

Maqāṣid al-Sharī'a and
Contemporary Reformist
Muslim Thought

An Examination

Edited by
Adis Duderija

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Contents

<i>List of Figures and Tables</i>	ix
<i>Acknowledgements</i>	xi
<i>Notes on Transliteration and Other Conventions</i>	xiii
Contemporary Muslim Reformist Thought and Maqāsid cum Maṣlaḥa Approaches to Islamic Law: An Introduction <i>Adis Duderija</i>	1
1 Islamic Law Reform and Maqāsid al-Sharī'a in the Thought of Mohammad Hashim Kamali <i>Adis Duderija</i>	13
2 Yusuf al-Qaradawi's Purposive <i>Fiqh</i> : Promoting or Demoting the Future Role of the 'ulamā'? <i>David L. Johnston</i>	39
3 Doha—The Center of Reformist Islam? Considering <i>Radical Reform</i> in the Qatar Context: Tariq Ramadan and the Research Center for Islamic Legislation and Ethics (CILE) <i>David Warren</i>	73
4 <i>Maqāsid al-Sharī'a</i> in Contemporary Shi'i Jurisprudence <i>Liyakat Takim</i>	101
5 <i>Maqāsid</i> or <i>Shari'at</i> ? Secularism, Islamic Reform, and Ethics in Modern Turkey <i>Aydogan Kars</i>	127
6 <i>Maṣlaḥa</i> and Rachid al-Ghannushi's Reformist Project <i>Karim Sadek</i>	151

7	On Reading Shāṭibī in Rabat and Tunis <i>Ebrahim Moosa</i>	177
8	Maqāṣid al-Sharī'a, Gender Non-patriarchal Qur'ān-Sunna Hermeneutics, and the Reformation of Muslim Family Law <i>Adis Duderija</i>	193
9	A Case Study of Patriarchy and Slavery: The Hermeneutical Importance of Qur'anic Assumptions in the Development of a Values-Based and Purposive Qur'ān-Sunna Hermeneutic <i>Adis Duderija</i>	219

Bibliography

247

Notes on Contributors

263

Index

267

Figures and Tables

Figures

3.1	Ramadan's illustration of his vision for an applied ethics	81
8.1	Ontological dimension of nonpatriarchal Muslim family laws	207
8.2	Methodological dimension of nonpatriarchal Muslim family laws	208
8.3	Broader hermeneutical mechanism on which the concept of maqāṣid in the Qur'ān and Sunna is based	209

Tables

9.1	The hermeneutical relationship between the Qur'ān and the Sunna and the Qur'ān and the hadith bodies of knowledge during the preclassical and classical periods of Islamic thought	226
9.2	The hermeneutical relationship between the Sunna and the Qur'ān and Sunna and the hadith bodies of knowledge during the preclassical and classical periods of Islamic thought	227
9.3	The hermeneutical relationship between the hadith body of knowledge and the Qur'ān and Sunna during the preclassical and classical periods of Islamic thought	230

CHAPTER 2

Yusuf al-Qaradawi's Purposive *Fiqh*: Promoting or Demoting the Future Role of the 'ulamā'?

David L. Johnston

This chapter is about a high-profile Muslim scholar who rather late in his career turned to the now-popular legal methodology of the *maqāṣid al-sharī'a*. Although I delve into some of the details of his legal theory, I am also interested in probing what is behind this strategy. A media figure of global proportions, Shaykh Yusuf al-Qaradawi has consistently seen himself as a leader of mainstream Sunni Islam with the God-given mission of leading it on the "middle" path (read "moderate," or *wasatī*), away from the ultraconservatives, whether they be the literalists or Salafis on one side, or the liberal Muslims enamored of Western values on the other. Yet Muslims cannot find this middle path and stay on it, Qaradawi holds, without strengthening the authority of Islam's legal experts, the *'ulamā'*.

This chapter argues that, besides his gradual intellectual attraction to this "purposive" methodology, Qaradawi's use of it in the 1990s and 2000s dovetailed nicely with his political posturing as an *'alīm* of international standing both within the Muslim community and beyond it. Further, I contend that his adoption of this approach to legal theory did not in the least affect his long-held views as expressed in his *fatwas* and other writings. So in light of the evident stirrings of change and even turmoil within Islamic legal circles today, I ask one important question in my last section: Isn't this focus on the higher purposes of God's law more likely to undermine the authority

of the traditional *'ulamā'* class in the long run, and especially in a twenty-first century marked by a radically democratized public sphere?

Perhaps the most popular Muslim scholar and preacher of the early twenty-first century, Yusuf al-Qaradawi's scholarly output in the domain of *fiqh* (applied Islamic jurisprudence) over the last 50 years is astounding. Yet beyond the sheer volume of his writings (over 130 books to date),¹ his popularity stems from his ability to write accessible texts on current challenges facing the Muslim *umma*, from his preaching in various high-profile venues, his sponsorship of the influential web portal IslamOnline.net, and his interactive teaching style on the ever-admired *Sharia and Life* program on Al-Jazeera TV.

Having written his doctoral dissertation at the Al-Azhar University in Cairo in 1973 on the applicability of Islam's charitable giving (*zakaat*), Qaradawi became an actively sought after consultant in the booming Islamic financial sector. More importantly, ever since he founded the first student chapter of the Muslim Brotherhood at Al-Azhar University in 1946 (at age 20), he has been associated with the organization in one way or another all his life.² The most telling sign of this connection was his appearance in Cairo's Tahrir Square to lead the Friday prayers days after the revolution had swept away President Hosni Mubarak (February 18, 2011). The throng of well over a million worshippers come to hear him bears eloquent witness to his Brotherhood credentials, his Egyptian roots, and his enduring popularity there, despite 50 years of self-imposed exile in Qatar.³

It was Qaradawi's Brotherhood connection too that created invitations for his lectures and seminars over the years in Europe, Asia, Africa, and America, in addition to his growing reputation as a prolific scholar. Soon after his arrival in Qatar, he was asked to establish the Sharia faculty for the University of Qatar, which opened in 1977, making him a traditional *'alim* mandated by the state to set up training for a new generation of *'ulamā'*, at home and abroad. From the 1980s onward, he began to think more strategically about what could be done to leverage the presence of a highly educated Muslim population in the West.⁴ This preoccupation bore fruit in the 2000s when he was named president of two influential Islamic organizations: the European Council for Fatwa and Research⁵ and the International Union of Muslim Scholars (founded in 2004).⁶

Still, Qaradawi's global influence truly began with his satellite TV presence on Al-Jazeera starting in 1996. Ehab Galal argues that "Qaradawi and al-Jazeera have succeeded in combining new transnational media with Islamic thinking in a modern framework." In fact, he continues, "not only has *Sharia and Life* for many years been the only religious programme at al-Jazeera, the programme has also become a model to imitate for other new

Arab satellite channels." Since his constant goal has been to unite the world *umma*, reasons Galal, "Qaradawi takes part in a redefinition of a Muslim public sphere."⁷

Several scholars have noticed Qaradawi's intentional use of the new media.⁸ First, there was his fatwa program on Qatar TV, *Haḍi'l-Islam*, where he appears alone sitting at a desk and answers questions sent to him by mail. Then he forged a partnership with the initially state-funded but now mostly independent satellite network, Al-Jazeera, to launch *Sharia and Life*, which broke the timeless Islamic atmosphere of *Haḍi'l-Islam* by having Qaradawi interact with a host, providing background pictures of global hot spots where Muslims are victims and having people call in by phone. Whereas *Haḍi'l-Islam* aims to inform and educate a regional audience, through *Sharia and Life* Qaradawi aims to set a global agenda "by means of discourse, performance, and participation."⁹

No doubt, Qaradawi knows his listeners have many other choices in religious programming, from the traditional muftis and shaykhs on a variety of other media to the new media stars, or the "new missionaries," as Galal calls them, like Amr Khaled or Moez Masoud. The latter pose the greatest threat in Qaradawi's mind, because as non-*'ulamā'*, their source of authority comes from their ability to entertain, address religious experience as opposed to legal reasoning, and move audiences to deeper religious commitment. This is the postmodern model that Qaradawi tries to approximate, at least through its more interactive format, but his content and style remain those of an *'alim*, whose authority flows from his vast learning and his Al-Azhar pedigree—ironically, a more "modern" distinction and something that Galal sees as a liability within the global discourse of the new media.¹⁰

It is therefore as an *'alim* that Qaradawi has constantly portrayed himself as a spokesperson of Islamic revivalism (al-saḥwa al-islāmiyya),¹¹ and more specifically as the promoter of a "Middle Road" Islam (al-wasatiyya). But it is only since the early 1990s that he has specifically written about legal theory, and in particular about the burgeoning field of the objectives of al-sharī'a.¹² As he develops these themes, he is careful to acknowledge his debt to Rashid Rida (d. 1935) and Hasan al-Banna (d. 1949).¹³ Qaradawi manifestly sees himself as a spokesperson for twentieth- and twenty-first-century political Islam. In light of this, and especially against the backdrop of all the sociological implications of the new media mentioned earlier, this chapter specifically examines how Qaradawi's appropriation of this purposive approach to Islamic jurisprudence enables him to better fulfill his wider agenda—to secure a leading role for the *'ulamā'* in our fast-changing global society.

Qaradawi and the "Purposive Fiqh"

The rich content available in this volume eloquently attests to the popularity and influence of the "Objectives of the Shari'a" movement in Islamic scholarly circles today—a topic I have delved into myself elsewhere.¹⁴ It has only been in the 2000s, however, that Qaradawi has openly hitched his own wagon to this "school,"¹⁵ though he had gradually incorporated elements of this methodology in his writings in the 1990s. Most notably, he was one of the founding directors of the London-based Al-Maqasid Research Centre in the Philosophy of Islamic Law, a brainchild and personal project of Sheikh Ahmad Zaki Yamani in 2005.¹⁶ Thirteen other eminent *'ulamā'*, including the influential Muslim Brotherhood author Sheikh Muhammad Salim al-Awa, remain on the Centre's board today. Just the year before, Qaradawi had given the keynote address at a conference in London devoted to this theme. It was not included in the edited volume of conference papers issued by the Maqasid Centre,¹⁷ but rather used by Qaradawi as an introduction to his own volume dedicated to the "Objectives of Shari'a" in 2006.¹⁸

Not surprisingly,¹⁹ Qaradawi was not invited to take part in the yearly international symposium cosponsored by the Al-Azhar University and the Egyptian Ministry of Religious Affairs in 2010. Ironically, this was to be the last such conference before the 2011 revolution and its theme was "The Purposes of the Islamic Shari'a and Contemporary Issues: Research and Realities." Scholars from over 30 countries participated and the papers were gathered into two volumes.²⁰ Clearly, the purposes of Shari'a methodology were now in the limelight.

After a brief introduction to the history of this purposive *fiqh* in Islamic legal circles, I will offer some comments on its implications for hermeneutics and epistemology. I will then show how Qaradawi made use of both Ibn Qayyim al-Jawziyya and Abu Ishaq al-Shatibi. Finally, I demonstrate how in incorporating this discourse in the 1990s Qaradawi drew heavily on Rashid Rida, less so on Hasan al-Banna, and thereby strongly identified himself with twentieth-century Islamism or what he calls *al-sāḥwa al-islāmiyya*, or "the Islamic awakening."²¹ This in turn will lead us to look behind Qaradawi's adoption of this methodology in light of his career's consistent goals, and finally to wonder about the implications of his epistemology for the future of the *'ulamā'* in our global society.

