Debating the Renewal of Islamic Jurisprudence

(Tajdīd al-Fiqh)

Yusuf al-Qaradawi, his Interlocutors, and the Articulation, Transmission and Reconstruction of the Fiqh Tradition in the Qatar-Context

A thesis submitted to the University of Manchester for the degree of

Doctor of Philosophy

in the Faculty of Humanities

2014

David H. Warren

School of Arts, Languages and Cultures
## Contents

Abstract  
Declaration  
Copyright Statement  
Dedication  
Acknowledgements  
Note on Transliteration  

### Introduction  

Argument and Scope of the Thesis  
Introducing the Conceptual Framework  
A Note on Power  
The Role of Language, Discourse in Representing Islam and Studying “Religion”  
Talal Asad, his Interlocutors and the Islamic “Discursive” Tradition  

### 1. Tajdīd in Context: A Conceptual and Bibliographic Introduction to Yusuf al-Qaradawi and his Predecessors  

Renewing *fiqh* within the Nation State  
Producing a “Global Mufti”: The Rise of Yusuf al-Qaradawi  
Conclusion  

### 2. Yusuf al-Qaradawi’s Hadith Criticism: Taking the Middle Way between Muhammad al-Ghazali and Muhammad Nasir al-Din al-Albani  

Yusuf al-Qaradawi’s Relationship to Muhammad al-Ghazali  
al-Ghazali’s Approach to the Hadith  
al-Qaradawi’s Approach to the Hadith  
al-Qaradawi and the Importance of the Arabian Peninsula Context  
Muhammad Nasir al-Din al-Albani: The “Iconoclast Extraordinaire”  


al-Qaradawi’s Defence of al-Ghazali and the Salafi Critiques 79
al-Qaradawi, al-Albani and the Salafi critiques 84
al-Albani’s Relationship with al-Qaradawi 87
Conclusion 91

3. Debating the Place of the *Maqāṣid al-Sharīʿa* in a Renewed *Fiqh* Tradition: Yusuf al-Qaradawi’s Authority and his Qatar-based “Internal Critics”

The Place of the *Maqāṣid al-Sharīʿa* in Classical *Fiqh* 97
al-Qaradawi’s *Dirāsa fī Fiqh Maqāṣid al-Sharīʿa* 99
al-Qaradawi’s Authority and Internal Criticism in the Qatar-Context 115
Auda’s Approach to the *Maqāṣid* and his Engagement with al-Qaradawi 117
Ramadan, Auda, al-Qaradawi and Doha’s Center for Islamic Legislation and Ethics 122
Conclusion 131


Citizenship, Minorities, and the Problem of Religious Freedom 137
Medina, Najran, and the *Dhimma* Contract 140
al-Qaradawi and the *Dhimma* Contract 141
*The Homeland and Citizenship (al-Waṭan wa ’l-Muwāṭana)* 145
Re-Reading the Compact of Medina 153
The Transmission of Ideas and Concepts 155
The Place of the *Dhimma* Contract and the *Jizya* Tax 158
Conclusion 160
5. The Social Construction of ‘Ilm, and the Politics of Recognition in the Public Sphere: Yusuf al-Qaradawi, the Arab Spring, and its Aftermath

‘Ilm as a Social Construct, “Religious Leaders,” and the Constraints of the Fiqh Tradition

al-Qaradawi and Mubarak, A Scholar and A Tyrant

The Micropolitics of Recognition: Cementing al-Qaradawi’s Revolutionary Credentials

The Macropolitics of Recognition: al-Jazeera and Qatari Foreign Policy

Qatar and al-Qaradawi’s Interventions in the Libyan Civil War

al-Qaradawi, Sectarianism, and the Uprisings in Bahrain and Syria

al-Qaradawi, the Syrian Civil War, and the Legacy of Ibn Taymiyya

al-Qaradawi, Sectarianism and the Gulf Context

Back to Egypt, for the Coup

The Politics of Recognition, Qatari Support in the Aftermath of the Coup

Conclusion

The Importance of the Qatar-Context

Reviewing the Conceptual Framework

Modernity as the Imagining of Progress and the Synthesis of Concepts

Final Arguments

Bibliography

Word count: 82,672 words
List of Figures

1. Ramadan's illustration of his vision for an applied ethics 126
2. The poster from CILE’s first conference on 9 March 2013 130
3. The front cover of 25th January, A People’s Revolution 174
4. A picture taken by author on 6 February 2013 193
5. A cartoon published in the Egyptian daily *al-Shurūq* 9 September 2013 199
6. The front cover of *A Learned Critique of the Shaykh of al-Azhar and the Military’s Mufti* 205
7. A cartoon published in *al-Shurūq* on 18 August 2013 207

List of Acronyms

IUMS: International Union of Muslim Scholars (*al-İttiḥād al-‘Ālamī li’l-‘Ulamā’ al-Muslimīn*)
RTQ: *Rābiṭat Talāmūdīh al-Qarāḍāwī* (Association of al-Qaradawi’s Students)
CILE: Research Center for Islamic Legislation and Ethics (*Markaz Dirāsāt al-Tashrī’ al-Islāmī wa’l-Akhlāq*)
Abstract

This thesis offers an interpretation of the Qatar-based Egyptian Shaykh Yusuf al-Qaradawi’s contribution to “tajdīd al-fīqh,” the “renewal” of the Islamic fīqh tradition. In the wake of the transformations wrought on the fīqh tradition during the colonial period, it is the “modern project” (to borrow Talal Asad’s term) for tajdīd al-fīqh instigated by Muhammad ‘Abduh and Rashid Rida that this thesis uses to enter the discussion. Al-Qaradawi lays claim to their legacy, and this thesis is particularly concerned with the engagement between himself and his interlocutors in the unusual context of Qatar. These “translocal” networks facilitate al-Qaradawi’s involvement in debates in other contexts in the region, particularly in Egypt and the wider Arabian Peninsula.

Each of this thesis’s thematic chapters will make a different case for understanding al-Qaradawi’s borrowing, reconstructing, reviving or transforming certain concepts and ideas. In so doing it will show that al-Qaradawi, as representative of the contemporary ʿulamāʾ as a whole, is not part of a scholar-class that have been either marginalized or entirely co-opted by the state. Instead, they are a group of scholars that have utilized new media technologies and other supportive networks to continually promote themselves in the Arab public sphere, as they sought to adapt their tradition to the Middle East region’s new context, debates and conditions.
Declaration

No portion of the work referred to in the thesis has been submitted in support of an application for another degree or qualification of this or any other university or other institute of learning.

Copyright Statement

i. The author of this thesis (including any appendices and/or schedules to this thesis) owns certain copyright or related rights in it (the “Copyright”) and s/he has given The University of Manchester certain rights to use such Copyright, including for administrative purposes.

ii. Copies of this thesis, either in full or in extracts and whether in hard or electronic copy, may be made only in accordance with the Copyright, Designs and Patents Act 1988 (as amended) and regulations issued under it or, where appropriate, in accordance with licensing agreements which the University has from time to time. This page must form part of any such copies made.

iii. The ownership of certain Copyright, patents, designs, trade marks and other intellectual property (the “Intellectual Property”) and any reproductions of copyright works in the thesis, for example graphs and tables (“Reproductions”), which may be described in this thesis, may not be owned by the author and may be owned by third parties. Such Intellectual Property and Reproductions cannot and must not be made available for use without the prior written permission of the owner(s) of the relevant Intellectual Property and/or Reproductions.

iv. Further information on the conditions under which disclosure, publication and commercialisation of this thesis, the Copyright and any Intellectual Property and/or Reproductions described in it may take place is available in the University IP Policy (see http://documents.manchester.ac.uk/DocuInfo.aspx?DocID=487), in any relevant Thesis restriction declarations deposited in the University Library, The University Library’s regulations (see http://www.manchester.ac.uk/library/aboutus/regulations) and in The University’s policy on Presentation of Theses.
To my mother, who in life and death showed me how to be brave.

To my wife, for showing me that there is always a happy ending.
Acknowledgements

On the stages of any long journey there is always a certain satisfaction to be gained by turning round occasionally to see how far you’ve come. Looking back on obstacles already overcome provides a better perspective for viewing those in front of you. Nothing toward the completion of this thesis could have been done alone, and there are a great many people and institutions to whom I am particularly indebted.

The Centre of the Advanced Study of the Arab World (CASAW) began by funding my MA and intensive Arabic studies at the Universities of Edinburgh, Damascus, and Manchester. From that time I am particularly grateful to Jonathan Featherstone for his unparalleled dedication and skill at teaching the Arabic language. It remains a privilege to have been his student. The Manchester stage of my MA degree was where I first met Andreas Christmann, who was patient enough to agree to become my doctoral supervisor. His editing and translation of Muḥammad Shaḥrūr’s work, The Qur’an Morality and Critical Reason, remains the most masterful and stimulating book I have ever read. As the PhD has come closer to completion I have become particularly grateful to Ronald Buckley for his steady support and extremely considerate proofreading of this entire thesis, chapter-by-chapter.

Beyond Manchester University and my supervisors I have been given the kind and generous financial support of the Spalding Trust, the Gilchrist Trust, and the International Institute of Islamic Thought. A number of universities and other institutions also generously facilitated my attendance at their conferences, workshops or as a guest lecturer. Most notably these include: Exeter University, Wake Forest University, Cairo University, Universität Bayreuth, Artuklu Üniversitesi, the United States Naval Academy, the Center for the Study of Islam and Democracy, Università Roma Tre, and Hamline University Law School. A great number of other scholars have been generous with their time in responding to my questions, hearing my thoughts, and replying to my emails, I thank them all. Many wonderful friendships have also been formed along the way, and I sincerely hope that they endure long into the future.

A great deal of thanks must also go to the subject of this thesis itself, Shaykh Yusuf al-Qaradawi. I am grateful both to him and his staff for their time and support. I am also grateful to Jasser Auda, Tariq Ramadan, and Najah Nadi at the Centre for
Islamic Legislation and Ethics for permitting me to interview them. I would hope this
thesis does all their efforts a certain kind of justice, and I wish them all success in what
are increasingly turbulent times.

A final thanks goes to my family, both old and new, for their love, support, and
polite inquiries as to my progress. My father’s insistence that I complete by a certain
date was particularly welcome, as was his steadfastness. I know he will always be a
refuge and confidant.

This project was dominated by two major events in my life. Coincidentally they
coincided by a matter of weeks. In the summer of 2012 my mother Gillian would die. I
will try and bear witness to your courage when it finally became time to say goodbye. I
would also meet Tazeen that summer, the woman who became my wife – *tumi amar
choto phool*.

You are both the bravest women I will ever know, and your examples are ones
that I will always try to live up to for as long as I live.
Note on Transliteration

Transliteration of Arabic words in the text – excluding personal names – follows the system published by the *International Journal of Middle East Studies*, with slight variations. For clarity, ْ (‘ayn) is represented by ‘ and ʾ (hamza) is represented by ʾ. Initial hamzas are omitted. Transliteration of Arabic personal names follows the individual’s preference where known, or popular convention. This is done for ease of recognition. Place names are also given in their common forms, usually anglicized. Titles and words that have entered into English parlance are given without diacritics, but retain ‘ayn and hamza (e.g. Qur’an). The exception to this is the word Sharia, which is given in its most commonly recognizable form.
Introduction

On 11 February 2011, after eighteen days of sustained mass protests on Egypt’s streets, Hosni Mubarak (b.1928) President of Egypt since 1981, resigned. One week later on 18 February an estimated crowd numbering over one million Egyptians returned again to Tahrir Square, the focal point of the demonstrations. That Friday however, the purpose was celebration and prayer rather than mass protest. The huge crowds that had gathered on what had been dubbed the “Day of Victory” (yawm al-ḥāf) were not there to hear a sermon (khutba) delivered by one of Cairo’s own leading scholars, or ‘ulamā’ (sg., ‘ālim), such as a figure holding a high position within the venerated institution of al-Azhar. Rather, they were there to listen and pray with Shaykh Yusuf al-Qaradawi (b.1926), who had returned from exile in Qatar just the day before. Filled with joy and confidence for the future, al-Qaradawi applauded the revolution’s apparent success, particularly the uniting of the Egyptian people in its achievement:

O Muslims! O Copts! O Children of Egypt! This is the day of all the Children of Egypt together. It is not the day of Muslims alone […] Muslims and Christians, radicals and conservatives, rightists and leftists, men and women, old and young, all of them became one, all of them acting for Egypt, in order to liberate Egypt from injustice and tyranny.

