscovered by Rashid Rida.

 Yet already Muhammad Abduh in the Manar’s Vol. 4 (1901) had written that the detailed injunctions of the Qur’an and Sunna mainly covered the “foundations of religion,” that is, the basic creeds and rituals of Islam, or the *‘ibadat*. Concerning the organization of human society, however, “The Legislator delegated the task of ordering the detailed rules to the leaders of the experts and rulers who, according to the *shari’a*, must be people of knowledge and justice who decide in a consultative manner on what is best for the Umma according to the times.”

 Then in 1928 Rida published a booklet entitled *Yusr al-Islam wa-usul al-tashri‘ al-‘amm*, “The Ease of Islam and the Foundations of General Legislation.” This book more than any other, is what has inspired Yusuf al-Qaradawi’s long career. First, his primary audience was the youth, who, because the teaching of the *ulama* seemed both so complicated and demanding, were sorely tempted to leave religion behind. Second, Qaradawi modeled his concept of *wasatiyya* on Rida who saw Muslims in the 1920s as divided in three camps: a) the fierce advocates of *taqlid*, who are bent on applying every jot and tidle of their school’s injunctions; b) the secularists, who see the west as their guiding light; c) the “moderate reformers who maintain that Islam can be revived and its true guidance renewed by following the Qur’an, the authentic Sunna, and the inspiration of the righteous forbears, with the help of the imams of all the schools of law, but without being attached to any particular rules in the books of jurisprudence and the theoretical peculiarities of each school, as is the case of the first group.”

 Much more could be said about the intellectual roots, but because of time, let me point out just two manifestations of the popularity and influence of this purposive movement in Islamic legal circles. The first is the London-based Al-Maqasid Research Centre in the Philosophy of Islamic Law, which Sheikh Ahmad Zaki Yamani founded in 2005 with Yusuf al-Qaradawi, Muhammad Salim al-Awa and fourteen other ulama. Though Qaradawi is still on the board of directors, he did not write anything in the book that collected the papers for that maiden conference. This is because Qaradawi was the keynote speaker at a conference on this topic the year before and his address is the first chapter in his own book entirely devoted to the objectives of shari’a published in 2006, *Dirasa fi fiqh maqasid al-shari’a: bayn al-maqasid al-kulliyya wa-l-nusus al-juz’iyya*. Behind all of this many of you will recognize Ahmad Zaki Yamani’s name, a Harvard-educated lawyer, long-time Saudi Minister of Petroleum and first Secretary General of OPEC – and an self-taught ‘alim.

 The second sign of this movement’s prominence is the large two-volume collection of the The 22nd General Conference of the Supreme Council of Islamic Affairs in Cairo, February 2010, the last of these yearly conferences put on by the al-Azhar and the Egyptian ministry of *Awqaf* before the January 25 Revolution. The theme was: *Maqasid al-Shari’a al-Islamiyya wa-qadaya al-‘asr: buhuth wa-waqa’i‘* [The Objectives of the Islamic Shari’a and Contemporary Issues: Research and Realities]. Delegates from over thirty countries participated and their papers can be read in the two volumes.

**Qaradawi and the Maqasid movement**

 My next question is “how new to this maqasidi thinking is Qaradawi?” I was surprised to read in his 2006 book, *Dirasa fi fiqh maqasid al-shari’a*, that he had written about these ideas in ten other books, ranging from the late 1980s through the early 2000s. His doctorate from al-Azhar in 1973 had been on fiqh – how zakat could be applied today; but he didn’t write anything of substance on usul al-fiqh till the 1980s. For instance, much of his writing in the 1970s was in an activist mode – how to move the burgeoning islamist movement forward – like *al-Hall al-Islami farida wa-darura* [“The Islamic Solution: Both a Duty and a Necessity”] (1977). There’s nothing in there about *maslaha*, very little even about ease in the interpretation of rules. Wasatiyya comes up a good deal in the 1970s, but it’s about the middle road between socialism and capitalism.

 By the 1980s, though, *wasatiyya* for Qaradawi was about disassociating himself from the radicals who killed President Sadat and threatened other acts of terrorism. Then in the 1990s on the other side of the Cold War, Islam in the eyes of Samuel Huntington and the media in general was being tarred as a threat to democracy and harbinger of violence. The second volume of his fatwas published in 1993 locates his *wasatiyya* discourse as the happy medium between the exaggeration (*ghuluw*) of the zealots and the neglect (*tafrit*) of the secularists. The key text here is *Madkhal li-dirasat al-Shari’a al-Islamiyya* [“Introduction to the Study of the Islamic Shari’a”] also in 1993 with a second edition (now expanded slightly) in 2001. Qaradawi has now finally written on legal theory and concluded that the “objectives of the shari’a” is the path for today.