A Brief Historical and Philosophical Overview

Allow me to introduce the *maqāṣidī* approach as Qaradawi does himself in what I believe is his first attempt to systematize it for his own use²² in

his 1999 book, *Siyāsa al-sharī'a fī daw' nusūs al-sharī'a wa-maqāṣidihā* [Political Governance in Light of the Shari'a's Texts and Objectives].²³ I will do this in tandem with Muhammad Qasim Zaman, a historian and Islamic law specialist whose research focuses on the issue of authority in contemporary Islam. Zaman began in earnest with his 2002 book, *The 'ulamā' in Contemporary Islam: Custodians of Change*.²⁴ The piece I am drawing from here is a chapter he contributed to the edited book *Public Islam and the Common Good*. "The *'ulamā'* of Contemporary Islam and Their Conceptions of the Common Good."²⁵

Zaman begins by noting that the concept of the common good can be related to "[a] number of doctrines and methods in medieval jurisprudence." He explains:

In their writings on the principles or foundations of the law (*usūl al-fiqh*), medieval jurists often posited five fundamental values as encapsulating the "purposes" of God's law, the shari'a. These values—religion, life, progeny, property, and rationality—were based not on any explicit listing of their contents in the foundational texts but were derived, the jurists believed, through what Wael Hallaq has characterized as "inductive corroboration." These fundamental values converged on the preservation, within the limits prescribed God [*ṣiḥ*], of the interests of human beings—their individual and collective good.²⁶

What Zaman characterizes as "the individual and collective good" is what the classical jurists called *maṣlaḥa*, usually translated as "human benefit," "welfare," and the like. *Maṣlaḥa*, as the reader of this book knows, was at the heart of much debate in classical Islamic jurisprudence.²⁷ The first systematic statement about how considerations of *maṣlaḥa* could enrich both legal theory (*usūl al-fiqh*) and its practical application (*fiqh*) was made by Abu Hamid al-Ghazali (d. 1111). The earlier five values or the "five necessities" were on the highest level; then came human needs, and finally improvements to human life. Yet as Zaman rightly observes, "because considerations of *maṣlaḥa* usually lacked explicit justifications for themselves in the foundational texts, it was a rather controversial doctrine in medieval jurisprudence."²⁸ This is why Ghazali was so careful to link any reference to *maṣlaḥa* either to a clear text in the Qur'an or the authentic Sunna, and if the notion of human benefit was unattached to a text (*maṣlaḥa mursala*), then it had to be tethered to the Islamic legal instrument par excellence, *qiyās* (reasoning by analogy). Bear in mind, Ghazali is, like all the jurists before him, a textualist, that is, one who believes that Islamic jurisprudence (*fiqh*), and the discipline that accords it theological and methodological grounding,

usūl *al-fiqh*) is based on straightforward textual indications (*adilla*, sing. *adill*) found in the Qur'an and the Sunna. So before delving further into Qaradawi's work, I open a brief parenthesis about ethical theory.

Maqasid al-shari'a is where theology (and by definition, philosophy) and legal theory meet. Ghazali wanted to make sure that any conception of human good came from revelation, not from human reason. The wider intellectual context of Ghazali's *usūl al-fiqh* is played out in two centuries of debates among Muslim scholars over the merits of Greek philosophy in theology and ethics—debates that inevitably impacted the central Islamic discipline of law. The lines of demarcation in the ninth century CE were sharply drawn between the proponents of philosophy and rationalism (the early Mutazilites) and the heirs of the first scholars of Islam, the *ahl hadith*, or "the students of prophetic traditions," people whose pious outlook was informed and nourished through memorizing the actual words of the Qur'an and the Sunna.²⁹ So from the beginning, the rationalists clashed with the textualists. This represents, I believe, the eternal tension between reason and revelation in the monotheistic faiths.

This was also at the time when discussions about Aristotle in particular were beginning to feed into the emerging discipline of ethics.³⁰ By the next century, legal theory was being hammered out in various locations and the textualist camp was becoming more sophisticated through the efforts of ex-Mutazilite Abu al-Hasan al-Ash'ari (d. 935). Ash'arism, as the new school came to be called, borrowed from the Mutazilites their scholastic methodology and some of their ideas, like the rational proof for the existence of God. But Ash'arism too, still considered "Orthodox" Islamic theology for Muslims in general,³¹ disagreed with them about the very feasibility of ethics as a discipline.

Ghazali, a loyal Ash'arite whose expert knowledge of philosophy enabled him to forcefully combat the philosophers on their own terms, intentionally tied ethical knowledge to the specific indications (*adilla*) of the sacred texts. This is known as "ethical voluntarism," classically stated by Plato on the lips of Socrates in his *Euthyphro* Dialogue: a course of action is good only because the gods say it is. Stated otherwise, there is no objective reality in the words "good" or "evil," "justice" or "injustice." The corollary to this position is that human beings cannot access this knowledge outside of divine revelation. The contrasting Mutazilite position (which was soon declared heretical by mainstream Sunnism) posited "justice" as an objective norm that even God had to respect—how could he send good people to hell, for instance? Or bad people to heaven? For them, God is not only just (in infinite measure), but the contours of justice are also accessible to human minds.³² If God commands his creatures to act justly, they reason, then he must have

given them some innate knowledge of what a just act looks like apart from what they might learn from revelation. So we have here simultaneously an ontology of objective ethical values and an epistemology that makes them available to human reason.³³ Not surprisingly, the Mutazilites were known as "the people of justice and oneness" (*ahl al-'adl wa-l-tauhid*).³⁴

We now return to the issue of the Shari'a's objectives and how the purposive fiqh appeared. The very notion that God would act for the purpose of achieving a particular end—a central Mutazilite affirmation—was controversial for Ash'arites. First, it seems to impose some limitation on the Almighty, and second, it seems to suggest that the human mind can apprehend that purpose—a nonstarter in Ash'arite terms. This explains Ghazali's caution about jurists being able to posit any human benefit outside of the revealed texts, which nevertheless seem to indicate the rationale behind at least certain commands. Thus, if intoxication is forbidden specifically during one's ritual prayer, then God must be concerned about the good functioning of a worshipper's mind as he or she is praying. God, then, must want to preserve the integrity of the human mind, and by analogy, anything that impairs the functioning of one's mind should be forbidden—like mind-altering drugs for instance. In medieval terms, the "reason" (*'illa*) behind the divine command but still *tied* to the texts was the only possible starting point for analogical reasoning (*qiyās*), one of the two reason-based sources of Islamic law.³⁵

These considerations notwithstanding, the idea that God's wisdom could be discerned in the Shari'a was a difficult one to resist. When that was established, it then became much easier to say that human welfare was the purpose behind God's commands and prohibitions. Three Muslim jurists from the late medieval period are most quoted on this issue by the proponents of contemporary purposive jurisprudence: Najm al-Din Al-Tufi (d. 1316), Ibn Qayyim al-Jawziyya (d. 1350), and Abu Ishaq al-Sharbi (d. 1388). Although relatively ignored until the modern era, Tufi has stirred up much controversy of late, as Qaradawi has repeatedly noted, mostly because some have interpreted him as saying that *maslahah* can even cancel injunctions in the sacred texts. I agree with Zaman's assessment:

Though Tufi did not always make this explicit, it is clear, Qaradawi says, that *maslahah* can override indications in the foundational texts only when such indications are not a matter of certainty as to their meaning. When, however, they are, there can be no question but that *maslahah* must be subordinate to them, and Tufi never asserted otherwise.³⁶

Although I do not follow the controversy about Tufi in this chapter, the earlier quote provides a nice introduction to the issues raised by Qaradawi's use

of Ibn Qayyim and Shatibi in what follows. Those who see public benefit overriding a clear text have crossed a watershed that Muslim jurists never crossed before (whether Tuft actually did this or not). This is a tipping point where, arguably, reason overtakes revelation—something Qaradawi vehemently rejects. That is indeed the crux of the issue I want to pursue in this chapter.

The Centrality of Ibn Qayyim for Qaradawi's Purposive Fiqh

Ibn Qayyim was a disciple of Ibn Taymiyya (d. 1328), both being Hanbali jurists. Although not mentioned by Zaman, Ibn Qayyim is Qaradawi's chief authority in this book on al-shari'a-inspired politics (*siyāsa al-shari'a*). As a matter of fact, Qaradawi credits him for sparking his own discovery of the *maqāṣidī* perspective. Writing in a later book wholly devoted to this methodology, Qaradawi attributes to Ibn Qayyim's writing the genesis of this idea in his own mind:

The idea kept coming to me in greater clarity and depth and this word from Ibn Qayyim implanted itself in the depths of my heart: "The shari'a is built and solidly anchored on the benefits (*maṣlaḥa*) it bestows on humankind. It is altogether justice, altogether mercy, altogether well-being (*maṣlaḥa*), altogether wisdom."³⁷

After defining this key term in his introductory chapter of *siyāsa al-shari'a* (26–30), Qaradawi asks himself what *al-siyāsa* "meant for our 'ulamā' of old." It has two meanings, he answers, the first being "the management of people's affairs and earthly concerns by means of religious ordinances... in the stead of God's messenger for the sake of protecting religion and the managing (*siyāsa*) of this world through it." The second meaning is more specific: "what the imam³⁸ believes or what rules and decisions he makes, either averting tangible corruption (*fasād*), anticipating future corruption, or resolving a particular problem."³⁹ Qaradawi goes on to explain that the "rightly guided caliphs" (Muhammad's first four successors ruling in Medina) made all kinds of decisions that fall into that second category in light of the rapidly evolving sociopolitical context.