Al-Qaradawi’s address itself attracted a lot of attention in the media, with the leading Egyptian newspaper al-Yawm al-Sabī‘ comparing al-Qaradawi’s return to that of the Iranian Ayatollah Khomeini (d.1989). Al-Qaradawi’s rising stature was a source of

---

2 Knowledge of the Sharia, or sacred knowledge, is ‘ilm. ‘Ālim (pl., ‘ulamā’) is the active participle of ‘alima, meaning “to know, to be aware of.” The term denotes scholars of almost all disciplines but refers more specifically to the scholars of the Islamic sciences. They are generally regarded as the guardians, transmitters and interpreters of Islamic knowledge. The term can also include those who fulfill Islamic functions in the community that require a certain level of expertise in pastoral or judicial issues, such as judges and preachers, the Imams of mosques, etc. In this introduction the more straightforward Arabic and Islamic terms will be defined primarily via a footnoted reference to the second edition of Brill’s Encyclopaedia of Islam Online, though several concepts will be seen to be in need of greater discussion and will be dealt with in more detail in Chapter 1. Peri Bearman et al., eds., “Ulamā,” Encyclopaedia of Islam Online (Leiden: Brill, 2005), http://referenceworks.brillonline.com/entries/encyclopaedia-of-islam-2/ulama-COM_1278.
both praise and anxiety in the media more broadly, the Egyptian daily *al-Masri al-Yawm* hailed his sermon as “one of the greatest sermons of the modern era.”\(^5\) while the television channel *Miṣr al-Nahār Dah* banned al-Qaradawi from appearing on air due to seemingly very real anxieties over where further publicity might lead at that fragile time.\(^6\) Needless to say, Western media picked up the hype, and the “Egyptian Khomeini” tag appeared to stick,\(^7\) at least for a while.

Even more surprising than these developments was that, just three days later and during a live interview with the Qatari channel al-Jazeera lasting a full twenty three minutes, al-Qaradawi would issue a fatwa calling for the killing of the then Libyan dictator Mu’ammar al-Gaddafī (d.2011). Reflecting on al-Qaradawi’s seemingly self-evident prestige and popularity at the time, Yahya Michot of Hartford Seminary suggested it was due to al-Qaradawi’s “personal qualities and endeavours, his closeness to the Muslim Brotherhood and his role as chairman of the International Union of Muslim Scholars [*al-Ittiḥād al-‘Ālamī li’l-ʿUlamāʾ al-Muslimīn*, IUMS].”\(^8\) Michot’s suggestion that al-Qaradawi’s prestige rests on these bases will be returned to in Chapter 5, where the social construction of al-Qaradawi’s authority will be discussed in detail.

Bettina Gräf also emphasises that a key part of al-Qaradawi’s rise in stature was the fact that he was “one of the first scholars to realize that the cooperation with journalists, editors, and producers of new media institutions would help to restore the influence of Muslim scholars in Muslim societies and worldwide.”\(^9\) For example, on 27 February 2014 was the beginning of the annual meeting of the Association of al-Qaradawi’s Students (*Rābiṭat Talāmīdh al-Qaradāwī*, RTQ), a five-day gathering back in Doha attended by an international group of nearly a hundred scholars, journalists, and intellectuals (as well as the author). Just as Michot and Gräf highlight the importance of the supporting networks behind by al-Qaradawi in achieving his prominent position, the

---


televised meeting (multaqā) of the RTQ similarly appeared to showcase al-Qaradawi’s success at mobilizing multifaceted networks to support his position as the leading ʿālim of his day. The situation had charged markedly since the heady days of early 2011 however, al-Qaradawi and his colleagues no longer enjoyed the prestige and security they once did. The Egyptian army-led coup from the previous summer still overhung events; the RTQ’s General Secretary and many other members of the Muslim Brotherhood in Egypt had been rounded up and arrested.

**Argument and Scope of the Thesis**

What this thesis offers then is an interpretation of the Qatar-based Egyptian Shaykh Yusuf al-Qaradawi’s contribution to “tajdīd al-fiqh,” the “renewal” of the Islamic jurisprudential tradition. While the term fiqh is commonly rendered into English as “Islamic jurisprudence,” or even more simplistically as “Islamic law,” this fails to do justice to the concept. Etymologically, fiqh, from the root faqiha, carries the meaning of seeking a “deep and true understanding” of the Sharia and the scientific discussion of jurisprudence. Shari‘a has been a term common to all Arabic speaking communities, and was a holistic reference to a prophetic faith. In general academic parlance, Sharia is now more commonly understood to mean “the rules and regulations governing the lives of Muslims,” or a “religious law.” Wael B Hallaq most notably takes issue with these definitions as overly narrow, and missing the Sharia’s “most central phenomenon, the moral impulse.” In a similarly critical fashion Baudoin Dupret also emphasizes that laws or rules (whether be considered as part of the Sharia, the fiqh tradition, “Islamic,” “Religious” etc.) are not independent of the modes in which they exist, are expressed, or experienced. As such, it should be understood from the outset that rules and laws do not determine people’s behaviour in a univocal way. People recognize rules’ authority in different ways that do not pre-exist the rules’ embodied practice.10

---

This thesis will also highlight al-Qaradawi’s “translocal” networks and circumstances in Doha. This is in view of the fact that other major studies have continued to prefer to imagine al-Qaradawi in the Egyptian context. While heuristically that may well facilitate useful comparisons between al-Qaradawi and his Egypt-based peers, the links between al-Qaradawi and the structures of the Qatari state, his connections to the Qatari royal family and Qatari foreign policy will be demonstrated in this thesis to be crucially important. This importance includes not only al-Qaradawi’s rise to his current stature, but also for contextualising many of the more novel developments in his writings on tajdíd al-fiqh and his responses to contemporary events such as those of the “Arab Spring.” This is despite the fact that al-Qaradawi has never held any explicitly bureaucratic or juridical posts within the Qatari state bureaucracy.

This emphasis on the Qatari context will form the backdrop for the thesis’s argument that the modern project for renewing the fiqh tradition is neither just a reactionary or imitative response to a liberal Western “challenge” (as one sees in the title of far too many books), nor is it a revival of concepts coming solely from the tradition’s own history. Instead, al-Qaradawi’s tajdíd al-fiqh is a far more complex mix, and will be illustrated by the diversity of individuals, institutions and networks al-Qaradawi engages with, and is engaged by, within Doha first and foremost. Each of this thesis’s

11 “Translocality” refers to a more nuanced engagement with the common conceptual divide between “local” and “international” actors. In that vein, translocality is understood as a particular set of conditions and social relationships of recognition that function beyond (but not without) local frames and structures, Doha in this case. See Ulrike Freitag and Achim von Oppen, eds., Translocality: The Study of Globalising Processes from a Southern Perspective (Leiden: Brill, 2010).

12 The author is also aware of two other doctoral theses focusing on al-Qaradawi that are near completion: Carsten Polenz at the University of Bonn has taken a philological approach to al-Qaradawi’s two volume Fiqh Al-Jihād: Dirāsah Muqārani Li-Iḥkāmihi Wa-Falsafatihī Fi Ḍaw’ Al-Qurān Wa’l-Sunna, 2 vols., 2nd ed. (Cairo: Maktabat Wahba, 2010), while Amir Hamad at the University of Zurich is examining al-Qaradawi’s embodiment of authoritative practices through visual media, with a particular focus on issues of gender. Two other notable doctoral monographs recently published are Bettina Gräf’s anthropological reading of al-Qaradawi’s media fatwas and Sarah Albrecht’s research on al-Qaradawi’s conception of a new branch of jurisprudence specific to Muslim minorities (fiqh al-aqlīliyyāt). Bettina Gräf, Medien-Fatwas@Yusuf Al-Qaradawi: Die Popularisierung Des Islamischen Rechts (Berlin: Klaus Schwarz-Verlag, 2010); Sarah Albrecht, Islamisches Minderheitenrecht: Yusuf al-Qaradawis Konzept des fiqh al-aqlīliyyāt (Berlin: Ergon Verlag, 2010).

thematic chapters will highlight a different case of his borrowing, reconstructing, reviving or transforming certain concepts and ideas, not just by himself, but through an engagement with his Doha-based interlocutors and “internal critics.”¹⁴

Proceeding in an approximate chronological order, then, Chapter 1 introduces the reader to the prevailing narrative surrounding tajdíd al-fiqh as it came to be conceptualised at the end of the nineteenth century by Muhammad ‘Abduh and Rashid Rida, and then provides an introduction to al-Qaradawi’s biography in that context. The theme of Chapter 2 is to examine the place of the Prophetic Sunna and Hadith in the fiqh tradition, with specific reference to the importance of al-Qaradawi’s relationships with his predecessor Muhammad al-Ghazali and Muhammad Nasir al-Din al-Albani. Chapter 3’s theme then takes up the, much in vogue, concept of the maqāṣid al-sharīʿa, or rather the “higher intentions and purposes of the Sharia.” As al-Qaradawi articulates a specific fiqh of the maqāṣid al-sharīʿa he attempts to establish boundaries and limits for how this concept should be used hermeneutically. This position of al-Qaradawi and his fellow Doha-based ‘ulamāʾ is then engaged with by Jasser Auda and Tariq Ramadan in an unexpected fashion. This is significant for understanding how the “authority” of an ʿālim like al-Qaradawi should be understood. Chapter 4 focuses on the transmission of concepts, examining the complexities of how “citizenship” (muwāṭana) entered al-Qaradawi’s writing. This will be seen to clearly impact upon his reading of the Medina Compact (ṣaḥīfat al-madīna) and his understanding of the place of non-Muslim minorities in the Islamic state.

Ultimately, it is the tumultuous years of the Arab uprisings and their aftermath that will define al-Qaradawi’s legacy, as well as the future place of the ‘ulamāʾ and the fiqh tradition in Arab societies. The final Chapter 5 will then bring the thesis toward its concluding arguments by focusing on al-Qaradawi’s re-articulation of the place of revolution (thawra) in the fiqh tradition, and attempt to conceptualise a new “fiqh al-thawra.” This last chapter will follow al-Qaradawi through the politically fraught context of the 2011 Arab uprisings and the years that followed, examining not only his

---

¹⁴ “Internal criticism” is a concept posited by Muhammad Qasim Zaman and relates to one’s engagement with the foundational arguments of a particular tradition while accepting them in principle. This concept will be returned to in greater detail in Chapter 1. See Muhammad Qasim Zaman, Modern Islamic Thought in a Radical Age: Religious Authority and Internal Criticism (Cambridge: Cambridge University Press, 2012).
interventions and fatwas regarding the Egyptian 2011 revolution and subsequent 2013 coup, the Libyan and Syrian civil wars and the failed Bahraini revolt, but also al-Qaradawi’s visceral debates with his ‘ulamāʾ peers who were more obviously embedded in the structures of the nation-state, particularly the Syrian ‘ālim Saʿīd Ramadan al-Buti (d.2013) and the Egyptian Grand Mufti ‘Ali Jumʿa (b.1952). This final chapter will highlight the quandary facing an ‘ālim like al-Qaradawi who aspires to intervene in the public sphere, the site where societies’ members collectively debate, form public opinions, and challenge the states’ definitions of the public interest.\(^\text{15}\) While these interventions rest on his socially constructed authority as an ‘ālim recognised as speaking on behalf of the fiqh tradition,\(^\text{16}\) it will be argued that the recognition of this construction relies paradoxically on both the powerful backing of a state (Qatar in al-Qaradawi’s case) while simultaneously being perceived by the public as independent.


\(^{16}\text{Specifically, a scholar of fiqh would be a faqīḥ (plr., fuqahāʾ), with those considered of the highest competence practising ḵitiḥād, or independent reasoning and being considered a mujtahid. See Goldziher and Schacht, “Fiḥḥ.” Regarding these roles and those of the other Islamic sciences, Wael B. Hallaq refers to sociology’s “role-theory” to emphasize that a single actor might embody many of these typological roles, with many or all of them coming into play in a particular instance. In his own study of the pre-modern tradition, Hallaq notes that a particular text and author might transcend these typological distinctions, a mufti’s fatwa might in some instances go beyond the issuing of an non-binding “opinion” in answer (jawāb) to a specific question (ṣuʿāl, istiftāʾ) and become a longer elaboration on a doctrinal issue and even be a means to effect doctrinal change. In his discussion of role-theory Hallaq explains, “A modern-day professor of constitutional law, for example, must teach students, interact with her colleagues and the university administration, publish works of scholarship, and perform public duties when constitutional issues are debated. While still a professor, she might serve on a government sub-committee, preside as a judge, or work as an attorney. None of these roles can be kept entirely separate from the other ones, for as an author she might write a book on a fundamental issue of constitutional law, while as member of a sub-committee she might prepare a report which heavily, if not totally, draws on her research for her monograph.” Wael B. Hallaq, Authority, Continuity, and Change in Islamic Law (Cambridge: Cambridge University Press, 2001), 170.}
Introducing the Conceptual Framework

The remainder of this introduction will acquaint the reader with the thesis’s perspective and conceptual framework, taking issue with many of the assumptions and concepts in the field of Islamic studies and the study of the ‘ulamā’. This will be seen to develop Talal Asad’s original conception of the Islamic tradition as a “discursive” tradition. Focusing in particular on the fiqh tradition and its renewal, and as has already been alluded to above, al-Qaradawi will be conceptualised as an actor articulating, transmitting and reconstructing the Islamic tradition’s resources through a discourse.\(^\text{17}\) Samuli Schielke has further emphasised that traditions are not hermetically closed, but neither has the “modern” Islamic tradition simply borrowed or adapted concepts from the liberal traditions of modern Euro-America.\(^\text{18}\) As such, “modernity” in this thesis is not simply referring to novel or unprecedented conditions. Instead, modernity is better understood as a “project”\(^\text{19}\) or, in Bruce Knauf’s rather elegant formulation, “a geography of imagination that creates progress through the projection and management of alterity.”\(^\text{20}\) Put more simply, being modern involves imagining society as a system, and aspiring for that society’s “progress.” This progress is measured relatively through the construction of binary and alternate categories, like the progression from “tradition” toward “modernity,” “backwardness” toward “progressiveness,” or from the “religious” toward the “secular.” This aspiration for progress is as common to Muslim majority societies as those of Europe and North America, but it has specific constituents in its various local and historical settings.\(^\text{21}\)

From the outset this is how al-Qaradawi and his interlocutors’ efforts to “modernize” and renew the fiqh tradition should be understood. Rather than viewing

\(^{17}\) Talal Asad, *The Idea of an Anthropology of Islam* (Washington, DC: Center for Contemporary Arab Studies, Georgetown University, 1986).