 After a couple of brief chapters explaining in traditional language the sources of Shari’a, Qaradawi comes to the meat of his book. Chapter 3 is entitled, “*al-Maqasid al-‘amma li-l-shari’a*” [“The General Objectives of the Shari’a”]. In a nutshell, he argues that all past scholars and jurists agreed that the all the ordinances of the sacred texts “safeguard the welfare of those responsible to obey the law, protect them from harm and fulfill the utmost good in their lives” (53). In summary form, then, he launches into how Ghazali classified the three levels of *maslaha* and how Shatibi interpreted this more broadly. The next section trots out the old refrain from the pen of Rashid Rida: “The Ease of *maslaha* and its comprehensiveness with regard to God’s law.” The next chapter reads, “Remarks about the Shari’a’s Objectives.” There he explains the five areas God’s law seeks to protect, how this perspective builds a better society, and how it enhances the values that are necessary for it to thrive – and above all, justice.

Qaradawi notes some reservations as well. *Maslaha* can easily be abused and considerations of human benefit can never trump a clear text (*nus qat’i*). But this is a short section, which leads into “the necessity of knowing the objectives for those who study the shari’a.” Chapter six again brings Rida to mind: “Factors of Ease and flexibility in the Shari’a.”

The next edition of *Madkhal li-dirasat al-Shari’a al-Islamiyya* which appeared eight years later, in 2001, is about sixty pages longer. No new chapters are added, but the existing ones are expanded.

**Qaradawi’s one book dedicated to the Maqasidi jurisprudence**

In the little time I have left allow me to focus on his one book entirely devoted to the purposive jurisprudence, *Dirasa fi fiqh maqasid al-shari’a;* and I do so using the following two-fold grid:

1. Ontology of ethical values, that is, from the traditional Ash’ari position of ethical voluntarism (an act is good if it is commanded by God) to a more Mu’tazili position of ethical objectivism – there is objective good and evil and even God is held to deal justly with his creatures on the Judgment Day
2. Epistemology of ethical values – to what extent can human beings discern right from wrong, for example, in family or societal matters.

How does Qaradawi situate himself on this grid? The whole book is about showcasing the balance and wisdom of the centrist school – *al-madrassa al-wasatiyya* – and it is evenly divided into three parts. Qaradawi first visits the “School of the New Zahiriyya” – Ibn Hazm may have been a genius, he writes, but his literalism led him astray. Today these are the Salafis (although he only makes a direct reference to them in a footnote), who, like the Zahiriyya of old, stick to the letter of the text while refusing to look “behind it” to God’s wisdom connected to his wider purposes for humankind.

The second third of the book is devoted to the School of the *Mu’atila al-judud* – those who in their zeal to copy and ingest all things western use *maslaha* as a cover to cancel out the clear texts of the Qur’an and Sunna. Mohammed Arkoun and the “American” Amina Wadud are the only ones mentioned by name.

So the third school is the one which at the same time takes the texts seriously and yet, following Shatibi’s inductive method, picks up patterns from scanning the specific injunctions of the Qur’an and Sunna and thereby discerns the divine wisdom behind the shari’a as a whole.

This said, Qaradawi remains a traditionalist, conservative, and yes, mainstream Muslim jurist. All the clear indications of the texts (*nusus qat’i*) must be followed to the letter, whether it be the five “penalties” (*hudud*), like amputating the hands of thieves, or the rules of inheritance in the Qur’an, or the ban on charging interest on loans. These are unchangeable, non-negotiables. Still, he would add, when it comes to the socioeconomic and political realm, there is great latitude.

Let me point out in closing that this is the vast space in which we do see Qaradawi affected by modern rationalistic thought. This is quite different from the rituals of worship and all the fixed rules of the sacred texts where we posit by faith that behind each one stands God’s wisdom and commitment to human well-being. When it comes to politics, he writes, we must work for the common good of all people because the values of justice and human dignity are ingrained in all humankind. Look at this excerpt from his keynote speech at the inauguration of the new Maqasid al-Shari’a centre in London:

There is more to human benefit (*maslaha*) than the protection of religion, life, mind, family and property. You have to add “freedom, equality, fraternity, solidarity, and human rights. These are the building blocks of society, the umma and the state. It seems to me that the classical usulis were focused on the individual welfare of the responsible person . . . They did not have the same level of concern for society, the umma, the nation, and international relations.”

Has the purposive approach to jurisprudence changed Qaradawi in the least? Or was Qaradawi, the eternal opportunist, simply jumping on a useful bandwagon the better to push his consistent agenda – unite the Islamic umma under the banner of the benevolent ulama? As far as I can tell, that is the case. I believe the Arab Spring which he so enthusiastically supported, despite his ties to the authoritarian regimes of the Arabian Gulf, provided him with a golden opportunity to showcase his message in Egypt and beyond.

In the end, however, Qaradawi cannot be consistent – nor could Rashid Rida a century ago. On the one hand, he wants a divine law that is responsive to changing conditions; on the other, since it is “divine,” he doesn’t want it to be the product of human ingenuity and effort. And so there’s a whole area that is roped off and declared impermeable to human reason and values. Still, Qaradawi believes that goodness, justice and compassion are objective values and that people can access these outside of the revealed texts. So maybe he’s opened a door that he as an *‘alim* can’t go through; but just maybe a new generation will say, for instance, that everything in the texts outside of the rituals of worship are historically conditioned, and therefore subject to change as sociopolitical conditions change. Maybe then the traditional jurists, the ulama, will have worked themselves out of a job.