What is most notable here is that Qaradawi immediately brings up Ibn Qayyim to make one of the central points of this book that "rulers before and during his own time have enacted new laws relative to the state (*qawānīn siyāsiyya*), leaning on their own opinions and inclinations apart from God's law (*al-shari'a*), because the jurists (*fuqahā*) had made their task impossible through their own rigidity, slavish imitation of the past

(*taqlīd*) and fanatic loyalty to their own school of law."⁴⁰ Qaradawi then cites Ibn Qayyim's commentary on another Hanbali jurist, Ibn Aqil (d. 1119), who was one of those '*ulamā*' who restricted the use of political decision making to what may be found in the Shari'a (i.e., the Qur'an and authentic Sunna). Due to this narrow interpretation of *siyāsa al-shari'a*, Ibn Aqil even states that the caliph Uthman was wrong to have ordered the burning of the Qur'anic manuscripts that did not agree with the version of the Qur'an he had declared authoritative. Thus, Ibn Aqil, like many other '*ulamā*', by rejecting the consideration of *maṣlaḥa* (human benefit or welfare) in the affairs of state was guilty of giving short shrift both to the real-life conditions of their day and to what the Shari'a actually teaches.⁴¹

Ibn Qayyim's genius, continues Qaradawi, lay in his analyzing these two extremes in his own day—jurists who were "too narrow," in that they required political decisions to be made according to the sacred texts, and those who were "too wide" in that they "exaggerated" the role of *maṣlaḥa*, and on that basis went against the rulings found in the texts.⁴² Then follows this key paraphrase of Ibn Qayyim's view:

For God—praise be to Him—sent his messengers and revealed his books so that people might conduct [their affairs] with fairness (*qisṭ*), which is justice (*ʿadl*), by which the heavens and the earth were put in place. If [rulers] give orders that are just, and this justice shines however [one wishes to investigate it], then that is where you find God's law and his religion. For God—praise be to Him—is more knowledgeable and wise, and more just than to put strict limits on the pathway to justice; how then [could] he forbid that which is more obviously [just] and easier to prove with strong arguments... But God has made his means of legislation manifest: his design (*maqāṣidhu*) is to establish justice (*ʿadl*) among his creatures, to strengthen humankind through fairness (*qisṭ*). Thus, any path that is opened by means of justice and righteousness—that is religion (*dīn*), and not contrary to it.⁴³

Notice that the word *maṣlaḥa* does not appear in this short text, but that it is abundantly clear that for Ibn Qayyim "human welfare" is an exact parallel to the ethical norm of justice (*qisṭ* and *ʿadl* are roughly synonyms). This, by all measures, is a sweeping statement: "the Shari'a is 'designed' by God to 'establish justice among his creatures. Thus, any path that is opened by means of justice and righteousness—that is religion." Such a declaration, of course, is vulnerable to a much more liberal application than Qaradawi is willing to accept. Nevertheless, it is a definite break from the literalism

of the ultraconservatives whom Qaradawi castigates as wrongly focusing all their attention on the minutiae of the texts, as we shall see later.

What is more, this turn away from literalism begs a question relative to Ghazali and, truly, the Ash'arite tradition of which he was a part and likely the most eloquent exponent to this day. As I see it, there is a built-in contradiction, or at least a tension, between the way words like "justice" and "fairness" are applied to God and how they are applied to humans. Here justice and/or righteousness represent objective values human beings can "prove" to one another. So when rulers, as Qaradawi insists Ibn Qayyim is saying, choose justice as a guide for making decisions in areas not covered by the texts, their laws participate in God's higher laws, and therefore, to that extent, their rule is "Shari'a-like." This is, he argues, what *siyāsa al-sharī'a* is, because it comes under God's "purposes" for the world as revealed in the Shari'a. As I said, *maṣāḥa* and justice are nearly synonymous here: "A just policy [is not] contrary to the rules articulated in the Shari'a, but it agrees with them and is absolutely one with them. We call it a policy (*siyāsa*) that is in tune with your benefit. For it is the justice of God and his messenger that emanates from these orders and rulings."⁴⁴

In the second part of the book (41–97), Qaradawi investigates the use of "opinion" (*ra'y*) in the work of jurisprudence: "The Opinion of the Imam, the Scope of his Purview, and Where He May Apply It."⁴⁵ The debate about the appropriate roles of reason and revelation in Islamic law has a long genealogy. In essence Qaradawi advances that the early successors of Muhammad, first in Medina and then in Damascus and Baghdad, mostly used their own judgment (or "opinion") to rule the vast territories that had just been won through military conquest. Of course, in matters stipulated by the texts, they obliged, although even there they had to adjust it to new realities, like when the caliph 'Umar changed the Qur'anic regulations on the spoils of war. So in rather meticulous fashion, Qaradawi files through all the caliphs and the major Companions of the Prophet, then through some of the Followers (second generation), in order to give concrete examples of how they used their own judgment. He then moves on to the question of *ra'y* per se. This is when he marshals Ibn Qayyim's expertise once again.

According to Ibn Qayyim, Qaradawi asserts, there are three kinds of "opinion" (*ra'y*). The first kind is controversial and suspect, though it is built on analogical reasoning tied to the sacred texts. But the analogy at stake is often tenuous. Still, we find in the Qur'an that certain laws can be suspended for reasons of duress (*darūra*, e.g., Q. 5: 173, where forbidden foods can be eaten if the alternative is starvation).⁴⁶ But Ibn Qayyim wants to make such cases exceptions; his approach remains very cautious—too cautious, in fact, for Qaradawi.⁴⁷ The second kind of opinion, as one might

expect, is the reprehensible kind, as it is based solely on personal preferences and calculations, with no reference to the texts or even the principles found in the texts. Thus it is baseless as a legal opinion, and of no value (*bātil*).⁴⁸

The "praiseworthy" kind of legal opinion for Ibn Qayyim is one of the several categories: (1) that of the Companions or of the next generation (the "Followers"); (2) one based on a commentary of the texts; (3) one that later gains a consensus among the scholars; or (4) one that simply follows the established legal procedures of the Shari'a (*ijtihād al-ra'y fī daw' al-sharī'a*). That last category, of course, is the process Qaradawi maps out later in this book and in all of his specifically legal books. It is the traditional toolbox of the *mujaḥhid* who performs *ijtihād*—the legal scholar of the 'ulama' class who is called upon to provide a legal opinion in order to solve a new problem arising. The following quote is a useful summary of the rightful use of "opinion." Notice the scope given to human reason in the process of "discerning God's law." Note too how crucial the order of the steps is, as is the order of legal tools the *mujaḥhid* may consult in his challenging task:

A *mujaḥhid* may not do without opinion (*ra'y*), no matter how many hadiths or qur'anic texts he has memorized. Nor may he do without it in understanding the texts and in analyzing their legal import in the light of the Shari'a's higher objectives; or in deducing an appropriate ruling when there is no relevant text either in the Qur'an or the Sunna. [This he will do using the following tools:] analogical reasoning (*qiyās*), or preferential choice (*istihsān*) if analogical reasoning will not work; closing the gate to evil (*sadd al-dhara'ī*), or following custom (*urf*), or presumption of continuity (*istiṣāb*), or other tools (lit., *adilla*, or "indications" or "proofs") are used when no text can be consulted. He also must follow the path of the Companions in their use of opinion, as they paid close attention to what was required by time, place and circumstance.⁴⁹

It should be clear now that "opinion" here stands in for human reason in the age-old debate about the relative roles of reason and revelation. Humanity, as God's earthly trustee, and particularly at the level of state, is empowered by the Creator to make ethical judgment calls about what are just and fair courses of action.⁵⁰ Further, Qaradawi's reliance upon Ibn Qayyim has enabled him to state that, in essence, a text cannot speak for itself much less "dictate" a particular ruling for the jurist confronted with new problems to solve. This is a process of hermeneutics, as opposed to the naïve literal reading of the textualists. Texts have to be read, understood, and their meaning has to be processed by human minds living in particular contexts. I am

perhaps going beyond what Qaradawi would say. Still, I would insist, this is the implication of his own reading of Ibn Qayyim.

Qaradawi's Appropriation of Shari'bi's "Purposive Fiqh"

The third late medieval jurist who is often quoted—and, I would add, the most quoted by adherents of the *maqāṣid al-sharī'a* approach, Ibn Ishāq al-Sharībi, appears very little in Qaradawi's book *syāṣat al-sharī'a*. Shari'bi is the great legal mind from Granada who systematized this methodology—a fact, however, that must probably dawned on scholars only over the last few decades.⁵¹ It's also very likely that Qaradawi himself was gradually (re)reading Shari'bi in the 1990s. This leads us to his classic 2006 book on the "purposes of Shari'a," *Dirāṣa fī maqāṣid al-sharī'a* (A Study of the Shari'a's Purposes).⁵² But if the reader is expecting a late-career *magnum opus* on this burgeoning field of Islamic jurisprudence today, he/she would be disappointed. The organizing concept is Qaradawi's decades-long message of *watāṭiyya*—the "middle road," represented by his own bid to guide the global Muslim *umma* between the two extremes of lax, secularized Islam and the rigid textualist versions of Salafis and others.

So what we have in this 2006 book on *maqāṣid al-sharī'a*, then, is a work in three parts. First came the unyielding textualists ("the new Zahiriyya" school)⁵³ who only focus on the specific texts (*al-maṣūṣ al-juz'iyū*) both in the Qur'an and especially in the Sunna and whose attitudes to religious understanding and practice are characterized by rigidity and abduracy (*jumūd wa-tashaddud*).⁵⁴ The second part of the book is devoted to the "New Deniers," those who "cancel the texts in the name of the benefits and the objectives [of Shari'a]."⁵⁵ Here, with regard to the Shari'a, the New Mu'tazila⁵⁶ have in essence denied the divine origin of the texts by canceling out some of its specific injunctions. Qaradawi, then, takes the role of an inquisitor, though refraining from actually calling them *kuffār* (plural of *kāfir*, unbeliever, or in this case, apostate): "They defy themselves, they deny God's right to legislate for his creatures by allowing that which is forbidden and by forbidding that which is allowed on the basis of their own whims (*bi-dhawāḥim*) and window-dressing their own demands. They want people to take them as lords in the place of God."⁵⁷

The last third of the book, unsurprisingly, is the third school with the most material—it's his "Middle School," or "Moderate School" (*al-madrasa al-wasatiyya*), those who "master the moderate methodology of the middle *umma*."⁵⁸ It is, no less, the school of the "straight path, . . . believing in balance and moderation." On the one hand, it doesn't exaggerate in its understanding and application of the specific texts, as do the literalists, but it reads

them in light of the general objectives of God's law. On the other hand, it doesn't dismiss the texts as do the negators, but rather affirms them in a balanced way. "It believes that God's statutes have reasons behind them [they are *mū'allaf*]; that all of them agree with wisdom, and the reasons are based on a concern for the benefit (*maṣlaḥa*) of the created order."⁵⁹

So what part of this thinking did Qaradawi take from Shari'bi? I will argue that it was the interlocking of three crucial components—precisely what in the last section I will say actually erases any necessary intervention of the '*ulama*' in twenty-first-century Muslim life. It is the clear demarcation of specific passages from the general texts, the linking of the general texts to the objectives of the law, and finally the method by which those general principles are extracted from the text, that is, by induction, or a kind of "scanning" as Waël Hallaq has pointed out.