\(^{21}\) Schielke, “Hegemonic Encounters,” 3. With regards to progress, it was the seminal writings of the French scholar François Guizot that were most widely read and prevalent during the late nineteenth century. For Guizot, a civilisation was progress, the progress of the mind and the improvement of society and social life. Mansoor Moaddel, *Islamic Modernism, Nationalism, and Fundamentalism: Episode and Discourse* (Chicago, IL: University of Chicago Press, 2005), 87.
these efforts solely as an imitative “response” to a supposed Western “challenge,” the fiqh tradition’s renewal as a modern project is understood as being “entangled” with Euro-America’s own.\textsuperscript{22} This means that the former’s attempts to mould society rationally and progressively have developed both in confrontation with, and inspired by, the latter. Authenticity and legitimacy are constructed socially from a complex combination of the Islamic tradition’s historical precedents and foundational arguments, alongside European social theories, innovative bioethics, as well as social media innovations and other technologies. The current results of these interpretive processes are not reducible either causally or structurally to any single source.\textsuperscript{23}

A Note on Power

To elaborate on this thesis’s conceptual framework some detailed discussions are needed. Not least because it is often the case that terms and concepts such as “modernity,” “tradition,” “religion,” and “discourse” are either used in a different way by this thesis (as has already been seen), or because they are simply often used with little to no critical reflection at all as to their meaning. First of all then, some fundamental remarks are required concerning the social “production” of knowledge. This is important because this thesis is concerned with al-Qaradawi and his interlocutors’ production of knowledge, knowledge of fiqh and the Sharia in their case, while this thesis is in turn producing knowledge about, and representing, that effort. Both of these processes of knowledge-production do not happen in a vacuum, far from

\textsuperscript{22} In the wake of the collapse of “modernization theory,” Samuel Eisenstadt most notably has emphasised the plurality of change in different parts of the world and the following of different trajectories. Shalini Randeria then preferred to speak of European and non-European “entangled modernities” with different elements of the modern being combined at different points, under different conditions and under a markedly asymmetry of power and domination. This occurs not only at the level of different societies, but within societies themselves, where “modernity” is imagined, acted and reflected upon in different ways. This understanding has more explanatory power than considering modern as a teleological or historical category. See Samuel N. Eisenstadt, “Multiple Modernities,” \textit{Daedalus} 129, no. 1 (2000): 1–29; Shalini Randeria, “Entangled Histories of Uneven Modernities: Civil Society, Caste Solidarities and Legal Pluralism in Post-Colonial India,” in \textit{Unraveling Ties: From Social Cohesion to New Practices of Connectedness}, ed. Yehuda Elkana et al. (Frankfurt: Campus Verlag, 2002), 284–311; idem, “Geteilte Geschichte und verwobene Moderne,” in \textit{Zukunftsentwürfe. Ideen für eine Kultur der Veränderung}, ed. Jörn Rüsen et al. (Frankfurt: Campus Verlag, 1999), 87–96; idem, “Jenseits von Soziologie und soziokultureller Anthropologie: Zur Ortsbestimmung der nichtwestlichen Welt in einer zukünftigen Sozialtheorie,” \textit{Soziale Welt} 50, no. 4 (1999): 373–82.

\textsuperscript{23} Schielke, “Hegemonic Encounters,” 30.
it, but are instead affected in every aspect by the existence of unequal power-relations. Wael B. Hallaq recently argued convincingly in his article “On Orientalism, Self-Consciousness and History” that “Islamic legal studies” is “a field of knowledge embedded in Euro-American power structures.”

It is worth elaborating on what that means:

By the end of the nineteenth century, and beginning with the fifteenth, Europe came to colonize and dominate the greatest majority of the world’s populations and regions. It wiped out massive Amerindian populations, and violated the integrity and organicity of most societies’ institutions, ways of life, and psychologies - all for the sake of sheer control and the expansion of capital and economy. Today, the United States, with the continuing support of Europe, has taken over essentially the same role, occupying entire countries, promoting settlement-colonialist ventures, and supporting dictatorships that Europe had helped to create in the first place. All this was augmented by Euro-American commissioned genocides, holocausts (including Hiroshima and Nagasaki), two World wars, and, among much else, devastating world poverty and destructive exploitation of the natural habitat. These are not matters just of politics and militarism, but also fundamentally constitute a knowledge-grounded reality, a hermeneutical and epistemological phenomenon of the first order […] All academicians in Euro-America, from scientists to scholars in the humanities, are embedded within the institutional, social, historical, psychological and linguistic structures that produced this phenomenon, whether they agree with it or not.

Being conscious of this relationship between knowledge and power inequalities is important, and at the very least its effect on one’s approach and scholarship should be theorized and articulated. It should first of all be understood then that knowledge, like capital, accumulates unevenly throughout a society. As with capital, societies regulate access to the means of producing knowledge’s various forms via a variety of legal, political, educational, medical institutions, and so on. These structures serve to prevent

26 As Hallaq puts it, “for legal Orientalism (and much of Orientalism at large) to free itself from its long-standing paradigm, it must become conscious of its structural ties to the thought-structure of totalistic domination” and overcome “its general resilience to theory.” Ibid., 22. See also Ebrahim Moosa, “Colonialism and Islamic Law,” in Islam and Modernity: Key Issues and Debates, ed. Muhammad Khalid Masud, Armando Salvatore, and Martin van Bruinessen (Edinburgh: Edinburgh University Press, 2009), 158–84 (5).
“particular castes, estates or classes acquiring certain kinds of knowledge”\textsuperscript{27} while also maintaining the position of both the scholar in the academy and the ʿālim in the madrasa producing their own professionalized brands of knowledge.

It has already been mentioned that “power-relations” are crucial in this regard. This thesis’s understanding of “power” needs to be defined carefully however, because it is emphatically not referring to an understanding of power as it might be exercised by one individual, or class (be they academics or ʿulamāʾ), over others in a linear or unified fashion. Michel Foucault was clear that by “power” he was not referring to “a group of institutions and mechanisms [such as the Western academy, or al-Azhar] that ensure the subservience of the citizens of a given state,” nor was he referring to an explicit “mode of subjugation” or any “general system of domination exerted by one group over another.” Importantly, such situations or states are only “the terminal form power takes,” or rather its “effects.” Instead, power should be understood first and foremost as something that is dispersed, like a web, through multiple and diverse “force relations.”\textsuperscript{28} Power does not exist in a single place or a particular social hegemony, or class, and so neither should the ʿulamāʾ nor academics be understood in a Marxist idiom as groups that produce knowledge in order to propagate an ideology and ensure the “false consciousness” of those below them and preserve a particular status quo. Instead both groups exist in a web that is impinged upon both by the global distribution of capital, more immediate local structures and conditions, as well as everything in between.

If power is understood here as neither unified, linear, nor binary, then it cannot be seized, acquired or relinquished. Instead it is present immanently, or inherently, within “economic processes, knowledge relationships [crucially for this thesis], sexual relations” and so on.\textsuperscript{29} Clearly then, the understanding of individual agency on behalf of either the author or al-Qaradawi himself from this perspective is a very complex one. Power exists as a discordant multiplicity, in a web of multiple points and positions that cut across societies as well as individuals as unified subjects. In other words, an actor’s agency is restricted, but by no means exclusively so, nor is it exercised in an entirely...
unified fashion. This is important because it is an over-simplification to argue that the contemporary ‘ulamā’ solely aim to preserve their position for its own sake through the propagation of ideology, as Jacob Høigilt suggests in his discourse analysis of al-Qaradawi’s rhetoric. It is also too neat to dismiss the ‘ulamā’ as so hopelessly embedded in the structures of the nation state that the knowledge they produce is so far from the Sharia and their pre-modern predecessors as to be of any interest at all, as Hallaq believes. As such, while al-Qaradawi will at times be seen to close down debates and marginalise opponents, rather than dismissing or ignoring the ‘ulamā’, it is far more interesting to investigate the effect of their embeddedness in larger structures of power-relations, and the extent to which they are able to negotiate them. As Foucault emphasises:

Let us not look for the headquarters that presides over its [power’s] rationality; neither the caste which governs, nor the groups which control the state apparatus, nor those who make the most important economic decisions direct the entire network of power that functions in a society (and makes it function); the rationality of power is characterized by tactics that are often quite explicit at the restricted level where they are inscribed (the local cynicism of power), tactics which, becoming connected to one another, attracting and propagating one another, but finding their base of support and condition elsewhere, end by forming comprehensive systems: the logic is perfectly clear, the aims decipherable, and yet it is often the case that no one is there to have invented them, and few who can be said to have formulated them: an implicit characteristic of the great anonymous, almost unspoken strategies which coordinate the loquacious tactics whose “inventors” or decisionmakers are often without hypocrisy.

The Role of Language, Discourse in Representing Islam and Studying “Religion”

Having made these preliminary points regarding how this thesis understands power and knowledge, some further discussion is needed concerning how this is seen to have

30 Høigilt, *Islamist Rhetoric*.
affected the study of Islam in the Western Academy, and what this thesis aims to do differently. As has been noted, Hallaq argued that the academic study of Islam and Muslims is subsumed within a broader structure of unequal power-relations, and these overarching structures cannot simply be escaped or willed away by individual agency. One’s involvement in them is not due to individual moral failing but rather, for example, as an individual author’s ideas are produced, and published, they become appropriated within a larger structure that “establish[es] links with other current ideas and thereby become part of the predominant doctrine of a given period. This period will find in that doctrine certain meanings and interpretations that may be quite different from the initial intention of the author.”

Broadly then, an author’s arguments about Islam, or Muslims, however well-meaning, can be put to work legitimating, and facilitating, the status quo that exists today. A simple example of such a process can come from the author’s own experiences as a junior doctoral student. Presenting a paper in early 2012 at a conference in Washington, DC the author’s interest in al-Qaradawi’s recent re-reading of the Medina Compact (see Chapter 4) was then appropriated into a paradigmatic concern, voiced by The Clarion Project, regarding the United States’ foreign policy toward the Muslim Brotherhood. In that regard, what was of interest for observers was that “Warren posits al-Qaradawi as one of the most widely respected scholars, and one whose teachings can invariably have deep impacts,” that is to say, the “pro-terrorism Brotherhood cleric Sheikh” al-Qaradawi.”

With these points in mind, in studying fiqh and the ‘ulamā’ one must first begin with the simple awareness that objects of study are not simply lying around waiting to be picked up and observed in a detached or “objective” manner. First of all, any infinitely manifold social phenomena must be rendered “knowable,” “study-able,” and “meaningful” through a use of language. In keeping with the argument made so far, this should be understood as a far from organic process that carries with it many presuppositions on behalf of both an individual and their field:

To know is to represent; to represent is to use language; to use language is to channel an array of conceptual, cultural, historical and therefore a necessarily self-centered (= Eurocentric) discursive repertoire that enunciates, again necessarily, the Other through the Self. To enunciate the Other under these conditions is, in effect, to reconstitute it.\textsuperscript{35}

In Foucault’s parlance, these manifestations would be among the “terminal sites” where power’s effects operate, or unfold. The epistemological assumption in this thesis then is that language is not solely communicative and referential to reality, but rather serves to constitute the social reality one experiences.\textsuperscript{36} Any particular system of interconnected, communicative signs (both verbal and non-verbal) is understood here as a “discourse,” a concept often used with little critical reflection as to its meaning. A discourse is subordinate to prevailing power-relations and is a framework that limits the meanings and concepts that are available for constituting reality.\textsuperscript{37} They might be technical or scientific: medicine, psychiatry (or contemporary fiqh), and are produced at interconnected sites and articulated by actors (such as al-Qaradawi) who channel, rather than control the interpretative possibilities available to the discourse’s subjects. A contemporary fiqh discourse like the one to be studied here is therefore a professional discourse that constrains, permits or impedes certain communicative actions, and limits the meanings available for an individual to give to their experiences. As a result, other concepts, meanings or interpretations that might be available to make sense of what is an infinitely manifold reality are simply not accessible to someone who inhabits a particular discourse and is embedded in a certain set of power relations.

\textsuperscript{35} Hallaq, “On Orientalism,” 17.

\textsuperscript{36} The reference here is to Ferdinand de Saussure, who proposed that a “sign” comprised both a “signified” (a thought or mental image the sign invokes) and a “signifier” (a visible image, audible sound, spoken word, or written phrase). Significantly, the connection between a signifier such a c-a-t, and the mental image of the ‘cat’ that is signified is never fixed. Meaning is therefore always contestable, and never entirely referential to reality, the real animal in this instance. Ferdinand de Saussure, Course in General Linguistics, trans. Roy Harris (London: Open Court Classics, 1998).