Shari'bi, writes Hallaq, was laying out principles of legal theory that would give him the necessary ammunition to defeat two extreme camps in his day. On the one end were the Sufis, who allowed people to pick and choose between various legal opinions of the mujtahids of their time, but only if they chose the strictest interpretation. Shari'bi adds that the Sufis try to follow the Meccan injunctions as strictly as possible, while discarding the mitigating rules enunciated during the Median period (or in the Sunna).⁶⁰ On the other end of the spectrum are the jurists, "the more earthly legal scholars who advocated the same view but with the option of choosing the more lenient view." He rebuts their lax approach by reminding them that "religious obligation cannot be devoid of burdensome duties and responsibilities, although they are generally tolerable."⁶¹

Shari'bi's strategy in forging the middle path is to rework a tool handed down to him, which could lead him to a level of juristic certainty that no one could counter. His epistemological weapon turned out to be induction (*istinqāf*), a legal tool that made its appearance around the fifth/eleventh century and which in the hands of Qarafi, some 200 years later, was elevated to the level of a *dalil* (a legal indicant). Hallaq explains that "perhaps the most outstanding attestation of the central role of induction appears in Shari'bi's theory, which represents a unique and powerful marriage between the expanded notions of public interest and this logical principle."⁶²

This "marriage" is effected by using this method of evidential corroboration in tandem with the objectives of the law. Unlike the traditional method corroborating specific injunctions in the Sunna by finding multiple reports (*ṭawāṭur ḥafṣ*) or repeated thematic instances (*ṭawāṭur ma'nawī*), this methodology is not focused on the specifics but rather on the general principles. In fact, Shari'bi elevates the Qur'an over the Sunna much more than in traditional theology and legal theory—and the general indications of the

Meccan revelation over the Medinan ones. This is because in his search for certainty, the Meccan verses “establish the most general and universal principles, namely, the protection of the right to religion, life, mind, progeny and property.”⁶³ Those, of course, represent the highest level of certainty with regard to the aims of the divine law—the “necessary” level (the *daruriyyāt*, above the *hājīyyāt*, or needs, and the *tashīyyāt*, the improvements to human life). This is because these values have been extracted as principles in these verses, and also because they have been culled through the many specific injunctions throughout the rest of the sacred texts.

With this in mind, take a look at what Qaradawi writes at the beginning of his exposition of what the “Middle School” teaches. Notice the same kind of epistemological considerations as in Shatibi, the same focus on the general versus specific rules, and the centrality of the Shari’a’s objectives. He has just asserted that the three levels of the *maqāsid al-shari’a* are certain. He then adduces his “proof”:

The proof of this is to be found in the way the *shari’a* is discovered (or “induced”: *istiqrā’*) and reflection is given to the texts’ indications, both comprehensive and specific ones, and to the general considerations based on the meaning of those texts. This general reading cannot be confirmed [as an overall objective of the shari’a] by a specific injunction but only as indications begin to converge, one added to the other, and so on, with different goals behind them, so that by scanning their totality one thread appears, with all the indications pointing to it. To a certain extent, this is what a general reading produces: decisive generosity and courage in knowing God’s pleasure with oneself, and the like. As a result, people do not rely on a specific passage in order to discover the Legislator’s purpose for these rules, and never as a specific injunction, but it comes to them through literal meanings and general ones, both unconditional and conditional statements, and specific rulings, in different times, different places, in each and every section of Islamic jurisprudence (*fiqh*), and in each and every area of jurisprudence, so that they gather all the indications of the *shari’a* into a circle of protection around those rulings, while at the same time paying attention to the linkage of ideas expressed either directly or indirectly.⁶⁴

Yet despite all this fancy methodological footwork, Qaradawi—just like his mentor—cannot extricate himself from the weight of the literalistic hermeneutic that had captured the minds of all Muslim jurists in the premodern era. Although Shatibi didn’t subscribe to the Ash’arite theology that denied humans the ability to discern the reasons behind the commands

and prohibitions of the texts, “and although he advocated an inductive, not a literal, understanding of the divine sources, he remained, as attested in his farwas, obdurately loyal to the positive doctrines of his school.”⁶⁵ Still, Qaradawi often cites Muhammad Rashid Rida as a “jurist” who inspired him in the direction of purposive *fiqh*—the subject of the next section’s brief excursus.⁶⁶

Qaradawi’s Debt to Rashid Rida

The first great reformer of modern Islamic jurisprudence, writes Hallaq, was Muhammad Abduh, though he offered nothing new in legal theory. But he did produce “a theology that was necessary for restructuring and rehabilitating legal ideas.” In doing so, Abduh distanced himself from traditional Ash’arism and postulated the power of human reason to discern right from wrong.⁶⁷ Yet although he elevated reason, he was still careful to keep reason and revelation as complementary ways of finding God’s path; in the final analysis, they could never contradict one another.⁶⁸

Zaman in his earlier mentioned essay on “The ‘ulamā’ of Contemporary Islam” points to Rashid Rida, Abduh’s disciple, coauthor, and editor of the *Manār* journal,⁶⁹ as the first jurist to seize upon the utility of public benefit (*maṣlaḥa*) as a means for retooling Islamic law in the modern world.⁷⁰ This is the central argument of his 1928 work *Yusr al-islam wa-usul al-tashrī’ al-‘amm* (The Ease of Islam and the Foundations of General Legislation), which I have analyzed in greater detail elsewhere.⁷¹ Besides being a deliberate “*wasati*” discourse, Rida’s strategy in that book was to amplify “the concept of public interest to such an extent that it would stand on its own as a legal theory and philosophy.”⁷² But in the end, quips Hallaq after his analysis of Rida’s “doctrine,” “[it] amounts to a total negation of traditional legal theory.”⁷³ Why such an extreme statement?

Allow me to summarize Hallaq’s evaluation of Rida’s legal theory with the following points:

1. The Qur’an and the attested Sunna are infallible with regard to matters of worship (*al-ibādāt*). On general matters of human experience, however, even the Prophet is known to have erred. This area includes social transactions (*al-mu’malat*) which have been defined by the texts, as well as the majority of everyday issues in human society, which fall into the wide category of the permissible. Even past rulings of *fiqh* in these areas can be overruled today in the name of public benefit and necessity (*darūra*).

2. Rida in essence dismantles the two traditionally top-tiered "rational foundations" (*uṣūl al-aqlīyā*) of Islamic law, analogical reasoning (*qiyās*) and the consensus of the scholars (*ijmāʿ*). Agreeing in part with the Andalusian jurist Ibn Hazm (d. 1064) who forbade any use of analogy, he nevertheless joins Ibn Qayyim in stating that when it clearly promotes *maṣlaḥa*, then *qiyās* is necessary and laudable.⁷⁴ As for the use of consensus (*ijmāʿ*), it is now obsolete in view of the fact that Muslim jurists have never truly agreed on important legal issues since the days of the Companions.
3. As for texts in both the Qurʾān and the Sunna that are not absolutely clear (*qatʿi al-dalālā*), whatever their traditional interpretation, they can be overridden by considerations of *maṣlaḥa* and *ḍarūra* ("necessity").

These three considerations lead me to agree with Zaman who, leaning on Malcolm Kerr,⁷⁵ asserts that Rida cannot hide his own "discomfort with the implications of his own proposals."⁷⁶ Here again is the tension between human reason and divine revelation:

As concerned as he was with demonstrating—and making room for—the responsiveness of the law to changing needs, the case for such responsiveness threatened to make this law appear as the product of human effort, a matter of historical evolution, rather than as a divine blueprint. Rida could not have it both ways; and his discomfort with seeing the divine and sacred dimension of the sharʿa dissipated by the emphasis on its historical dimension is best illustrated by his polemics against those who seemed to him to emphasize the human and historical dimension of the sharʿa.⁷⁷

This is the dilemma Qaradawi has faced as well, but unlike Rida, he draws back from such sweeping statements and establishes clear boundaries, as we shall see. But here is how he makes use of Rida in his book about the objectives of the law.

Qaradawi had just enumerated the five "necessary" objectives of the law as laid out by Ghazali and he asks this question: Isn't it possible to define the sharʿa's objectives in another way? Indeed, he answers, just look at "the moderns and contemporaries" and how "they speak of the objectives of Islam or the Muhammadan message, or the Qurʾān's objectives." For instance, in Rida's *The Muhammadan Inspiration* we read how he does not deduce the three levels of benefit (*maṣlaḥa*) as did "the mainstream *uṣūliyyūn*" (25). Rather, "he broke down the issue into detail according to the topic with

which Islam was dealing, and the greater objectives (*al-maqāṣid al-kubrā*) that the Qurʾān fulfills in the life of the *umma*. Rida listed ten objectives for the reformation of humanity (*islāḥ*). Of particular relevance here are numbers 3, 5, 8, and 9: promoting science; getting Muslims to practice their rituals and ethical code more strictly; working for peace and fighting corruption; and "granting women all their humanitarian, religious and civil rights."⁷⁸

Plainly, Rida was thinking globally, yet not just in the perspective of *dāʾiwa* but in the larger framework of global human welfare according to the ethical norms of his day as well. In a previous book, writes Qaradawi,⁷⁹ under Islam's objectives he himself had listed five:

1. edifying the righteous person,
2. edifying the righteous family,
3. edifying the righteous society,
4. edifying the righteous *umma*, and
5. a call [to work] for the good of humanity.⁸⁰

Working out in concentric circles from the individual to all of humanity is one way to look at these objectives. A more telling list comes from the next section, "Circumscribing the [Law's] Objectives into the Five General Ones (*al-kulliyāt*).⁸¹ Although Qaradawi believes that the five *huḍūd* punishments can be tied to the five top-tiered objectives first enunciated by Ghazali (a fact that makes them even more binding), he does not see the list as exhaustive. There are other "necessary human benefits" (*al-maṣlaḥa al-daruriyya*). Think of all the ethical values that govern social life (*al-qiyām al-ijmāʿiyya*), he adds, like "freedom, equality, fraternity, solidarity, and human rights." This sounds a lot like Rashid Rida, though now updated to a twenty-first-century context.

Then, in the last third of the book, in the chapter titled "The Central Tenets of the Moderate School," Qaradawi's second point is about "understanding a text in the light of its reasons and contexts (*mulabisaṭihā*).⁸² His main adversaries here are the "puritans" who want to take every text of the Sunna literally without any regard for its historical context. He reasons, "A deeper scrutiny [of the issue] will show that the ḥadīth are driven by time-specific circumstances so as to meet a perceived benefit (*maṣlaḥa muʾtabira*, or "subjective"), or avoid a particular harm, or solve a problem relative to that time, or they are based on a custom of that day, but which is no longer relevant today."⁸³ One example has to do with the minimum of gold or silver a person owns that is liable for payment of *zakaʾ*. Prices fluctuate all the time, argues Qaradawi, and though this is a topic that falls under the

rituals of worship, it is certainly different from the rules governing prayer or the fast of Ramadan.

His fourth example is the following *hadith*: "I am innocent [of the blood] of any Muslim who lives among the associators." Many muftis have understood this to mean Muslims cannot live among non-Muslims and have thereby created great difficulties for Muslims needing to live in Europe, at least for a time, for medical purposes, studies, work, business, fleeing persecution, spreading Islam (*dā'wa*), or teaching new Muslims and strengthening them.⁸³ Then he quotes Rashid Rida, who taught that this *hadith* was given in the context of Muslims needing to emigrate from non-Muslim lands in order to give support to the Prophet. This, of course, is no longer an issue. Also, this is a *hadith* with an incomplete chain of transmitters (*imṣaḥ*) and that is why Bukhārī never included it.⁸⁴

Those who argue this *hadith* is still valid point to its context. The Prophet had sent some men to Khaybār on a secret mission, but some of them were killed there while they were praying. Muḥammad said, "only pay half the blood money on their behalf" since they were too far away to determine exactly what happened. In any case, when emigration (*hijra*) is mandatory, and those who don't emigrate are killed, those are the ones of whom the Prophet said, "I am innocent of their blood." Qaradawī, wielding *qiyās* as a tool, concludes that the text's ruling is tied to its *'illa*—the reason for the original ruling. When that reason no longer applies because of changed circumstances, the ruling itself no longer applies—which means that this *hadith* (whether reliable or not) is moot today.⁸⁵

All the earlier discourse is that of a jurist taking inspiration from Rida and offering his own legal opinion as a mufti—and not just any mufti. He speaks as the president of the European Council for Fatwa and Research and the International Union of Muslim Scholars—the culmination of a long, illustrious legal career sponsored by, but not limited to, the Qatari royal family. What is also telling in his full-length defense of the purposive jurisprudence is its climax: ten appendices, all *farwas* by 'ulamā' he considers leaders of the *wasāfiyya* school of jurisprudence.⁸⁶

Not surprisingly, the first one is by Rashīd Rida, who offers his opinion on Islam and the permissibility of a constitution. Rida argued in the late 1920s that the alternative to a constitution is absolute power, whether of the religious or secular variety, and that for reasons of justice and for the dignity of the umma, power must be limited by a law that people can agree upon. For this reason, he thought, the Turks and Persians were right on this score.⁸⁷ Considering the importance of Rida in his book, Qaradawī's choice of his *fatwa* to open this "Who's Who" of moderate muftis is not surprising. But why use a *fatwa* on political issues? The importance of politics for

Qaradawī is precisely what will help us discern better what is behind his use of the purposive method.

Qaradawī, Purposive Fiqh, and the Role of the 'ulamā'

It is significant that Qaradawī, frail as he was, decided to come to Cairo just days after Hosni Mubarak had been ousted by the "January 25 Revolution." The throngs of faithful Muslims⁸⁸ in Tahrir Square that Friday, February 18, 2011, the Friday of Victory (*jum'at al-nasr*), were all sympathetic to Qaradawī's message as a patriot and most of them would also have been supportive of him as a symbol of the Muslim Brotherhood. An indication of how important this was to Qaradawī himself is the publication of a whole book devoted to this appearance: *The January 25 Revolution of the People: Sheikh Qaradawī and the Egyptian Revolution*.⁸⁹ This collection of sermons, speeches, and *farwas* by Qaradawī—and especially the 80 or so color photographs—clearly serve to emphasize his crucial political role as an 'alim with Egyptian roots and an international status.

At one point in the book we read Qaradawī's open letter responding to a *fatwa* issued by Grand Mufti Ali Gomaa who told people to stay home and no longer demonstrate, mostly because President Mubarak had just issued a list of reforms he promised to undertake. He warned that even "peaceful demonstrations" can lead to chaos (*fiṣād*). Parents were to forbid their children from attending demonstrations.⁹⁰ Qaradawī disagreed with him from the beginning and after much discussion raised this question, "In what should a ruler be obeyed?" His answer was simple: a Muslim ruler is no lord and no god—he can only order his subject in accordance with what his Creator has laid out. As the Prophet said, "Obedience applies only to righteous commands." He quoted another *hadith* that states that "in the case of wrongdoing there is no paying attention and no obedience." The case of Egypt in 2011, then, is clear-cut for Qaradawī, since the state had ordered the killing of peaceful demonstrators. This is not just sin, it's one of the great sins (*al-kabā'ir*).⁹¹

This would seem like an ideal culmination of a whole career devoted to the promotion of an activist Islam that in essence "retakes" entire nations from the grip of Western secularist governance and infuses them with the spirit and letter of the Islamic message. Further, this is done in the name of a "moderate" Islam, eschewing both the extremes of the literalists and the vagaries of the "deists," or the "secularist" Muslims. Coptic Christians are affirmed as citizens of Egypt on par with their Muslim compatriots and therefore democracy and human rights are now seen as Islamic values. Further, as you reflect on the two internal currents Qaradawī aims to refute,

notice the similarity of this wasatiyya message with the one we discerned both in Shari'bi and Rida.⁹²

Now how does his recent embrace of the *maqāsid al-sharī'a* approach to Islamic legal theory fit into this scheme? Allow me to answer by summarizing some of our findings in the first part.

1. Undoubtedly, as Qaradawi turned to *usūl al-fiqh* in the early 1990s, he realized as he read Tuḥī, Ibn Qayyim, and Shari'bi that several elements nicely coalesced to form a comprehensive approach that enabled him to delineate more clearly the middle path between the two extremes: (a) God's law was revealed for the purpose of not just individual welfare in this life and the next but public welfare as well (*maṣlaḥa* in both cases); (b) the clear distinction between specific texts from the general ones and specific injunctions from general principles; (c) the linking of the general texts to the higher purposes of the law; and finally (d) the method of induction (*istiqrā'*) by which those broad values are extracted from the text and qualified as "certain."⁹³
2. This view of legal theory was coming to prominence all around him at the same time. It was in this sense that I wrote that Qaradawi "hitched his wagon" to a popular movement. But Qaradawi did so as a leader, as his keynote address at the 2004 conference on the *sharī'a*'s objectives in London amply attests.⁹⁴
3. As an *'alim* of the historic "middle path," Qaradawi has consistently aimed at bolstering the role of the *'ulamā'* in twenty-first-century global society—on three levels: (a) his production of knowledge (his own collection of *fatwas*,⁹⁵ his many books on both *fiqh* and *usūl al-fiqh*); (b) his institutional presence in the *'ulamā'* establishment;⁹⁶ (c) his activism in both social and political causes;⁹⁷ and (d) his use of the Internet and satellite TV in order to reinforce the traditional role of the *'ulamā'*, that is, to act as the guardians of Islamic knowledge, religious guides for Muslim peoples, and privileged advisors to rulers.

I have argued elsewhere that his *maqāsidī* methodology wrought no discernible changes either in his previous convictions or in the content of his *fatwas*.⁹⁸ But let me give one example to illustrate how conservative was Qaradawi's view of the "true" Islamic society. Zaman rightly pointed out how for Qaradawi in a modern society people have lost their traditional ethical moorings. Therefore, Qaradawi urges the imam, or head of state, to legislate discretionary punishments "to curb usury, bribery, usurpation of the rights of the orphan, neglecting prayers, harassment or assaulting of women on the streets, and other evils."⁹⁹ As Zaman sees it, "the distinction between

sin and crime, between moral and legal infractions, collapses here."¹⁰⁰ In many places of *Dirā'a fī maqāsid al-sharī'a*, he also makes it clear that the prescribed punishments in the clear texts (the *ḥudūd*) are "permanent and unchangeable."¹⁰¹

What his *maqāsidī* turn did allow him to do, however, was to rebut the harsh legalism of the literalists by providing a needed softening of their rigid discourse.¹⁰² It also gave him more flexibility to intervene in the political arena following his own convictions, as the case of the Egyptian "revolution" illustrates. Yet that "middle course" is a very relative one, as Gräff and Skovgaard-Petersen rightly point out.¹⁰³ With his position on homosexuality, his promotion of the *ḥudūd* and the intervention of a moral police, he seems reactionary and extreme for most Westerners. Yet he seems far too lenient for many conservative Muslims in his politics and advocacy for women's rights. This leads me to my last remark.

Although Qaradawi's turn to the now-popular purposive jurisprudence has not produced any real change with respect to his seminal positions in Islamic jurisprudence, might not his adoption of an ethical theory that moves away from traditional Ash'arism (ethical voluntarism) and—at least in the areas not mentioned "clearly" in the texts, adopts ethical objectivism with a concomitant epistemology that allows people to discern ethical values—in the direction of rationalism have opened a Pandora's box for those who will follow? The only barrier stemming the tide of a historical contextualization (or even relativization) of revelation is his insistence that clear texts in the Qur'an are not open for discussion. They apply to all times and climes. But with regard to the body of *ḥadīths*, he has made some compromises with the traditional hermeneutic. These sayings had a historical context and only the general principles apply today.¹⁰⁴

If one accepts that the Prophet's judgments about how his community should be ruled in his time can be modified when applied in our changed context, why not the Qur'an also, many would ask? Several Muslim academics specialized in Islamic law are leading educated Muslims in this direction.¹⁰⁵ But nowhere do we see this in *'ulamā'* circles, even in the West. This is why I contend that patrolling these boundaries seems to be about the protection of a professional guild.

Still, even the conservative International Institute of Islamic Thought (IIIT) has endorsed a rather bold reformist book *Toward Our Reformation* by a non-*'alim* on the late economist Mohammad Omar Farooq. The book not only lambasts the abuses and irrational extremes of the *'ulamā'* of both then and now but also castigates their culture of literalism.¹⁰⁶ He also points forward to a new "value orientation" by which the *'ulamā'* would join forces with social scientists and other people conversant with the needs of twenty-

first-century societies in order to help Muslims embody the true values of their faith and help change the world for the better. He says, forget about "maqāsid al-sharī'a"; let's talk about "maqāsid al-Islām." This, it seems to me, is a big step away from traditional Islamic jurisprudence. What might this portend?

Clearly, as Zaman rightly argues, the 'ulamā' will continue to find ways of reinventing themselves whatever future changes our global society deserves. My point in this chapter is that shifting the focus on values rather than on the letter of the law, or moving further away from revelation toward human reason, will likely strengthen the authority of non-'ulamā' preachers and Muslim intellectuals and weaken that of the 'ulamā' in the long run. Qaradawi's turn to the *al-sharī'a*'s purposes may not have helped his cause after all.

Notes

1. See the (incomplete) bibliography provided in Bettina Gräf and Jakob Skovgaard-Petersen, "Introduction," in *Global Mufti: The Phenomenon of Yusuf al-Qaradawi*, ed. Bettina Gräf and Jakob Skovgaard-Petersen (New York: Columbia University Press, 2009), 251–254.
2. *Ibid.*, 2. This is the first full-length book in English on Shaykh Qaradawi. For his connection to the Society of Muslim Brothers, see Husam Tammam's chapter in the same book, "Yusuf al-Qaradawi and the Muslim Brothers: The Nature of a Special Relationship," 55–84.
3. It was his teaching position at the Institute of Islamic Culture at the Al-Azhar University that gave him the opportunity to represent them in Qatar in 1961. There he developed an exceptionally close relationship with the emir of Qatar, Shaykh Khalifa b. Hamad Al Thani who died in 1995. I come back to the significance of his Qatari residence and his role in the "January 25 Revolution."
4. See Alexandre Caeiro and Mahmoud al-Saifi, "Qaradawi in Europe, Europe in Qaradawi? The Global Mufti's European Politics," in *Global Mufti*, ed. Gräf and Skovgaard-Petersen, 109–148.
5. I could not find any official website for the ECFR, except one in Arabic (<http://e-cfr.org/2013/>) for their 23rd International Session, June 25 to June 29, 2013, in Sarajevo, Bosnia. It includes a video link to the final declaration made by its president Yusuf al-Qaradawi on June 29 (accessed August 6, 2013). Based in Dublin, it was founded in 1997 as an initiative of the Federation of Islamic Organizations in Europe (Brussels), which is mostly funded by Arabian Gulf countries.
6. See the IMUS website, <http://www.imusonline.net/en/>.
7. Ehab Galal, "Yusuf al-Qaradawi and the New Islamic TV," in *Global Mufti*, ed. Gräf and Skovgaard-Petersen, 149–180, at 150, emphasis his. See also Noah Feldman, "Sharī'a and Islamic Democracy in the Age of al-Jazeera,"

in *Sharī'a: Islamic Law in the Contemporary Context*, ed. Abbas Madanat and Frank Griffel (Stanford, CA: Stanford University Press), 104–119.