\textsuperscript{37} As such, “Discourses are not representations of a more or less distorted reality. Rather discourses should be understood as ‘economies’ (with their own intrinsic technology, tactics, effects of power, which in turn they transmit). In other words power is inscribed within discourses, not outside them.” Trevor Purvis and Alan Hunt, “Discourse, Ideology, Discourse, Ideology, Discourse, Ideology...,” The British Journal of Sociology 44, no. 3 (1993): 473–99 (17).
Foucault also wrote that wherever power exists, so too does resistance, and similarly discourse can serve both trajectories. The fiqh discourse in which al-Qaradawi is involved is therefore both liberating and post-colonial, or constraining depending to a large extent on the observer’s position.

The constitutive role of language in the study of social phenomena has come under increasing scrutiny. Most recently, Timothy Fitzgerald has in fact argued for an increasing awareness of the fact that the “secular” study of “religion” presupposes an “ahistorical” and “natural” distinction between what are two equally modern and inter-dependent concepts “as though their meaning and the distinction between them is a natural aspect of the world.” However, as Fitzgerald, Asad and others have argued, what came to be understood as the “secular” and the “religious” (and later the “religious” and the “political”) have a history rooted in Europe and North America’s discursive construction of their own “modernity” and progress in the wake of Europe’s “Wars of Religion.” The result of these uncritical perspectives are that a “traditional”

---

38 For Foucault, resistance “is never in a position of exteriority in relation to power” and, as such, within a larger web of unequal power relations a post-colonial ʿālim like al-Qaradawi, is both an agent of resistance and himself an actor to be resisted. As Foucault tells us: “There is no single locus of great Refusal, no source of revolt, source of rebellions, or pure law of the revolutionary […] Instead there is a plurality of resistances, each of them a special case: resistances that are possible, necessary, improbable; others that are spontaneous, savage, solitary, concerted, rampant or violent; still others that are quick to compromise, interested, or sacrificial; by definition, they [points of resistance] can only exist in the strategic field of power relations […] Just as the network of power relations ends by forming a dense web that passes through apparatuses and institutions, without being exactly localized in them, so too the swarm of points of resistance that traverse social stratifications and individual unities.” Foucault, History, 1:95–6.

39 For Foucault then, one “must make allowance for the complex and unstable processes whereby discourse can be both an instrument and an effect of power, but also a hindrance, a stumbling block, a point of resistance and a starting point for an opposing strategy.” Ibid., 1:101–102.

40 While it might seem at this point that this thesis’s conceptions of discourse and power can be overly totalizing (Jacques Derrida was famously quick to announce that “there is nothing outside the text”), Foucault by contrast allowed for a distinction between the discursive and non-discursive realms, through a certain “soft realism” as Trevor Purvis and Alan Hunt term it. Jacques Derrida, Of Grammatology, trans. Gayatri Chakravorty Spivak (Baltimore, MD: John Hopkins University Press, 1976), 158; Michel Foucault, Archaeology of Knowledge, trans. A. M. Sheridan Smith, 2nd ed. (London: Routledge, 2002); Purvis and Hunt, “Discourse, Ideology,” 5.


42 During the sixteenth and seventeenth centuries, “religion” and the “religious” began to be necessarily produced alongside, and in opposition to, the emerging categories of the “secular” and the “non-religious.” As a result, “Religion rather than meaning Christian Truth, or one or another conflicting interpretations of Christian Truth, has become pluralized into generic things in the world, things that have some problematic relationship with a distinct and separate domain of power called ‘politics’” or, more broadly, the secular. Ibid., 2. See also William Cantwell Smith, The Meaning and End of Religion: A
Islamic discourse becomes viewed by necessity as among the archetypal “reactions to the forces of modernity […] in contemporary conditions of crisis, tradition in the Muslim World is [seen as] a weapon, a ruse, a defense against a threatening world […] an old cloak for new aspirations and borrowed styles of behavior.”

Similarly, within the academic discourse on Islam and Muslims, the involvement of “religion” and “religious” leaders in “politics” or other “secular” realms is (either consciously or subconsciously) understood as necessarily resulting from an insincere manipulation of a lay public to further one’s own ends. “Secular” academic knowledge by contrast is understood as rational and objective, while “religious” knowledge is necessarily reified as irrational and subjective.

This point is not only relevant to so much of the research conducted on so-called “political Islam,” primarily in the field of political science, but is also particularly relevant for Chapter 5 in this thesis. In that chapter segments of the Egyptian public will resist al-Qaradawi’s prominent voice in the wake of 3 July coup. This is partially due to segments of the Arab media and public’s appropriation of the secular ideology that “religious” leaders should avoid “politics.”

The point is not to say that modern Euro-American conceptions of religion and the secular are not utilized in the contemporary Middle East region, as has just been noted. Nor were they solely the imposition of colonial powers upon subordinated peoples, but they have often been appropriated or incorporated by subalterns for their own purposes in a process Charles Hallisey termed “intercultural mimesis.”

---


43 Asad, The Idea of an Anthropology of Islam, 15.
44 Idem, Genealogies of Religion; Fitzgerald, Discourse on Civility and Barbarity.
45 Charles Hallisey, “Roads Taken and Not Taken in the Study of Theravāda Buddhism,” in Curators of the Buddha: The Study of Buddhism under Colonialism, ed. Donald Lopez Jr (Chicago, IL: Chicago
also the case in this thesis. The point at this stage is that when it comes to defining the key terms and concepts from the *fiqh* tradition it is crucial to recognize at the very least that:

English-language categories such as religion, nation, sacred, secular, politics, economics, law and civil society may have close relations in a number of European languages, but are often very distant approximations in many non-European ones. The history of these modern concepts can be traced. Most have a degree of continuity with earlier words and ideas. This superficial appearance of continuous meaning has misled historians and others into thinking that is acceptable to talk about, say, the religion and politics of virtually any society at any time in history as though it is self-evident what is meant.\(^{46}\)

At this point, however, it should be stated that the common rendering of the Arabic word *dīn* as “religion” is a problematic one. In the *Encyclopedia of Islam* it is highlighted that *dīn* occurs in Qur’ān in relation to the “day of judgment” (*yawm al-dīn*) and is etymologically related to the Arabic root *dāna* and the word *dayn*, meaning debt or something that is owed. It can also mean custom.\(^{47}\) In al-Qaradawi’s own definition of *dīn* he specifically rejects translating *dīn* as “religion.” Citing the work of his Egyptian predecessor Muhammad ‘Abd Allah Draz (d.1958), who studied in France for twelve years in 1936, al-Qaradawi argues that European colonialists and neo-colonialists have understood *dīn* incorrectly as the combination of two French concepts. These are “religious doctrine” (*doctrine religieuse*) and “individual religious character and sentiment” (*religiosité*). By contrast, al-Qaradawi emphasizes that the concept of *dīn* refers primarily to custom and one’s obedience and obligations to God.\(^{48}\) In al-Qaradawi’s view, then, understanding *dīn* as consisting only of one’s private, internal


\(^{48}\) Yūsuf al-Qaraḍāwī, *al-Dīn wa’l-Siyāsā: Taṣīl wa’l-Radd Shubūḥāt*, 2nd ed. (Cairo: Dār al-Shurūq, 2013), 18–26 esp., 20. As noted above, in this work al-Qaradawi cites Draz’s terms *doctrine religieuse* and *religiosité* in French. Al-Qaradawi does not give the title of the work he is citing from, nor does he read French. It is likely therefore that in writing this section he was assisted by one of his former students. It is also likely that this was Muhammad al-Mukhtar al-Shingiti, who is a specialist in Draz’s work and is based in Doha at the Qatar Faculty of Islamic Studies. For more on this point, see Chapter 4.
religiosity and doctrine deliberately excludes one’s public obligations. At the same time however, al-Qaradawi also presupposes a distinction between two realms that could be termed “religion” and “politics” in his recent work *al-Dīn wa’l-Siyāsa*. It is admittedly difficult to propose a more straightforward rendering of this title than *Religion and Politics* even though what he is discussing is the state’s management of citizens’ Islamic obligations and duties. As such even though al-Qaradawi is against a “secular” divide, in arguing against it, he is nevertheless recognizing that it does indeed exist, or that it might exist.

### Talal Asad, his Interlocutors and the Islamic “Discursive” Tradition

There is an alternative approach to one that uncritically refers to al-Qaradawi and the ʿulamāʾ simply as “religious leaders” whose occasional involvement in “politics” entails a distortion of the Islamic tradition, and assumes that their and others’ claims to “mimic the past” is mere invention. This is provided by Talal Asad’s conception of the “discursive tradition.” A discursive tradition is one that can be defined as:

> [Consisting] essentially of discourses that seek to instruct practitioners regarding the correct form and purpose of a given practice that, precisely because it is established, has a history. These discourses relate conceptually to a past (when the practice was instituted, and from which the knowledge of its point and proper performance has been transmitted) and a future (how the point of that practice can best be secured in the short or long term, or why it should be modified or abandoned), through a present (how it is linked to other practices, institutions, and social conditions). An Islamic discursive tradition is simply a tradition of Muslim discourse that addresses itself to conceptions of the Islamic past and future, with reference to a particular Islamic practice in the present.

This is a very useful concept, but first needs to be unpacked and then developed further. Since its appearance in 1986 the concept of discursive tradition has become particularly fashionable and is again often cited with little critical reflection. Its popularity rests on the basis that it seemingly allows the would-be scholar of Islam to say what Islam “is” without being accused of essentialism, the charge (rightly) levelled if one uncritically speaks of Islam as a “religion” with a single corpus of “orthodox” texts and beliefs with

---

49 For more on this discussion, see Chapter 4.
little relationship to local “heterodox” practices in the diverse locales where Muslims live. Writing as an anthropologist, Asad was attempting to move beyond Clifford Geertz’s distinction between a “High Islam” of the texts and “Low Islam” of local practices, and provide a unifying concept that could both reconcile Islam’s source texts and history with the enormous diversity of beliefs and practices among those describing themselves as Muslims.

First of all then, Asad is arguing that Islam’s discursive tradition “has a history” that should be taken seriously rather than considered simply a contemporary “invention.”52 Seeking a middle ground between a “High” Islam and “Low” Islam(s), Asad’s suggestion is that “rather than the ‘thick descriptions’ of theatrical subjects who simply ‘behave’ in accordance with the roles determined for them by either their material structure or culture, it is the arguments and discourses of the thinking subjects with their specific styles of reasoning couched in their historical and material context that [should] become the focus.”53 On the basis of these arguments, al-Qaradawi’s self-described attempts to renew the fiqh tradition are to be taken seriously. His resultant handling of fiqh and other concepts is viewed as something more than a response to his material conditions. On the one hand, it is more than simply an attempt to rationalize the local social order of the Qatari rentier state.54 On the other hand, it is also more than simply another manifestation of a broader third-world process that rejects global capitalism, while exchanging socialist symbols and concepts for Islamic ones, as has also been argued.55

54 A “rentier state” is one where the vast majority of its Gross Domestic Product is derived from “rents” obtained from foreign individuals, companies, or governments. This is usually based around the presence of single natural resource, such as oil or natural gas. These rents are then used to fund extremely generous welfare programs for their citizens, often in lieu of these citizens’ having the right to change their government. It is commonly conceived of a “bargain,” where the population accepts a democratic deficit in exchange for welfare. Hazem Beblawi and Giacomo Luciani, eds., The Rentier State (London: Croom Helm, 1987); Andrew Rathmell and Kristen Schulze, “Political Reform in the Gulf: The Case of Qatar,” Middle Eastern Studies 36, no. 4 (2000): 47–62.
55 Examples of such a structuralist-materialist approach can be seen in the work of leading French scholars such as Olivier Roy or Gilles Kepel, whereby “political Islam” and other extremisms are viewed solely as a new expression of third world discontent with global capitalism, with Islam the new idiom in the place
There are certain tensions in Asad’s approach that should be discussed, for they often go unacknowledged, unrecognized or misunderstood. For the purposes of this thesis, these tensions relate to Asad’s reference to orthodoxy, authority and history. Looking again at the indented passage at the start of this section, Asad can be seen to be drawing on Foucault’s genealogy of discursive formations, but he is also marrying this with Alasdair MacIntyre’s own original conception of tradition. Tradition was defined by MacIntyre as “an argument extended through time in which certain fundamental agreements are defined and redefined,” and what that definition provided for Asad was an attentiveness to continuity and coherence within a tradition, in place of Foucault’s focus upon rupture, incoherence, and contradiction. This creates a conceptual tension, for in MacIntyre’s allowing for a tradition to have “fundamental agreements” a certain conception of orthodoxy is being presupposed for which Foucault would not allow (for Foucault, any tradition’s fundamental agreements would have been the effect of a certain configuration of power-relations).

Asad does not fully theorize this tension himself, and his suggestion that “orthodoxy is crucial to all Islamic traditions […] it is not a mere body of opinion but a distinctive relationship — a relationship of power” has commonly been mistaken as

of communism, with the ‘ulamā’ as the reactionary exemplars of a stagnant tradition: “The ‘Islamic political imagination’ [of the ‘ulamā’] has endeavoured to ignore or disqualify anything new […] The atemporality of the mullahs’ and ulamas’ discourse is striking to this day. History is something that must be endured; whatever is new is contingent and merits only a fatwa from time to time.” Olivier Roy, The Failure of Political Islam, trans. Carol Volk (Cambridge, MA: Harvard University Press, 1994) 20; idem, Globalized Islam: The Search for a New Ummah (New York, NY: Columbia University Press, 2004); Gilles Kepel, Jihad: The Trail of Political Islam, trans. Anthony F. Roberts (Cambridge, MA: Belknap Press, 2003).