8. Lila Abu-Lughod, *Dramas of Nationhood. The Politics of Television in Egypt* (Cairo: American University Press, 2005); Dale F. Eickelman and Jon W. Anderson, "Redefining Muslim Publics," in *New Media in the Muslim World. The Emerging Public Sphere*, ed. Eickelman and Anderson (Bloomington: Indiana University Press, 1999), 1–18; Dale F. Eickelman and Armando Salvatore, "Muslim Publics," in *Public Islam and the Common Good*, ed. Salvatore and Eickelman (Leiden: Brill, 2006), 1–27. See also Jacob Skovgaard-Petersen, "Yusuf al-Qaradawi and Al-Azhar," in *Global Mufti*, ed. Gräf and Skovgaard-Petersen 27–54.
9. Galal, "Yusuf al-Qaradawi and the New Islamic TV," 164.
10. *Ibid.*, 173.
11. I know of at least three Qaradawi titles with *al-sahwa al-islamiyya* in them, including this one: *Al-sahwa al-islamiyya bayna l-ikhtilaf al-mashu' wa-l-tajarruq al-madhmum: dirasa fi fiqh al-ikhtilaf daw' al-musals wa-l-maqasid al-sharī'a* [The Islamic Revival between the Permissible Differences and the Reprehensive Disagreements: A Study in the Light of the Sacred Texts and the Purposes of the Sharī'a] (Beirut: Al Risala, 2000). Combine that with his emphasis on *wasatiyya* and you find the heart of Qaradawi's message addressed to the global Islamic umma.
12. The previous reference (The Islamic Revival, 1990) is the first title with "the purposes of the Sharī'a" in its title. Still, that theme is not a major component of the book. What is even more surprising is that four years later Qaradawi does not even mention purposive jurisprudence in a small book devoted to contemporary *fiqh*: *fiqh al-yithād al-mu'asir bayna al-indiāt wa-l-infi'āt* [Contemporary Juristic Reasoning between Discipline and Excess] (Cairo: Dar al-Tawzi' wa-l-Nashr al-Islamiyya, 1994). Human benefit (*maṣlaḥa*) only comes up in the last of the six "errors" committed by some contemporary jurists according to Qaradawi: "Exaggeration in the Use of *maṣlaḥa*, and Even at the Expense of the Texts" (66–86). Besides the usual discourse on the three schools with the middle one being the only valid truly Islamic one (*al-wasatiyya*), what is striking here is that the last section is devoted to refuting Sayyid Qutb's juristic reasoning. His position on contemporary society being apostate (as associated with pre-Islamic Arabian *jahlīyya*) and other related views are extreme, he writes, and "all the thinkers of the Islamic Movement" today repudiate those views (101–132).
13. See later the discussion on Rida's influences on Qaradawi, which he deals with in the next section of the chapter.
14. "A Turn in the Epistemology and Hermeneutics of Twentieth-Century *Usul al-Fiqh*," *Islamic Law and Society* 11:2 (2004), 233–282; "Maqāsid al-Sharī'a: Epistemology and Hermeneutics of Muslim Theologies of Human Rights," *Die Welt des Islams*, 47:2 (2007), 149–187; and the forthcoming "Shaykh al-Qaradawi: Standard Bearer of the New 'Purposive Fiqh,'" in *Comparative Islamic Studies* (forthcoming).

15. I put the word in quotation marks, only because it is nothing like one of the traditional legal schools (*madhabs*) of traditional Islam. Still, it's a way of thinking that, as I show later, clearly sinks its roots deeply into the soil of the tradition and is becoming more and more a recognizable movement. I would go further: it is arguably the lens through which all Islamic law in the future will be viewed and practiced.
16. The Research Centre was founded as a branch of Sheikh Yamani's Al-Furqan Islamic Heritage Foundation in London (see "The Chairman's Introduction" for more details, at <http://www.al-furqan.com/en/al-furqan-foundation/al-maqasid/chaumans-introduction>). Yamani is a self-taught *alim* with long-reaching political connections, since for many years he was Saudi Arabia's Minister of Petroleum. He is also an ideal bridge between East and West by virtue of his J. D. from Harvard University.
17. (no editors' names given), *Maqasid al-shari'a wa qadaya al-'amr majmu'at* [Purposes of the Islamic Law and Contemporary Issues: A Collection of Papers] (London: Al-Furqan Islamic Heritage Foundation: Al-Maqasid Research Centre in the Philosophy of Islamic Law, 2007).
18. *Maqasid al-shari'a al-islamiyya wa-qadaya al-'amr bi-hayr wa-naqar* [A Study of the Shari'a's Purposes: Between the General Purposes and the Specific Texts] (Cairo: Dar al-Shuruq, 2006). This textbook becomes the focus of the section later "Qaradawi's Appropriation of Shari'a's 'Purposive Fiqh'."
19. Qaradawi has always been a critic of the Mubarak regime, though he certainly remained popular with students and faculty at his alma mater, Al-Azhar University.
20. Mahmud Hamdi Zagzuz, Minister of Awqaf, ed. [The Objectives of the Islamic Shari'a and Contemporary Issues: Research and Realities]. The 22nd General Conference of the Supreme Council of Islamic Affairs, Vol. 1, Cairo, February 22–25, 2010. Cairo: The Supreme Council of Islamic Affairs, Ministry of al-Awqaf, The Arab Republic of Egypt]. Under the Supervision of the President Muhammad Hosni Mubarak.
21. Two books with this phrase in its titles show his preoccupation in the 1980s: *al-Sahwa al-islamiyya bayna l-ijma' wa-l-ta'aruf* [The Islamic Awakening between Rigidity and Extremism] (Cairo: Maktabat Wahba, 1982); *al-Sahwa al-islamiyya wa bunm al-watan al-'arabi wa l-islam* [The Islamic Awakening and the Worries of the Arab and Islamic Nation] (Cairo: Dar al-Shuruq, 1988).
22. His first book on legal theory was in 1993, but only one chapter is devoted to the objectives of the Shari'a: *Maqadid li-dharrat al-shari'a al-islamiyya* [Introduction to the Study of the Islamic Shari'a] (Beirut: Maktabat al-Risala). A second edition came out in 2001, published by his usual publisher in Cairo, Maktabat al-Wahba. For more details on this, see my article, "Sheikh Yusuf al-Qaradawi: Standard Bearer of the Purposive Fiqh."
23. This was first published in Cairo by his standard publisher, Maktabat al-Wahba, as the fourth volume in the series of books on each of Hasan al-Banna's twenty principles (*usul*). To my knowledge, Qaradawi never went beyond this fourth installment. Perhaps he felt that, considering his age, he would not be able to finish the series. Perhaps he was also trying to distance himself from the Muslim Brotherhood a bit more at that stage. In any case, as he explains in the first volume, he had often given lectures on these 20 principles and each one had been recorded on cassette tapes that had widely circulated (*Shuruf al-islam*, "The Comprehensiveness of Islam," the longer title being: *Nahwa wihdat fikriyya li-l-'amilin li-l-islam fi daw' sharh 'imi muqasid li-l-usul al-'ishrin li-l-shahid Hasan al-Banna—al-'at al-awwal shuruf al-islam* [Toward the Oneness of Thought for Muslim Activists in the Light of a Detailed and Knowledgeable Explanation of the Martyr Hasan al-Banna's Twenty Principles—"The First Principle, The Comprehensiveness of Islam] (Cairo: Maktabat Wahba, 1991).
24. Muhammad Qasim Zaman, *The 'ulama' in Contemporary Islam: Custodians of Change* (Princeton, NJ: Princeton University Press, 2002).
25. Ed. Armando Salvatore and Dale F. Eickelman (Leiden, The Netherlands: Brill, 2006), 129–155.
26. *Ibid.*, 131.
27. An excellent and succinct historical survey of this concept can be found in Felicias Opwis, "Islamic Law and Legal Change: The Concept of *Mashlah* in Classical and Contemporary Islamic Legal Theory," in *Shari'a: Islamic Law in the Contemporary Context*, ed. Abbas Amanat and Frank Griffel (Stanford, CA: Stanford University Press, 2007). See my own chapter in that book focused on the modern Moroccan scholar and politician 'Alai al-Fasi who also made a significant contribution to the theory of the Shari'a's purposes ("'Alai al-Fasi: Shari'a as Blueprint for Righteous Global Citizenship," 83–103).
28. Zaman Muhammad, Q., "The 'Ulama' of Contemporary Islam and Their Conceptions of the Common Good," in *Public Islam and the Common Good*, ed. Armando Salvatore and Dale F. Eickelman (Leiden, The Netherlands: Brill, 2006), 132. Wael B. Hallaq, himself cited by Zaman earlier, dates the appearance of this debate about the public good to the late third century of the Islamic era: "Currently available sources indicate that some time toward the end of the third/ninth century and the beginning of the fourth/tenth, the concept surfaced in legal discourse. The point to be made here is that the doctrine of *mashlah* evolved from obscure beginnings, to become in the fifteenth century an essential component of *qiyas* and in less than three centuries after Chazali, it acquired such a prominent status that a whole theoretic was erected around it" (*A History of Islamic Legal Theories: An Introduction to Sunni ufi al-fiqh*, Cambridge, UK: Cambridge University Press, 1997, 132).
29. For a more detailed summary of these early epistemic debates in the first centuries of Islam, see Adis Duderija's first chapter (especially 27–35) in his book, *Constructing a Religiously Ideal "Believer" and "Woman" in Islam: Neo-Traditional Salafi and Progressive Muslims' Methods of Interpretation* (New York: Palgrave Macmillan, 2011). He helpfully teases out the competing hermeneutics and

- epistemologies of the *ahl al-Hadith* and *ahl al-Madhab* (the more rationally inclined legal scholars of the four main legal schools).
30. See Albert Hourani, *Reason and Tradition in Islamic Ethics* (Cambridge, UK: Cambridge University Press, 1985), for a discussion of the relevant issues, and Majid Fakhry, *Ethical Theories in Islam* (Leiden: E. J. Brill, 1991).
31. Consider the historic effort by the Jordanian crown to gather Muslim scholars and leaders from all schools of thought in 2005, leading them all to sign the Amman Message, which specifically mentions Ash'arism as its official theology (www.amanmessage.net).
32. I am simplifying almost to the point of distorting a longer discussion I offered in "A Turn in the Epistemology and Hermeneutics of Twentieth-Century *Usul al-Fiqh*," 236–244. A necessary corollary to the "ethical objectivism" of the Mutazilites is the human capacity to choose between right and wrong—otherwise, how could God eternally punish an automaton? That would be grossly unjust, they would say.
33. Hallaq puts it this way: "This is the Mutazilite tenet that human acts are either good or bad, and the mind, independent of revelation, is capable of determining which act is good and which bad." Then he adds that this position "runs in diametrical opposition to the most fundamental principle of Sunni jurisprudence, namely that God decides on all matters and that the human mind is utterly incompetent to function as a judge of any human act" (*A History of Islamic Legal Theories*, 135).
34. They were people of law (unity of God) because they argued against God having any attributes, as those might threaten the status of God as the only eternal One. I argued in my book *Earth, Empire and Sacred Text: Muslims and Christians as Trustees of Creation* (London: Equinox, 2010) that modern Muslim scholars and intellectuals all interpret God's empowering of Adam as his trustee (*khilafa*) and thereby reaching him "the names of all things" (Q. 2: 30–34) as a mandate for all of humanity to manage the earth in God's stead. As such, humanity is understood by mainstream Muslims (Shia and Sunnis) today as endowed with free will and the capacity to make ethical choices for which they will be held accountable by him on the Last Day. This theological position, also embraced by Qaradawi, is in fact a creative reworking and blending of classical Ash'arism and Mutazilism.
35. Analogical reasoning (*qiyas*) is one; the other is the consensus of the scholars (*ijma'*). The two most authoritative sources, however, are the scriptural ones—Qur'an and Sunna.
36. Zaman, "The Ulama of Contemporary Islam," 136. The comments at length on Qaradawi's book *Siyasa al-shari'a*, 145–150. The debate about Tufti is clearly a pressing concern to Qaradawi, as he even mentions it in his 3-page introduction: "And we discussed [in this book] the opinion of the Hanbali jurist Najm al-Din al-Tufti and the much publicized allegation that he canceled the [sacred] text in the name of *maslaha*, even to the point of saying that *maslaha* overrides a decisively clear text (*nass qat'i*). The man is innocent of that [error], as we proved it from his own words" (9–10). Since Tufti is regularly used

- by the scholars and thinkers more liberal than Qaradawi, this kind of discussion comes up in all of his books on legal issues.
37. Qaradawi, *Dir'asa fi maqasid al-shari'a*, 12 (cf. note 18).
38. Qaradawi explains in the beginning of his book that he means to use the terms *imam*, *wali al-amr*, and *hukim* interchangeably. The word I refer to in the next paragraph, which I translate as "rulers," is the plural of *hukim*, *hukam*.
39. Qaradawi, *Siyasa al-shari'a*, 31.
40. Ibid.
41. Literally, they were guilty of "a limited understanding of the Shari'a and a limited understanding of reality" (ibid., 32).
42. Ibid., 32–33.
43. Ibid., 33. Qaradawi gives no precise reference for this material, except to say in the previous paragraph that he is referring to Ibn Qayyim's book *Ilam al-muwaqqi'in 'an rabb al-'alam* [Information for those Who Write about the Lord of the Worlds]. Two exceptions in this chapter on page 36 he refers to pages 13–19 from Ibn Qayyim's book *al-Turuq al-bahutiyya fi al-siyasa al-shari'iyya* [The Legal Pathways in Shari'a-Inspired Politics], and on page 39 he references the *Ilam al-muwaqqi'in*, Vol. 4, 375–379. It is difficult to know whether he is in fact quoting or just paraphrasing.
44. Qaradawi, *Siyasa al-shari'a*, 33.
45. This was a key term in the early debates in the late second century between the *ahl al-Hadith* and the emerging *ahl al-ra'y* ("the people of reason-based opinion"). See Duderija's apt discussion of their parting of the ways, with the more rationally inclined applying their hermeneutical and epistemological methods to the Qur'an and Sunna. As opposed to the former's textually centered models, the latter put greater stock in the human mind (*aqal*) and its ability to discern ethical principles within the text that then allowed them to find rules of conduct in situations about which the texts were silent (*Constructing a Religiously Ideal "Believer" and "Woman" in Islam*, 29–31).
46. Ibid., 56.
47. Qaradawi later takes Ibn Qayyim to task on this issue, saying that he is being too restrictive here, though he doesn't explain why or give any examples to the contrary. What he does say, however, is that Ibn Qayyim's statement that the legal rulings made by the Companions (and especially the "Rightly Guided Caliphs" as rulers) are still binding on Muslims in his time. Qaradawi brings up a favorite theme here, asserting that their decisions were based on the needs of their own times and circumstances. For that reason, we might have to part ways with some of their secondary rulings (wa-qad mukhalafihim fi ba'd ar-rum al-juz'iyya), given that legal rulings must be made according to the necessities of each time and place (ibid., 62).
48. Quoting Ibn Qayyim he lists five different types in this category (ibid., 57), but there is no need for us to go into this kind of detail here.
49. Ibid., 62.
50. Qaradawi, as mentioned earlier, rejoins most contemporary jurists and scholars in articulating this kind of ethical objectivism and tying it to the "objectives

of Shari'a." Hallaq sees this as coming more directly from Sharihi, the subject of my next section: "The individual is then God's deputy on earth in that he represents, or ought to represent, God in promoting social welfare through adopting the same intentions that God adopted when He decreed the law" (*A History of Islamic Legal Theories*, 185).

51. Muhammad Khalid Masud's seminal work on Sharihi came out in 1989 (*Islamic Legal Philosophy: A Study of Abu Ishaq al-Sharihi's Life and Thought*, New Delhi: International Islamic Publishers). Hallaq devotes a whole chapter to Sharihi, besides many references to him in other places in his book on legal theory. As I explain later, his greatest contribution according to Hallaq is in the field of epistemology—and in particular his systematic use of induction as a tool focused on the Qur'an. Hallaq writes, "The significance of induction as he put it to use in the service of legal theory does not seem to have been appreciated by posterity. We detect no influence by his theory on later generations" (*A History of Islamic Legal Theories*, 206).
52. Cf. note 18.
53. Here we see Qaradawi's rhetorical skills at work. The label he chooses is that of one of the schools of Islamic law that was later discredited. It had been founded by Andalusian scholar Ibn Hazm (d. 1064) whose reputation is still very good, mostly because of his famous work on comparative theology and a painstaking enumeration of heretical groups. Ibn Hazm was also the eponymous founder of the *Āsh'ariyya* school of law, which was best known for its rejection of analogical reasoning. Its name comes from the word "literal" as opposed to "figurative" referring to the meaning of a text. It was largely a reaction against the dominant Maliki school in Spain at the time (Sharihi was a Maliki jurist)—the school that had most emphasized the importance of *maṣāḥid* until then.

54. Qaradawi, *Dirāsa fi maqāsid al-shari'a*, 45. In a footnote on this page, Qaradawi makes it clear who these people are, though the "Safafi" label appears nowhere in the text: "Like many of those leaders from the Safafi tendency, which now has many branches."

55. These people, according to Qaradawi, ignore or neglect the specific texts, even opposing them, in the name of the "general welfare and the wider objectives" (*al-maṣāḥid al-'amma wa-t-maqāsid al-kulliyah*). Just as the Mutazilīah of old denied God's attributes (against the anthropomorphists who gave God a human-like body), these people deny the validity of the texts when it suits them. The Jahmīyya took the same position, but the mainstream Sunni thought took the position of *ibbāt*, or the affirmation of the divine attributes, albeit in a nonphysical sense.
56. These were in the rationalists' camp (along with the Mutazilīa). Their name points to their "denying" that God has any attributes. For if he did, they reasoned, then these could be held up as eternal alongside God himself and thereby threaten the divine unity. The opposite camp "affirmed" the divine attributes (*ithbāt*).

57. *Ibid.*, 87.

58. *Ibid.*, 137.
59. *Ibid.*

60. He then adds this: "[Sharihi] seems to say that if the Sufis choose to subject themselves to rigorous piety, so be it. But it is not within their legitimate right to impose their will and perception of the law on the community of laymen" (Hallaq, *A History of Islamic Legal Theories*, 204). As we will see later, this group is very similar to today's Salafis, the one "extreme" Qaradawi is eager to refute.

61. *Ibid.*, 203.
62. *Ibid.*, 134.
63. *Ibid.*, 196.
64. Qaradawi, *Dirāsa fi maqāsid al-shari'a*, 139–140.
65. Hallaq, *A History of Islamic Legal Theories*, 207–208.
66. Qaradawi's debt to Hasan al-Banna deserves more research. But although he, like other leaders in the Muslim Brotherhood orbit, led a series of talks later recorded on cassette tapes on al-Banna's "twenty principles," he never got further than the fourth in his writings (cf. note 23). The first book in that series dates back to 1991, with a second volume out two years later: *Nahwa wḥdat fiṭriyya li-l-ʿamilin li-l-islām* [Toward the Unity of Islamic Activists] *fi daw' sharihi 'ihni maṣāḥid li-l-ʿamal al-ʿishm li-l-shahid Hasan al-Banna—al-ʿad al-ʿawwal jumal al-islām* [In the Light of a Detailed and Scientific Explanation of the Martyr Hasan al-Banna's Twenty Principles] (Cairo: Maktabat al-Wahba).

67. *A History of Islamic Legal Theories*, 212. Hallaq generalizes about modern reformers on this basis: "The value of this theology for modern reformers lies in its emphasis on reason as a source of knowledge without severing reason from religious values. On the basis of this theology Muslims can decide what is best for them without violating the spirit of their religion" (*ibid.*). As one might suspect, this is not as straightforward as it seems. What if the specific rules laid out by the texts conflict with ethical norms people tend to assume nowadays, like notions of human rights, for example? Qaradawi has never wavered on the *hudūd* (the five or six specific penalties stipulated by the Qur'an and Sunna).

68. Duderija calls the nineteenth-century reformers "classical modernists," and argues that the moderate islamists (with links to the Muslim Brotherhood) like Muhammad al-Ghazali (1917–1996) and Yusuf al-Qaradawi harken back to some of their ideas (*Constructing a Religiously Ideal 'Believer' and 'Woman' in Islam*, 44–45). Although he doesn't elaborate on it, he does show that his view of Sunna, though anxious to undercut Salafi literalism, remains "completely within the classical Islamic sciences... Sunna is neither epistemologically nor conceptually divorced from the *ḥadīth*, and the assumptions governing the classical *uṣūl al-ḥadīth* sciences are not even addressed" (*ibid.*, 45). Interestingly, Scott Kugle and Stephen Hunt in their study of Qaradawi's pronouncements on homosexuality call him a "neo-traditionalist," that is, someone very much in line with contemporary Salafis. They contend that the terms "Islamism" and "fundamentalism" are no longer useful in describing Islamic social movements