58 Schielke, “Hegemonic Encounters,” 32.
60 As Asad puts it more fully, “Orthodoxy is crucial to all Islamic traditions. But the sense in which I use this term must be distinguished from the sense given to it by most Orientalists and anthropologists […] orthodoxy is not a mere body of opinion but a distinctive relationship — a relationship of power. Wherever Muslims have the power to regulate, uphold, require, or adjust correct practices, and to condemn, exclude, undermine, or replace incorrect ones, there is the domain of orthodoxy. The way these
recalling a Marxist idiom where the pursuit of orthodoxy entails manipulation, ideology and false consciousness. The tension between these two seemingly alternative approaches is important for this thesis. If they are left unreconciled it might appear to suggest that al-Qaradawi and his ‘ulamāʾ colleagues’ efforts at fiqh’s renewal are an attempt to artificially construct an Islamic “orthodoxy” and marginalise approaches that do not suit them (the neo-Marxist misreading of Asad). The alternative would be that adopted in Samira Haj’s study of Muhammad ‘Abduh and Muhammad b. ‘Abd al-Wahhab, where she follows MacIntyre closely and views tradition, not as a set of unchanging doctrine, but rather a framework for inquiry that:

[R]efers not simply to the past or its repetition but rather to the pursuit of an ongoing coherence by making reference to a set of texts, procedures, arguments and practices. This body of prescribed beliefs and understandings (intellectual, political, social, practical) frames the practices of Islamic reasoning. It is these collective discourses, incorporating a variety of positions, roles, and tasks that form the corpus of Islamic knowledge from which a Muslim scholar (‘ālim) argues for and refers to previous judgements of others, and from which an unlettered parent teaches a child.

As such, ‘Abduh and ‘Abd al-Wahhab’s advocating of “a return to the texts […] is not a reassertion of everything from before [but] a certain type of reasoning.” In her efforts to move away from the prevailing trope of the “Islamic response to the Western challenge,” Haj’s conception of tradition can appear somewhat closed however. By contrast, as was noted at the very start of this introduction, al-Qaradawi and his interlocutors’ efforts to renew the fiqh tradition should be understood as being “entangled” with that of Europe and North America. What will be argued for in this thesis is al-Qaradawi’s drawing upon a complex mix of the Islamic tradition’s historical precedents and foundational arguments alongside European social theories, bioethics, as

powers are exercised, the conditions that make them possible (social, political, economic, etc.), and the resistances they encounter (from Muslims and non-Muslims) are equally the concern […] Argument and conflict over the form and significance of practices are therefore a natural part of any Islamic tradition.”

Asad, The Idea of an Anthropology of Islam, 15–16.
61 Anjum, “Islam as a Discursive Tradition.”
64 Randeria, “Entangled Histories.”
well as social media innovations and other technologies. Further to this point, Schielke has argued that the “history” to which Asad’s discursive tradition refers should be understood as more than just a past. Instead, an authentic heritage and narrative must be assembled in order to provide the fiqh tradition with the resources for its internal renewal. As Schielke puts it:

[H]istory is not ‘had’ in such a straightforward manner. It only exists in the form of traces—texts, material objects, etc.—woven together by a historical narrative and embedded in a wider historical imagination of the world. Just like it is crucial to differentiate between the tradition-as-heritage which we refer to and the tradition-as-genealogy we are indebted to, we must be careful to distinguish between the past, which is everything that has happened and of which people attempt to make sense by reconstructing it as an intelligible narrative, and of history, which is the practice and outcome of that attempt.65

Moreover, Schielke argues that Islam is not a discursive tradition in the singular, but rather, there are multiple discursive traditions.66 One of these is the Islamic fiqh tradition. As such, what will be seen to emerge from al-Qaradawi and his colleagues’ tajdid al-fiqh are the conceptual inventions and interpretations garnered from multiple discursive traditions existing both within Sunni Islam and beyond. “Invention” here is not used with the negative connotations of manipulation,67 but is instead to emphasise that the results of al-Qaradawi’s interpretive processes are not reducible either causally or structurally to any of the traditions’ resources that are drawn upon, either through his evocation of certain concepts (i.e. “citizenship” or “maṣlaḥa”), or opposition to others (i.e. “secularism” or “taqlīd”), but is an original combination.68

Asad’s highly technical attempts at positing a new understanding of orthodoxy have been analysed in detail by both Ovamir Anjum and M. Brett Wilson, with the latter arguing that the term “orthodoxy” has now been left so overburdened as to be more likely to lead to greater confusion rather than add clarity.69 Despite these tensions, the

66 Ibid., 33–7.
67 See Hobsbawm and Ranger, The Invention of Tradition.
69 Their own analyses of Asad’s approach are extremely useful, but a detailed examination of their respective conclusions is outside the scope of this thesis. Needless to say, Anjum’s distinguishing between “Orthodoxy” with a capital “O” and an “orthodoxy” with a small “o,” alongside M. Brett
insight gained from Asad’s approach concerns authority, and the shift of “attention [away] from Weberian ideal-types of religious authority toward a study of modes of reasoning and their relation to embodied practices. It [the discursive tradition] provides a link between forms of religiosity and the structures that (re)produce authority.” That is to say, rather than hypothesising abstract typologies of “religious leaders” and suchlike, then proceeding to measure al-Qaradawi’s authority against them in an approach that is by necessity a reductive one, authority instead becomes an effect of certain discourses and structures. Consequently, al-Qaradawi’s authority as an ʿālim does not come from some pre-assigned status, but is instead a complex and multifaceted social construction. The process of this construction is detailed in Chapter 1, and returned to in Chapter 5 as it comes under pressure in the wake of the 3 July coup.

Further to this point, Asad proposes a new conception of an “authoritative” discourse channelled by a “thinking subject,” which again has an explanatory use for this thesis’s analysis of al-Qaradawi’s tajdid al-fiqh. It should be noted that the authoritative discourse that al-Qaradawi pursues is very different from an “authoritarian” one. An authoritative discourse is constrained in that it represents a “collaborative achievement between narrator and audience [where] the former cannot speak in total freedom: there are conceptual and institutional conditions that must be attended to if discourses are to be persuasive.” It will be seen however, that al-Qaradawi’s global “audience,” or the Egyptian public as argued in Chapter 5, is one that

Wilson’s distinguishing between orthodoxy and orthodoxy illustrates the nuance involved. Anjum, “Islam as a Discursive Tradition”; Wilson, “The Failure of Nomenclature.”

72 This distinction, also emphasised by Caeiro, is posited in Khaled Abou El Fadl’s Speaking in God’s Name: Islamic Law, Authority and Women. In his study of Saudi Arabia’s fatwa council, Abou El Fadl argues for the existence of an authoritarian hermeneutic among its ʿulamāʾ that “equates between the authorial intent and the reader’s intent, and renders the textual intent and autonomy, at best, marginal.” Khaled Abou El Fadl, Speaking in God’s Name: Islamic Law, Authority and Women (Oxford: Oneworld, 2001), 5; Alexandre Caeiro, “The Power of European Fatwas: The Minority Fiqh Project and the Making of an Islamic Counterpublic,” International Journal of Middle East Studies 42 (2010): 3.
73 As such, in Asad’s words “what the ʿulamāʾ are doing is to attempt a definition of orthodoxy - a (re)ordering of knowledge that governs the ‘correct’ form of Islamic practices” that may or may not have authoritative effects. Asad, Genealogies of Religion, 210.
is constructed dialectically by himself and his staff in their pursuit of “a deep and true understanding of the social reality (fiqh al-wāqi’).”

Asad also calls attention to the fact that these “conceptual and institutional conditions” are not only the product of local circumstances. Charles Hirschkind and John Voll similarly highlight the importance of ever-present global discourses and distributions of capital in any local context. This will prove particularly important for Chapter 3, which analyses al-Qaradawi’s strategic closing down of debates and establishing of boundaries for how far one may consider the maqāsid al-sharīʿa in their fiqh hermeneutics. It will be argued in the third chapter that there is a more complex explanation for this strategy than al-Qaradawi’s simply being a reactionary, as is concluded in some quarters. Worldwide distributions of capital and global discourses are also highly important.

There is a final point to be made before drawing this introduction to a conclusion, and it concerns MacIntyre’s chief contribution to Asad’s approach. This was MacIntyre’s deconstruction of a universal rationality. Imagining “tradition” and “rationality” as binary opposites is a perspective that comes from the post-Enlightenment liberal tradition’s own modernity. Instead, MacIntyre has argued that rationality is tradition-dependent. As such, an outsider to the Islamic tradition may investigate its claims to coherence, but while many scholars both Muslim and non-

---

78 MacIntyre argues that “liberalism has itself been transformed into a tradition, though one which is deeply and irretrievably flawed both because it denies its own status as a tradition and because it lacks the conceptual resources to resolve its own internal disagreement and tensions.” John Horton and Susan Mendus, “Alasdair MacIntyre: After Virtue and After,” in *Alasdair MacIntyre: Critical Perspectives on the Work of Alasdair MacIntyre*, ed. John Horton and Susan Mendus, 2nd ed. (Cambridge: Polity Press, 2005), 1–16 (7-8).
Muslims debate the authenticity of current developments in the Islamic tradition, they often fail to recognize that this investigation necessarily occurs within “a certain narrative relation to it, a relation that will vary according to whether one supports or opposes the tradition, or regards it as morally neutral. The coherence that each party finds, or fails to find, in that tradition will depend on their particular historical position.” Any attempt to measure developments within the modern fiqh tradition against contemporaneous developments in the modern liberal tradition, either consciously or unconsciously, will always find the former to be wanting by default and is consequently neither useful nor interesting.

To conclude, this introduction began by illustrating the prominence of al-Qaradawi as a scholar and ʿālim of global renown. It also alluded to the importance of networks and interlocutors in propelling al-Qaradawi to this position, and the thesis’s

---

79 In Ron Shaham’s review of contemporary Western scholarship he notes Ann E. Mayer’s suggestion that “non-Muslims cannot decide on the legitimacy of the conversion of the shariʿa into statutes or whether the developments are inside or outside the shariʿa.” In Frank E. Vogel’s study of modern Saudi Arabia he writes “as a non-Muslim I make no judgement,” while Shaham suggests “it is proper to categorize a legal development as contrary to the shariʿa as long as the scholar abstains from defining it as non-Islamic.” While these scholars undoubtedly have the best of intentions, Layish’s suggestion that “outside observers may participate in this discourse [of authenticity] provided no value judgement is involved” and the others cited above betray a lack of self-consciousness that all their varying positions on the modern Islamic tradition are articulated from a standpoint within the modern liberal tradition, as MacIntyre can be seen to argue. Ann E. Mayer, “Outlining Comments for Panel: The Transformation of Islamic Law from Jurists’ to Statute Law and Its Recreptions” (presented at the The Joseph Schacht Conference on Theory and Practice in Islamic Law, Leiden & Amsterdam, 1994); Frank E. Vogel, Islamic Law and Legal System: Studies of Saudi Arabia (Leiden: Brill, 2000), xv; Aharon Layish, “The Transformation of the Shariʿa from Jurists’ Law to Statutory Law in the Contemporary Muslim World,” Die Welt Des Islam 44, no. 1 (2004): 6. Quoted in Ron Shaham, “Western Scholars on the Role of the ‘Ulama’ in Adapting the Shariʿa to Modernity: A Critical Review,” in Guardians of Faith in Modern Times: ‘Ulama’ in the Middle East, ed. Meir Hatina (Leiden: Brill, 2009), 3 fn 3. Muhammad Qasim Zaman prefers to avoid the question and focus on the efficacy of one’s appeals to the tradition. Zaman, Modern Islamic Thought, 35 fn 137.

80 Asad, The Idea of an Anthropology of Islam, 17. Quoted in Anjum, “Islam as a Discursive Tradition,” 8. Here tensions begin to appear within MacIntyre’s own thesis. While MacIntyre insists there is “no neutral standing ground” independent of a tradition and that “no way of conducting rational enquiry from a standpoint independent of the particularities of any tradition has been discovered” he maintains that “there is no inconsistency in making universal claims from the standpoint of a tradition.” Alasdair MacIntyre, “Establishing a Tradition of Practical Rationality,” in The MacIntyre Reader, ed. Kelvin Knight (Notre Dame, IN: University of Notre Dame Press, 1998), 103–52 (5-6). While further discussion of this tension is outside the bounds of this thesis, for a detailed investigation of the seeming relativism in MacIntyre’s work, and the proposal for a solution, see Jennifer A. Herdt, “Alasdair MacIntyre’s ‘Rationality of Traditions’ and Tradition-Transcendental Standards of Justification,” The Journal of Religion 78, no. 4 (1998): 524–46.

argument that al-Qaradawi’s efforts in the field of tajdid al-fiqh must pay attention to these networks and their translocal Qatari context. The conceptual framework underpinning this thesis was then introduced, moving in some detail through Foucault’s understanding of power, as well as the social production of knowledge. This was important because al-Qaradawi is understood as “producing” a now-professionalized branch of knowledge, fiqh, and this thesis is in turn “producing” knowledge of that effort. As such, Edward Said’s original attack against “Orientalism,” while polemical and with certain failings, should be taken seriously, engaged with, and theorized, as Hallaq was seen to argue. With that point in mind, and because many of the terms used in this thesis, such as “modernity,” “tradition,” “discourse” etc., are commonly cited with little critical reflection as to their meaning, this introduction also detailed how these terms and their other attendant concepts are going to be understood for the remainder of this thesis. Asad’s conception of a discursive tradition has been so influential, and is now so fashionable, that it was similarly necessary to unpack certain issues that have begun to emerge since its original inception. Schielke’s insights are particularly noteworthy, traditions are not hermetically sealed, and contemporaneous developments in any tradition can never be entirely original and the results of any interpretative processes will be a novel combination of multiple discursive traditions, even though the power-relations between them may be unequal.

With this framework now established, Chapter 1 will begin by first introducing how “reform” was conceptualised by al-Qaradawi’s predecessors, chiefly ‘Abduh and Rida. It will then introduce al-Qaradawi’s own biography, and describe his humble beginnings in a poor village in the Egyptian Nile Delta, his studies in al-Azhar and joining of the Muslim Brotherhood, his travel to Qatar and the subsequent social construction of his position as an ‘alim of world standing.

---

82 It is a key part of Hallaq’s arguments that analyses of fiqh as a professionalized branch of knowledge, like psychiatry in Foucault’s famous discussion, is only possible in the wake of the modern nation-state’s emergence. Hallaq, The Impossible State; idem, Sharīʿa: Theory, Practice, Transformations (Cambridge: Cambridge University Press, 2009); idem, “Can the Shariʿa be Restored?”.
1. Tajdīd in Context: A Conceptual and Bibliographic Introduction to Yusuf al-Qaradawi and his Predecessors

This first chapter will do two things. First it will provide a historical introduction to the conceptualisation of “reform” (iṣlāḥ) and “renewal” (tajdīd)\(^{83}\) in the thought of Muhammad ‘Abduh (d.1905) and Rashid Rida (d.1935). This is important because it is the legacy of these two scholars that al-Qaradawi lays claim to, building upon and developing many of their original innovations in his writings. This first section will then lead on to a biographical introduction to al-Qaradawi’s early life and bibliography. It will also details his approach to many key concepts that will be referred back to often in the thesis, most notably that of ijtihād and maṣlaḥa. The key historical development underpinning this chapter is the emergence of the colonial and then post-colonial nation state, with all its various institutions, technologies and practices. The effect this had upon understandings of Islam, and the ‘ulamāʾ’s place as articulators of a fiqh tradition was transformative. Following in the wake of Jamal al-Din al-Afghani (d.1897), ‘Abduh and Rida’s attempts to render the fiqh tradition and its concepts amenable to, and utilizable by, the institutions of the nation state will be this chapter’s first port of call.

The following section will then recall Timothy Fitzgerald and his peers’ arguments that the category of “religion” and its attendant concepts are neither universal nor self-evident, but are constructs with a particular history. It will be argued that modernity’s “fragmentation of knowledge” into separate, uncommunicating spheres (economics, law, politics etc.) effected a profound change upon how the ‘ulamāʾ (including al-Qaradawi) understood their own place and role in society. They will be seen to reinvent themselves as “a moral religious body” that was itself shaped by these expanding, “secular” spheres of knowledge, which their own newly conceptualised,

specialized sphere of “religious” knowledge then sought to inform from outside. With that point in mind it will be argued that, rather than an obsolete scholarly elite sliding further into irrelevance as the early secondary literature maintained, the 'ulamā’’s reinvention of themselves and their role led them to enjoy a marked revival in their fortunes in recent decades. This development has seen them become “moral watchdogs” and articulators of a reshaped moral-ethical tradition that is expected to comment upon everything. This change coincides with the emergence of the public sphere, a development that is presupposed in much of al-Qaradawi’s earlier work, as will be seen.

Changes of this nature can also be seen in the development of the Muslim Brotherhood, and Hasan al-Banna’s articulation of the “comprehensiveness (shumāliyya)” of Islam. Coinciding with this development, multiple understandings of the 'ulamā’ will emerge, with the Brotherhood and their sympathizers criticizing the 'ulamā’’s changing relationship with the nation state’s institutions as rendering them little more than agents of the regime ('ulamā’ al-sulṭa wa-'umalā’ al-shurṭa). This particular understanding of the 'ulamā’ was then later adopted by Western scholarship.84

Overlapping all these developments is the life of Yusuf al-Qaradawi. The second half of this chapter will introduce this figure’s biography to the reader in some detail, his early life in a poor village in the Nile Delta, his studying at al-Azhar and joining of the Muslim Brotherhood, as well as his later journey to Qatar and the establishment of his links to the Qatari state. It will be argued that it was Qatar’s subsequent role in helping to produce him as the leading 'ālim of his day and “Global Mufti” through the founding of al-Jazeera and other forms of support that has been of far greater consequence than his individual aptitude as a scholar.

85 This nick name was originally coined by Jakob Skovgaard-Peterson and, in using this term for the title of their edited volume, Bettina Gräf and Jakob Skovgaard-Peterson describe al-Qaradawi as “easily one of the most admired and best-known representatives of Sunni Islam today. Indeed, it is difficult to identify any other Muslim scholar or activist who could be said to rival his status and authority, at least in the [Arabic]-speaking world.” Bettina Gräf and Jakob Skovgaard-Peterson, “Introduction,” in Global Mufti: The Phenomenon of Yusuf Al-Qaradawi, ed. Bettina Gräf and Jakob Skovgaard-Peterson (London: C. Hurst & Co., 2008), 1. The volume includes Gräf’s own detailed review of the secondary literature in English, German, French and Arabic that had been published up to that date, a useful source for part of this thesis’s own review. See also Jakob Skovgaard-Peterson, “The Global Mufti,” in Globalization and
Renewing *fiqh* within the Nation State

This thesis is concerned with *tajdīd al-*fiqh and, while detailed discussions of the place the State has in al-Qaradawi’s discourse do not occur until the fourth and fifth chapters, the effects of the Nation State’s emergence in the region and on the *fiqh* tradition have been so pervasive and profound that it forms the underlying context to all *tajdīd al-*fiqh debates. A thorough discussion of this historical impact is therefore needed to provide a context for the remaining chapters, as will become apparent below. According to the prevailing narrative in the academic literature, the colonial and subsequent postcolonial periods were ones of profound uncertainty and change for the Arab ‘ulamā’. Their local contexts, often a region in a decentralized Ottoman Empire, were transformed by the creation of centralising nation states and their new technologies and discourses. Nationalism was the most notable and transformative of these. From Morocco, to Egypt, and within the Ottoman Empire new administrative centres began instituting state systems of education, governance and bureaucracy, often evoking models presented by France or Britain. Consequently, the ‘ulamā’ who had supervised education through their various networks of *kuttābs* and *madrasas* became marginalized, and poorly-equipped to compete with these new graduates from state-run schools for positions in their new states’ bureaucracies.86

The increasing marginalisation of the ‘ulamā’ with the emergence of this dual education system was mirrored by the shrinking of their legal roles and jurisdiction, with

---

many of their adjudicating and administrative powers similarly taken over by the state.\(^{87}\) In many instances, a dual legal system similarly emerged, with commercial law and disputes between Muslims and non-Muslims now falling under the jurisdiction of a legal code based on foreign law.\(^{88}\) The state also appropriated the system of pious endowments (awqāf), the major source of the 'ulamā’\(^{89}\)’s income. A view prevalent among earlier studies such as those in Nikki Keddie’s landmark volume *Scholars, Saints, and Sufis* was that of “modernization theory.” This understood a declining role of monotheistic faiths’ “clergyman” as a necessary and inevitable part of colonial and then post-colonial states’ development.\(^{90}\)

The culmination of this state-centralising trend in the Ottoman Empire was the 1877 codification of a civil code. This code lay claim to be based on the Sharia and was known as the *Mejelle*. The code was created with the aim of being an accessible handbook that could then be utilised by all the Empire’s courts in all its regions and for all its subjects. This was an attempt to make more efficient the often lengthy process of juridical deliberations of the uncodified *fiqh* tradition that had operated primarily on a


case-by-case basis. Similar processes were witnessed in French Algeria, British India, Dutch Indonesia and other colonised territories. Under these broad conditions, with all their contextual variations, “the very craft of the ‘ulamā’ was transformed. From being trained in applying a methodology, they would now in practice be applying a code.”

It was in the effort to render the fiqh tradition amenable to the new demands of statutory law that ‘Abduh and Rida would commence their well-documented efforts at reform. This effort required multiple innovations: expanding and developing the practice of finding new rulings through a selection and “patching” together from the classical legal schools’ own juridical precedents (takhayyr wa-talfiq), broadening the principle of siyāsa sharʿiyya to allow the ruler to introduce new rulings quickly when deemed necessary, as well as positivizing ethical principles in a statutory family law with a view to banning polygamy and other practices considered unsuitable. All these efforts and more were engendered under their broad call to “re-open the gates of ijtihād” that had supposedly been closed long before, and overturn the deference to past consensuses (ijmāʿ āt) and do away with the practice of taqlīd that they understood to be little more than unthinking imitation of the fiqh tradition’s historical precedents and predecessors. This emphasis on a new independent reasoning (ijtihād) would be then

---


92 Skovgaard-Peterson, Defining Islam, 64.


94 Haj, Reconfiguring Islamic Tradition, 127–43.

institutionalized to enable the ‘ulamā’ to come to new authoritative consensuses on key issues quickly and efficiently, as required by a functioning nation state.96

In their call for a new, “progressive” ijtihād in place of a “backward” taqlīd ‘Abduh, Rida and their supporters were no longer using these concepts as technical terms of fiqh.97 Instead, as detailed in the introduction, these terms become the watchwords of their “modernity,” with ijtihād’s standing for progress requiring taqlīd being understood as backwardness.98 Similarly, the once quite marginal and technical principle in the classical tradition of al-mašlaḥa al-mursala, the attempt at ascertaining the good of the community or public welfare in situations where there are no relatable written proofs (dalāla) or earlier consensuses99 becomes far broader and more sweeping, best rendered as a call to the “common good” or the “public welfare.”100 Building upon an earlier classical distinction between the immutable acts of worship (ʿibādāt) and the mutable regulations of interpersonal transactions (muʿāmalāt), the realm of the latter was markedly expanded, incorporated into the realm of a broadened mašlaḥa whose utilitarian possibilities had been made autonomous “in the hope that it would stand on its own as a legal theory and philosophy.”101

Scholars in the Western academy offer varying judgements over whether or not this transformation of the Sharia from a “jurists’ law” (discovered by the interpretative

97 Skovgaard-Peterson, Defining Islam, 67.
processes of the *fiqh* tradition and the ‘ulamāʾ) to a codified, statutory law was evidence of the tradition’s capacity for change or a mark of its dismemberment. For Aharon Layish, not only had these attempts “failed, but they contributed, albeit unintentionally, to the disintegration of traditional legal theory, on the one hand, and to the preparation of the ground for statutory codification of the Sharia, on the other.” There is a problem in the making of many of these assessments however, which often goes unacknowledged. This is that all these accounts (bar Hallaq’s) that purport to evaluate the contortions of the *fiqh* tradition into the structures of the nation state are either implicitly or explicitly measuring the results of that process against the liberal tradition. ‘Abduh and Rida’s efforts were therefore by definition always found wanting on the basis that whatever the position of the contemporary liberal tradition (which itself had created the nation state) happened to be regarding a particular issue at a particular time always formed the benchmark against which the *fiqh* tradition’s manipulations into the structures of the nation state are then measured. This measuring is not necessarily articulated explicitly, but results from an observer’s own “narrative standpoint” within their own liberal tradition, as Alasdair MacIntyre was seen to argue in the introduction.

---


It was at al-Azhar that ʿAbduh, Rida and their supporters hoped these reforms would be institutionalized. By all accounts these attempts failed,\(^{107}\) with the narrative that al-Azhar refused to “modernize” also conveniently providing the justification for Gamal Abdel Nasser to nationalize the institution, which he did in 1961.\(^{108}\) The effects of this move appear to not be those that were anticipated however. That it served to enforce a new subservience and quietism in the face of the regime has now been argued by Meir Hatina to have been a Muslim Brotherhood narrative that was later adopted by Western academia.\(^{109}\) This narrative also led to new definitions of who the ʿulamāʾ were. These were broader, with an anti-establishment intent. The Sudanese Brotherhood scholar Hasan al-Turabi wrote:

What do I mean by ʿulamāʾ? The word, historically, has come to mean those versed in the legacy of religious (revealed) knowledge (ʿilm). However, ʿilm does not mean that alone. It means anyone who knows anything well enough to relate it to God. Because all knowledge is divine and religious, a chemist, an engineer, an economist, or a jurist are all ʿulamāʾ. So, the ʿulamāʾ in this broad sense, whether they are social or natural scientists, public leaders, or philosophers, should enlighten society.\(^{110}\)

Paradoxically, nationalization of the institution is now argued to have paved the way for the ʿulamāʾ’s later resurgence as powerful voices in the public sphere. The concept of public sphere is important in this regard, for it explains that a common discourse and shared means of communication are necessary to affect public opinion and challenge the state’s definition of the common good. The enforced educational reforms, and subsequent opportunities to expand the al-Azhar bureaucracy when the state required further Islamic legitimation through their fatwas, and their subsequent adoption of new media technologies are now understood as facilitating this development. It gave the


‘ulamā’ all the tools they needed to communicate their vision of maṣlaḥa with the lay public through a shared language and concepts.111

These developments led Muhammad Qasim Zaman to argue most significantly for a re-appraisal of the ‘ulamā’’s standing on this basis. As Zaman put it, “it is precisely their [the ‘ulamā’’s] claims to authoritatively represent an ‘authentic’ Islamic tradition in its richness, depth and continuity that may have become the most significant basis of their new prominence in the public sphere,”112 a public sphere in which they intervene in the name of maṣlaḥa. What many of the studies cited above have missed however is that this tradition that was being articulated and defended was being understood very differently, and was the result of more than just the methodological renovations detailed by ’Abduh and Rida.