- and prefer the term "neo-traditional" as an umbrella that covers all the revivalist movements from the jihadis to conservative yet activist types such as Qaradawi, to the Salafis ("Masslineity, Homosexuality, and the Defense of Islam: A Case Study of Yusuf al-Qaradawi's Media Farwa," in *Religion and Gender*, 2, 2 (2012): 254–279, at 9–13).
69. When Abdull died in 1905, Rida continued as the journal's editor until his own death in 1935. Hasan al-Banna continued editing the journal for several years after that.
70. I disagree with Zarman who writes that "Rida is conspicuously absent from Qaradawi's discussion" ("The Ulama of Contemporary Islam," 137). Technically, he is correct in saying that Rida hardly appears in his *Sayna al-shari'a* book. Had he obtained access to Qaradawi's 2006 *Dirasa fi maqasid al-shari'a*, he would have changed his mind about Qaradawi's attitude toward Rida's work. True, Rida is a bit cavalier for Qaradawi with regard to a ruler's use of *maqluha* and he ties it down more closely to the sacred texts. Still, Rida for Qaradawi is the great modern pioneer of purposive *fiqh*.
71. "An Epistemological and Hermeneutical Turn," 28–34. More recently I have argued that Qaradawi also found inspiration from Rida for his wasitiyya discourse ("Shaykh al-Qaradawi," cf. note 14). Both were targeting the Muslim youth of their time and trying to channel them away from the two extremes of excessive laxity and severity.
72. Hallaq, *A History of Islamic Legal Theories*, 215.
73. Ibid., 219.
74. Ibid., 217.
75. I had drawn heavily on Kerr's groundbreaking work (*Islamic Reform: The Political and Legal Theories of Muhammad Abdub and Rashid Rida*, Berkeley and Los Angeles: University of California Press, 1966) in my essay, "An Epistemological and Hermeneutical Turn." Zaman also mentions Kerr's book as the foundational study on Abdub and Rida.
76. Zaman, "The Ulama of Contemporary Islam," 133.
77. Muhammad Qasin Zaman, *Modern Islamic Thought in a Radical Age: Religious Authority and Internal Criticism* (Cambridge: Cambridge University Press, 2012), 113.
78. Qaradawi, *Dirasa fi maqasid al-shari'a*, 25.
79. Qaradawi, *Madhhab li-ma rifa al-islam: muqawwimatu, kharatish, ahda-fah, musadharu* [Introduction to the Knowledge of Islam: Its Contents, Its Particularities, Its Objectives, Its Sources] (Cairo: Makrabat al-Wahba, 1996).
80. Qaradawi, *Dirasa fi maqasid al-shari'a*, 27.
81. Expression borrowed from Khaled Abou El Fadl in his 2007 book, *The Great Theft: Wrestling Islam from the Extremists* (HarperOne).
82. Qaradawi, *Dirasa fi maqasid al-shari'a*, 161.
83. Ibid., 168.
84. Ibid., 169.
85. Ibid., 170.
86. The last two farwas are his own.
87. Recall, however, that Rida was at the center of the anti-Araturk movement in the 1920s. He took up his pen and wrote a whole book to oppose what he saw as the secularization of Islam, *al-Khilafa aw al-imama al-Uzma* [The Caliphate, or the Supreme Imamat].
88. There were many Coptic Christians as well and Qaradawi addressed them in his *khutba* (Friday sermon). "Even though it is the custom of the Friday preacher to address his audience as 'O Muslims!' I address you today in this square as, 'O Muslims and Copts, O children of Egypt! This is the day for all of Egypt's children, not one for Muslims only!' The general theme of the sermon was on the necessary and eternal victory of truth and goodness over oppression and evil. With many quotes from the Quran Qaradawi framed the revolution as God's victory over Pharaoh on behalf of all believers, Christians and Muslims.
89. Yusuf al-Qaradawi, *25 yanvar sanati 2011 shavrat shi'ab al-shaykh al-Qaradawi wa-f-thawra al-misriyya. Bayanat wa-khbaru wa-fatawa wa-maqalat wa-sawar* [The 25 January 2011 Revolution of the People: Sheikh Qaradawi and the Egyptian Revolution (Declarations, Sermon, Farwas, Articles, and Pictures)] (Cairo: Makrabat Wahba, 2012).
90. Qaradawi went public within the first week of the revolt with his support for the demonstrators and the rightness of their cause, as this book amply documents. Using farwas, Friday sermons, interviews on Al-Jazeera, and declarations published in Egyptian newspapers, Qaradawi openly told Mubarak to resign several times and threw the weight of his authority as "global mufti" born in Egypt urging the masses to flood the streets in peaceful demonstrations. Significantly, the text of the February 3 press release by the International Union of Muslim Scholars does not use the word "revolution" but "blessed uprising." Qaradawi was quick to use it himself, however, even before Mubarak resigned on February 11. He paid homage to the American and French revolutions, but chided them for trying to meddle in the affairs of Arabs today. He addresses France in particular, asking her to stop sabotaging the Tunisian revolution (ibid., 112).
91. Ibid., 143. That said, he issued a farwa several days after the July 3, 2013 military coup: "Yusuf al-Qaradawi Says in Farwa Egyptians Should Back Morsy," by Reuters in *The Egypt Independent* (July 6, 2013), accessed November 18, 2013, <http://www.egyptindependent.com/news/yusuf-al-qaradawi-says-farwa-egyptians-should-back-morsy>.
92. For more details, see Bertina Graf, "The Concept of *wasatiyya* in the Work of Yusuf al-Qaradawi," in *Global Mufti*, 213–238.
93. In essence, they reach the top level of certainty in classical Islamic jurisprudence, hereto enjoyed by clear Quranic texts and strong *hadiths* (*ta'watur*).
94. The opening chapter of *Dirasa* is actually Qaradawi's keynote address in the 2004 inaugural conference of the London-based Al-Maqasid Research Centre in the Philosophy of Islamic Law led by Shaykh Ahmad Zaki Yamani. The Center was not officially inaugurated until the next year, but the papers presented at this conference were collected in the Center's first publication.
95. He has published three volumes of farwas so far: *Min hadi 'l-islam; Farawa min asira*, vols. 1–3 (Kuwait: Dar al-Qalam, 1979, 1993, 2002).

96. As mentioned earlier, he was appointed president of two prestigious associations: the European Council for Fatwa and Research and the International Union of Muslim Scholars.
97. Gräff and Skovgaard-Petersen document in the Introduction to their edited volume how for instance in 2006 "Qaradawi was at the forefront of several global Muslim campaigns" (*Global Mufti*, 8). He spearheaded the boycott of Danish goods over the derisive cartoons; he orchestrated the protests over Pope Benedict XVI's ill-fated Regensburg lecture; and when Shia-Sunni relations had gone awry in Iraq he traveled to Iran to mend fences as best he could.
98. Sheikh Yusuf al-Qaradawi: Standard Bearer of the New Purposive Fiqh."
99. Qaradawi, *Siyāsa al-sharī'a*, 96.
100. Zaman, "The Ulama in Contemporary Islam," 135.
101. Qaradawi, *Dirāsa fi maqāsid al-sharī'a*, 28, 123, 125, 128–134, 198–199. In this respect, Qaradawi gushes with praise for Saudi Arabia: "Our neighbor is an Arab Islamic state, which in times past was proverbial on account of its chaos and insecurity, to the point that it was said about anyone traveling there for the hajj or 'umra: 'the one going there is lost and the one returning is born!' Yet as soon as King Abd al-Aziz bin Saud (may God have mercy upon him) took power and established the hudūd, the situation changed. So a new proverb was minted, all about security and tranquility: so much so, that the months passed and not one hand was cut, thanks to this tenet of Islamic law—even if there are a few shortcomings in other areas" (*ibid.*, 134).
102. The same year his *Siyāsa al-sharī'a* came out he also published a book with almost the same title as Rashid Rida's *Yusr al-islam: Tayisir al-fiqh li-l-muslim al-mu'asir fi daw' al-qur'an wa-l-sunna* [Easing Islamic Jurisprudence for the Contemporary Muslim in the Light of the Qur'an and the Sunna, 2 vols] (Cairo: Maktabat al-Wahba, 1999). The *maqāsid al-sharī'a* are mentioned, but clearly subservient to the overall message of rendering Islamic rulings more flexible. Four more recent books on *fiqh* show little or no change in Qaradawi's long-held positions: the first two are general introductions to his "moderate school" of law: (a) a 55-page introduction to *fiqh* based on a lecture delivered in India to an audience of *ulama'* (*Fi l-fiqh wa-l-fatwa wa-l-yithād*) [On Jurisprudence, Fatwa and Jithād] (Cairo: Maktabat Wahbah, 2011); (b) *Fiqh al-wasā'iyya al-islamiyya wa-l-ta'did: ma'ālim wa-manārit* [A Moderate Islamic Jurisprudence and Its Renewal: Signposts and Lighthouses] (Cairo: Dār al-Shurūq, 2010). The other three deal with specific areas: (a) more on politics: *al-Dīn wa-l-siyāsa: tasīl wa-radda shubuhāt* [Religion and Politics: Foundations and Answers to Naysayers] (Cairo: Dār al-Shurūq, 2007); (b) a book arguing against extremist fatwas: *al-Fatāwa al-shadhāda: ma'ayiruha wa-taḥqīqūha wa-asbabuha wa-kaḥfā nu'āliyyuha wa-natawagghāha* [Eccentric Fatwas: Their Characteristics, Nature and Causes, and How We Can Fix and Prevent them] (Cairo: Dār al-Shurūq, 2010); (c) a book weighing in against the jihadis: *Fiqh al-jihād: dirāsaḥ maqāranā li-ahkamihī wa-falsafatihī fi daw' al-qur'an wa-l-sunna* [The Jurisprudence of Jihad: A Comparative Study of Its Rulings and Philosophy in the Light of the Qur'an and Sunna] (Cairo: Maktabat Wahbah, 2009); (d) a book on women and family law: *Hayāt al-mar'a al-muslima: fi ḥiār al-hudūd al-sharī'a* [The Life of a Muslim Woman within the Legal Limits of the Shari'a] (Cairo: Maktabat Wahbah, 2011).
103. Gräff and Skovgaard-Petersen, "Introduction," in *Global Mufti*, 8.
104. Duderija's work rightly underlines the importance of the Sunna in this regard. The "neo-traditionalists" (the Salafis that Qaradawi is targeting) are bound to a hadith-based methodology, by contrast with even the traditional jurists of the various schools of Islamic law who were much more critical in their use of the hadith (see especially 80–82 in *Constructing a Religiously Ideal "Believer" and "Woman" in Islam*).
105. For instance, see Khaled Abou El Fadl, *Speaking in God's Name: Islamic Law, Authority, and Women* (London: OneWorld, 2001); Abdullahi Ahmed An-Naim, *Islam and the Secular State: Negotiating the Future of Shari'a* (Cambridge, MA: Harvard University Press, 2010); and Tariq Ramadan, *Radical Reform: Islamic Ethics and Liberation* (Oxford and New York: Oxford University Press, 2008). Interestingly, Ramadan explicitly uses the *maqāsid* approach but draws it to its logical conclusion, unlike Qaradawi. This is what enables him to craft a specifically "European Islamic theology." See also Duderija's last three chapters in his book, *Constructing a Religiously Ideal "Believer" and "Woman" in Islam*, which he devotes to the philosophical, theological, and legal approaches of "Progressive Muslims."
106. *Toward Our Reformation: From Legalism to Value-Oriented Islamic Law and Jurisprudence* (London and Herndon, VA: The International Institute of Islamic Thought, 2011). In my review of his book for the *American Journal of Islamic Social Sciences* I pointed out how ambivalent and ambiguous Farooq's position on Islamic law turns out to be. He confuses *fiqh* and *al-sharī'a*, even saying at one point that "the Shari'ah is essentially a human construct" (*ibid.*, 93). With regard to that he strongly decries the abusive applications of them in many places, but nowhere states clearly whether they should still be applied (or not).