In their critiques of the liberal tradition, and the nation state of which it is an inherent part, Alasdair MacIntyre and Wael Hallaq emphasise that it is the secular “fragmentation of knowledge” into distinct, uncommunicating, and “non-religious” spheres of law, economics, politics etc., along with these spheres’ detachment from moral-ethical knowledge (the Enlightenment’s famous separation of the “is” from the “ought”) that was the most destructive development.113 In the context of this chapter, this process plays a formative role in establishing how this “Islamic tradition” that the ‘ulamā’ are considered to be defenders of in the contemporary public sphere is actually understood by them. While the ‘ulamā’’s opinions and interventions on behalf of the

112 Zaman, The Ulama in Contemporary Islam, 180.
maṣlaḥa were not recognized univocally by all Muslims as being authoritative, what became clear was that they were expected to have an opinion on every novel situation.\textsuperscript{114} Abdulkader Tayob argues that this is evidence of a significant change in how the tradition and the ‘ulamā’ s role was being understood, and this is important as it will help explain al-Qaradawi’s own understanding of his place and role in Arab society, as well as many of the motifs and concepts he employs in his writing. Bearing in the mind the fragmentation of knowledge and the expansion of the non-religious spheres of knowledge in the region, Tayob explains:

The formation of the nation state, globalization and mercantile capitalism has forced them [the ‘ulamā’] to change their role and services in Muslim societies […] The Azhar reinvented itself as a moral religious body in relation to the secular sectors in which it has refused to participate or, more correctly, in which it has been unable to lead effectively. While the ‘secular’ domains were expanding, the religious domain was shaped as a moral watchdog over all areas, or a specialist organization teaching a body of knowledge called religion.\textsuperscript{115}

Significantly, this process of fragmentation is recognised implicitly by the founder of the Muslim Brotherhood Hasan al-Banna, in his articulation of the “comprehensiveness (shumūliyya) of Islam:

Islam is a comprehensive system which deals with all spheres of life. It is a state and a homeland (or a government and a nation). It is morality and power (or mercy and justice). It is culture and a law (or knowledge and jurisprudence). It is material and wealth (or gain and prosperity). It is an endeavour and a call (or an army and a cause). And finally, it is true belief and worship.\textsuperscript{116}

Here Tayob notes that al-Banna, on the basis of arguing for the necessary unification of these “spheres of life” under a general rubric of Islam as religion, is recognising the process of fragmentation that is occurring in his own context. Al-Banna’s argument that Islam can unify these fragmented spheres is in keeping with al-Azhar’s own

\textsuperscript{114} Skovgaard-Peterson, Defining Islam.
“reinvention” of itself as a “moral-religious body.” It also evidences an emerging view of Islam as something akin to the secular’s oppositional concept of “religion,” whereby Islam is posited as a moral entity distinct from the non-religious spheres, but with the ability and necessity to ethically-adjudicate and morally-intervene in them.\(^\text{117}\)

As a key figure among those whom Malika Zeghal termed the “peripheral ‘ulamā’,” those scholars of al-Azhar who eschewed a position in the institution’s hierarchy in favour of grassroots organisations such as the Muslim Brotherhood,\(^\text{118}\) al-Qaradawi’s biography has been affected by all of the developments and trends detailed above. It is to this biography that the chapter now turns.

**Producing a “Global Mufti”: The Rise of Yusuf al-Qaradawi**

Born in 1926, al-Qaradawi spent his first years growing up in Egypt’s Nile Delta, in the agricultural village of Saft al-Turab. He was raised by his uncle after his father died while al-Qaradawi was still very young. His scholarly aptitude and bookishness was apparently recognized even at that time, with the community endearingly nick-naming the young man “Shaykh Yusuf,”\(^\text{119}\) a term of affection used by his colleagues and students to this day.\(^\text{120}\)

Having memorized the Qur’an by heart aged just nine, becoming a scholar of al-Azhar seemed a natural childhood dream, and al-Qaradawi himself recalls, “I used to attend the lectures of the ‘ulamā’ and Shaykhs in our village. I loved them and realized that everyone loves them and admires them […] For me, then, al-Azhar was the bastion of religion and science.”\(^\text{121}\) It was while pursuing this aspiration at one of al-Azhar’s regional colleges in Tanta that the young al-Qaradawi first heard Hasan al-Banna preaching. He was immediately impressed (“I can still recall the words

\(^{117}\) Ibid.

\(^{118}\) Zeghal, “Religion and Politics in Egypt,” 2.


\(^{120}\) This is the author’s own observation based on interviews and time spent among al-Qaradawi’s students, colleagues, and personal staff.

he [al-Banna] spoke that day, they were original, focused, structured, useful, in contrast to so many sermons and preachers I have heard since,”) and joined the movement as soon as the opportunity arose.

Jakob Skovgaard-Petersen has observed that al-Qaradawi’s status as a graduate and ʿālim of al-Azhar appear an integral part of his own identity, clearly evidenced from his style of dress and manner, he would always remain close to the Brotherhood however, and quickly founded an organisation for the Brotherhood’s Azhari student-members shortly after his own acceptance there in 1946. As both a graduate of al-Azhar and member of the Brotherhood, al-Qaradawi was extremely useful to the latter as an academic expert in matters of fiqh. It was argued above that the fiqh tradition was coming to be understood by both al-Azhar and the Brotherhood as a specialized sphere of knowledge detailing moral guidance. With that in mind it was at the request of the Brotherhood’s then General Guide Hasan al-Hudaybi (d.1973) that al-Qaradawi would author one of the first works of moral instruction written specifically for a lay readership, *The Lawful and the Prohibited in Islam* (*al-Ḥalāl waʾl-Ḥarām fīʾl-Islām*) in 1960. While heavily criticised in more conservative quarters for its perceived liberality with regards to music for example (see Chapter 2), particularly among those based in Saudi Arabia, the book has proved to be hugely popular and saw the beginnings of al-Qaradawi’s own emphasis on the “ease (yuṣr)” of leading a Muslim life, as well as his first interest in the position of Muslim minorities.

At a similar time, al-Qaradawi began to write extensively in defence of the Brotherhood’s project against critiques coming from primarily Egyptian socialist quarters, in his four-book series *The Inevitability of the Islamic Solution* (*Ḥatmiyyat al-

---

125 See also idem, *Fiqh al-Ghināʾ waʾl-Maṣūqā fī Dawʾ al-Qurʾān waʾl-Sunna* (Cairo: Maktabat Wahba, 2001).
al-Qaradawi was also closely involved in al-Hudaybi’s efforts to move the Brotherhood away from the then violent streams that were associated with the writings of Sayyid Qutb, and it is most likely that al-Qaradawi and his colleague and Shaykh Muhammad al-Ghazali were the *fiqh* experts who wrote the significant Brotherhood publication *Preachers Not Judges (Duʿāt lā Quḍāt)*, a work published under al-Hudaybi’s name in 1977 (with the manuscript completed in 1969) but widely thought to have not been authored by al-Hudaybi. During this period Egypt saw multiple clampdowns on the Brotherhood’s activities, with its members being rounded up and imprisoned a common occurrence. The lasting experience of repression and imprisonment as a young man was a formative one for al-Qaradawi, and the themes of ordeal and perseverance (*ṣabr*) in the face of oppression inform the titles of two of his books. During his first period of imprisonment he would author two works that would become important pieces of Brotherhood literature, a play entitled *A Scholar and A Tyrant (ʿĀlim wa-Ṭāghīyya)* and his famous poem *My Cell (Zinzānātī)*.

Like many in the Brotherhood leadership, al-Qaradawi would be imprisoned a total of five times and ultimately, it was decided that it would be safer for him to leave

---


129 Ibid., 65. See also Hasan al-Hudaybi, *Duʿāt lā Quḍāt* (Cairo: Dār al-Ṭābāʾa waʾl-Nashr al-Islāmīyya, 1977). It was Husam Tammam’s belief that al-Qaradawi “was greatly effective in protecting the Brothers’ ranks from this phenomenon [of violent extremism] which for two decades marred the Islamist movements.” Tammam, *Yūsuf al-Qaraḍāwī and the Muslim Brothers*, 7. See also Yūsuf al-Qaraḍāwī, *Zāhirat al-Ghulūw fīʾl-Taʾkīr* (Cairo: Dār al-ʿīṭām, n.d.). idem, “Mulāḥaṣṣāt wa-Taʿībāt al-ʿĀrāʾ al-Shahād Sayyid Ḏuḥ,” *al-Shaʾb*, November 11, 18, 25 (1986). It is these so-called “taʾkīrī” groups, or “callers to a war against the world (duʿāt al-ḥarb ʿalā al-ʿālam)” that are al-Qaradawi’s key audience in his later, *Fiqh al-Jihād: Dirāsatu Mūṭaṣarrāni li-Iḥkāmīhi wa-Falṣafatihi fī Daw ʿal-Qurʾān wa-l-Sunnah, 2nd ed.*, 2 vols. (Cairo: Maktabat Wahba, 2010).


131 Tammam describes this poem, along with those of his two collections of poems *Naṣḥāt wa-Lafahāt* and *al-Musālimūn Qādimūn* as being “like fuel to the Islamist Movement youth, inspiring revolution, the desire to be free of oppression and the meaning of sacrifice for their umma.” Tammam, “Yūsuf al-Qaraḍāwī and the Muslim Brothers,” 10–11.
Egypt. Qatar, a quiet backwater and British Protectorate, was attempting to establish institutions for Islamic education and so in 1961 it was decided that he would travel there as an Azhari “loanee” (muʿāran). It was his first time on an aeroplane. On his arrival al-Qaradawi would assume the directorship of the Qatar Education Ministry’s first institute of Islamic instruction (maʿhad dīnī) that had been founded only one year previously. In contrast then to the formidable institutions and scholarly establishments that the Saudi Arabian regime would be forced to negotiate with, or attempt to co-opt and nationalize as in the Egyptian case under Nasser, in Qatar there was no pre-existing establishment or institutions. To the young al-Qaradawi this represented a unique opportunity to implement the educational reforms that he and others had been encouraging at al-Azhar. In al-Qaradawi’s memoirs he relates his attempts to design the maʿhad’s curriculum along the lines that the noted reformist Mustafa al-Maraghi had envisioned for al-Azhar, steering it away from its sole focus on Hanbali fiqh and the Islamic sciences of rhetoric, grammar and morphology (balāgha, nahḥ, ṣarf) to instead include an emphasis on foreign languages, science and mathematics. These, al-Qaradawi argued were necessary to render a would-be ʿālim better equipped to engage

132 Recalling his first release from prison in 1949 al-Qaradawi writes, “I can still remember the day I left the prison in Tur, we went to Tanta, they took us to the police station where they made us swear to cease our activities and our daʿwa, but that was impossible. When we went back to our village and the people came out to greet us […] I sat and spoke with them about the Brotherhood, what they had done, how they had turned the prison into a mosque and a school […] and they asked me, ‘why are you still talking about all this?’ They were thinking that if we had been released from prison then we had been silenced, because we would have learned our cruel lesson, but they were surprised to see that we had only increased in strength. God be praised.” al-Qaradāwī, al-Miḥna; idem, Ibn al-Qarya waʾl-Kuttāb: Sīra wa-Māsīra, vol. 2 (Cairo: Dār al-Shurūq, 2004), 203.


134 Zeghal, “Religion and Politics in Egypt.”

135 In his doctoral dissertation examining Qatari Islamic institutions, Hamed A. Hamed paints a truly dire picture of the quality of local Qatari Imams during that period, “until the late fifties of this century, preachers in Qatar were not qualified to perform the duties expected of them. By and large the majority were only able to read and write and therefore lacked the ability to address topics pertaining to problems of Qatari society […] For their Friday sermons, they depended solely on an old book [that contained] fifty-two sermons (khujāb), equal to the number of weeks in the year.” Hamed A. Hamed, “Islamic Religion in Qatar During the Twentieth Century: Personnel and Institutions” (Doctoral Thesis, Manchester University, 1993), 120. al-Qaradāwī, Ibn al-Qarya waʾl-Kuttāb, 2004, 2:333–51. Yusuf al-ʿAbd Allāh, Taʾrīkh al-Taʿlīm fiʾl-Khalīj al-ʿArabī 1913-1971 (Doha: n.p., 2003), 305–80. Mujāhid Khalāf, al-Qaraḍāwī bayna al-Ikhwān waʾl-Ṣuḥān (Cairo: Dār al-Jumhūriyya liʾl-Šīḥāf, 2008), 213–39.

136 In 1952, before Nasser’s reforms of 1961, al-Qaradawi made his own efforts to reform the al-Azhar curriculum, forming student committees, arranging meetings with senior Shaykhs and enjoying the support of the then Shaykh al-Azhar Muhammad al-Khadir Husayn (d.1958). al-Qaraḍāwī, Risālat al-Azhar.
with the challenges of the modern day by gaining what al-Qaradawi termed “a deep and true understanding of the social reality (fiqh al-wāqiʿ).” In this concept al-Qaradawi can be seen to be presupposing the necessity of shared means of communication in order to intervene in the public sphere in the name of maṣlaḥa. Portraying himself as the dynamic young reformer in the mould of his predecessors, in his memoirs al-Qaradawi makes much of the obstacles he had to face, apathy among his students alongside criticisms from the establishment in neighbouring Saudi Arabia. A notable incident al-Qaradawi recalls was a meeting with the leading Saudi Arabian ʿālim Muhammad Ibn Ibrahim Al al-Shaykh. In criticising the young al-Qaradawi on his first visit to the Kingdom in 1963, al-Shaykh asks,

“So you think that students’ studying these modern sciences aids their study of the Islamic sciences?”

Al-Qardawi replied:

“But we are forced to do this, how can a student live isolated from his time […] your eminence knows that the indubitable Ibn al-Qayyim [al-Jawziyya] said ‘the true jurist is the one who marries the obligatory with reality.’”

During this time al-Qaradawi developed a close relationship with the current Emir’s great-grandfather, Ahmad b. ‘Ali Al Thani (d.1977), and he was granted Qatari citizenship in 1969. The Qatari royal family became a key supporter of al-Qaradawi, and he founded and then became Dean of Qatar University’s Sharia Faculty in 1977. They would also fund his trips across the world, at the invitation of primarily grassroots

---

137 Muhammad Ibn Ibrahim Al al-Shaykh (1893-1969) was one of the most influential Saudi ʿulamāʾ of the twentieth century, holding key positions such as Grand Mufti, Chief Qadi, President of the Islamic University of Medina and others. Most significant however, was his position as head of the new Dār al-Iftāʾ established in 1952. Muhammad al-Atawneh, Wahhabi Islam Facing the Challenges of Modernity: Dār al-Iftāʾ in the Modern Saudi State (Leiden: Brill, 2010), 6.


Brotherhood-affiliated organisations to Pakistan, Malaysia, Indonesia, Europe, North America and even as far afield as Japan and South Korea. He would return to al-Azhar from Qatar to defend his doctoral thesis, later published as a major work under the title *A Deep and True Understanding of Alms-Giving (Fiqh al-Zakāt).* Like his earlier works, what was noticeable in his thesis was his added attendance to the paying of zakāt’s ethical component and its moral purposes.

In the wake of his successful doctoral defence and rising reputation as a scholar, the Brotherhood would offer al-Qaradawi the post of General Guide in 1976. This period was the start of what is commonly termed “the Islamic Awakening (al-ṣaḥwa al-islāmiyya),” a trend of which al-Qaradawi was a “key representative” writing works such as the *Islamic Awakening between Ossification and Extremism (al-Ṣaḥwa al-Islāmiyya bayna ‘l-Jumūd wa’l-Taṭarruf)* and *Priorities of the Islamic Movement in the Coming Phase (Awlawiyyāt al-Ḥaraka al-Islāmiyya fi’l-Marḥala al-Qādima).* In refusing the Brotherhood’s offer, al-Qaradawi argued that he was better suited to scholarship and preaching (da’wa), more interested in attempting to guide what he saw as the wayward Arab youth toward a middle path between Islamic and secularist extremism, most notably with his book series *Guiding the Awakening (Silsilat Rasāʾ il Tarshīd al-Ṣaḥwa).* By 2006 al-Qaradawi had published fifteen volumes in this series.

---

140 Skovgaard-Petersen, “Yūsuf al-Qaraḍāwī and al-Azhar” 11.
141 Yūsuf al-Qaraḍāwī, *Fiqh al-Zakāt,* 2 vols. (Cairo: Muʾassasat al-Risāla, 1971). *Fiqh al-Zakāt* formed the basis of al-Qaradawi’s doctoral dissertation, which he defended in 1973. For al-Qaradawi the outcome never appears to have been in doubt, however, as one of his old teachers put it, “this was not a disputation, this was al-Qaradawi’s celebration.” Skovgaard-Petersen, “Yūsuf al-Qaraḍāwī and al-Azhar,” 11.
142 Maryam al-Hajari, a student of al-Qaradawi’s at Qatar’s Sharia Faculty who then went on to found the enormously popularly *IslamOnline.net,* recalls in an interview with Bettina Gräf the effect al-Qaradawi’s teaching and understanding of zakāt had on her, “How you suppose to dispose your knowledge. That was a new concept to me. Before I thought zakāt was only for money. So, I thought, I have got a lot of knowledge, I was a top student, so, what am I going to do with it [...] I thought about it a long time. Bettina Gräf, “IslamOnline.net: Independent, Interactive, Popular,” *Arab Media & Society,* 2008, 1–21.
Al-Qaradawi shared with Rida\textsuperscript{146} an anxiety over the morals and piety of the Arab youth and centrisim, or \textit{wasaṭiyya} becomes a key motif in al-Qaradawi’s writings.\textsuperscript{147} Often appearing alongside \textit{tayṣīr}, or making things easy for people, al-Qaradawi’s was making a strategic effort to disassociate and differentiate his “\textit{wasaṭī}” trend from the more conservative “\textit{salafī},” or more radical writings, aiming to counteract “secularist” critiques that failed to distinguish between these currents.\textsuperscript{148}

With an emphasis on \textit{maslaha}, al-Qaradawi details his own program for a renewed effort at \textit{ijtihād}, following the legacy of ‘Abduh and Rida. For al-Qaradawi, being faithful to the first Muslims’ pious example is not found through simple mimicry. Rather as the Shaykh al-Islam Ibn Taymiyya (d.1328) wrote,\textsuperscript{149} it is through continued renewal and progress in accordance with the famous hadith “truly every one hundred years God sends someone to this community to renew its religion.”\textsuperscript{150} In his handbook, \textit{Contemporary Ijtihād}, al-Qaradawi details that individuals’ \textit{ijtihād} is not only permissible (\textit{jā’iz}), but is in fact a duty (\textit{fard}) for Muslim society.\textsuperscript{151} Muslims should come to know the difference between the Shari‘a as divine and unchanging and \textit{fiqh} as


\textsuperscript{148} Gräf, “Media Fatwas”; idem, “The Concept of Wasatiyya in the Work of Yusuf al-Qaraḍāwī,” 9. While both groups aspire to follow the legacy of the first three generations of Muslims (\textit{al-salaf}), the two terms \textit{wasaf} and \textit{salafī} are now commonly used as a convenient shorthand in both Arabic and English writings to refer to relatively more flexible and inflexible interpretations of how to live a Muslim life.


\textsuperscript{150} The Arabic reads, “\textit{innā Allāh yāb ahu li-hāḍhīhi ‘l-umma ‘alā ra’ s kull mi‘at sana man yujiaddidu laḥā dīnāhā}.” For more on al-Qaradawi’s reading of this hadith see his \textit{Mīn Ajlī Şāhwa Rāshida: Tujaddid al-Dīn wa-Tanḥad bi l-Dunya} (Beirut: al-Maktab al-Islāmī, 1988), 9–27.

the human attempt at its understanding,\textsuperscript{152} and so not be bound by past positive rulings (\textit{aḥkām}) and be willing to overturn past authoritative consensuses if need be.\textsuperscript{153} This \textit{ijtihād} should make an eclectic selection from the tradition’s legacy (\textit{talfīq}, \textit{takhayyur}) and be both selective (\textit{intiqāʾī}) and creative (\textit{inshāʾī}) in its drawing from across the classical legal schools.\textsuperscript{154} This \textit{ijtihād} should only cease in the face of rulings that are clear and explicit (\textit{qaṭʿī}) and thereby maintain the equilibrium between “the fixed and the changing (\textit{al-thawābit wa’l-mutaghayyirāt}).”\textsuperscript{155} In coming to a true understanding of the reality (\textit{al-wāqiʿ}) the importance of knowledge produced by specialists, in the social, medicinal or natural sciences for example, in formulating new positions is also emphasized. Such research holds the status of partial \textit{ijtihād (ijtihād juzʿī)}, and so is a degree lower than the opinions of the ‘ulamā’.\textsuperscript{156} There are three levels to this \textit{ijtihād}: opinion, institutionalized academic research (\textit{baḥth}) as well as the statutory codification of laws at a parliamentary level (\textit{taqnīn}).\textsuperscript{157} Following ‘Abduh, Rida as well as al-Banna, al-Qaradawi argues that the Sharia should ultimately be codified by appropriately qualified ‘ulamā’, with the ruler being able to legislate where necessary in accordance with the principle of \textit{sīyāsa sharʿiyya}.\textsuperscript{158}

While Hallaq argues that it is a categorical mistake on behalf of al-Qaradawi and his peers to “assume the modern state to be a neutral tool of governance, one that can be harnessed according to the choices and dictates of its leaders,”\textsuperscript{159} for them it is only through appropriating state fiscal and institutional power that the \textit{maṣlaḥa} could be achieved.\textsuperscript{160} Al-Qaradawi’s writings in the 1990s, \textit{On a Deep True Understanding of the State in Islam (Min Fiqh al-Dawla fi ’l-Islām)} and \textit{Religious Minorities and the Islamic...

\textsuperscript{152} Polka, “The Centrist Stream in Egypt.” 6.
\textsuperscript{153} al-Qaraḍāwī, \textit{al-Ijtihād al-Mu`āṣir}, 128.
\textsuperscript{154} Idem, \textit{Kayfa Nataʾālamu ma` al-Turāth wa’l-Tamadhubb wa’l-Ikhtilāf} (Cairo: Maktabat Wahba, 2001).
\textsuperscript{156} Ibid., 50.
\textsuperscript{157} Ibid., 46.
\textsuperscript{159} Hallaq, \textit{The Impossible State}, 155.
Solution (al-Aqalliyyāt al-Dīniyya wa’l-Ḫall al-Islāmī) became key reference works behind this effort.\footnote{161} At this point in the mid-1990s al-Qaradawi appears an academic and intellectual of high regard, but his Doha location leaves him somewhat on the periphery of the region. At the same time, the growing accessibility of satellite television as well as mass education in the latter part of the twentieth century precipitates what Gudrun Krämer terms the “proliferation of authority.” In the public sphere then, alongside the ‘ulamā’ “Sufi shaykhs, engineers, professors of education, medical doctors, army and militia leaders, and others compete to speak for Islam.”\footnote{162} However, that is not to say that all the ‘ulamā’ lost out in this competition, for new forms of media and communication presented them too with the opportunity to reach directly a far larger audience than they ever had before. A key moment then in the rise of al-Qaradawi’s stature comes from his being among the first to spot the potential of these proliferating satellite television stations, Islamic programs, and later online social media.\footnote{163} Specifically it was with the founding of al-Jazeera in 1996 that al-Qaradawi would come to be referred to as “one of the most celebrated figures in the Arab world.”\footnote{164} In choosing those words, the prominent journalist Anthony Shadid (d. 2012) had particularly in mind al-Qaradawi’s regular guest-spot appearances on al-Jazeera’s popular talk show Sharia and Life (al-Sharīʿa wa’l-Ḥayāt),\footnote{165} which saw him addressing

\begin{footnotesize}
\begin{itemize}
\item\footnote{161}{Yūsuf al-Qaraḍāwī, Min Fiqḥ al-Dawla fi’l-Islām Makānātuhā. Maʿālimuhā. Ṭabīʿiyyatuhā: Mawqiʿfuhā min al-Dīnuqrāṭiyya wa’l-Taʾadduḍiyya wa’l-Maraʿa wa-Ghayr al-Muslmīn (Cairo: Dār al-Shurūq, 1997); idem, al-Aqalliyyāt al-Dīniyya wa’l-Ḫall al-Islāmī, Silsilat Rasāʾil Tarshīḥ al-Ṣaḥāba 7 (Cairo: Maktabah Wahba, 1996).}
\item\footnote{162}{Eickelman and Piscatori, Muslim Politics, 131.}
\item\footnote{163}{This was not solely an individual effort however, and Gräf argues that a prime factor in al-Qaradawi’s success in the field of new media was that he was “one of the first scholars to realize that the cooperation with journalists, editors, and producers of new media institutions would help to restore the influence of Muslim scholars in Muslim societies and worldwide.” Gräf, “Sheikh Yūsuf al-Qaraḍāwī in Cyberspace.”}
\item\footnote{165}{For critical discourse analyses of al-Qaradawi’s role on the program with regard to issues of gender and sexuality see Dabbous-Sensenig, “Speaking in His Name?”; Dabbous-Sensenig, “To Veil or Not to Veil in Internet Video.”}
\end{itemize}
\end{footnotesize}
up to thirty-five million viewers on an almost weekly basis. Clearly then, part of al-Qaradawi’s coming to be “produced” as an ‘ālim of global stature is due to far more than just individual scholarly aptitude, but also “such qualities as political connections and telegenic appeal,” as well as simply being in the right place at the right time.

It was not only through television that al-Qaradawi came to reach a far wider audience than ever before, but also through the internet. In her own recent work focusing more specifically on al-Qaradawi’s prominent internet presence and an anthropology of his online fatwas, Gräf has critiqued analyses of the popular Qaradawi.net and IslamOnline.net that approached them purely as part of a despatialized “Cyber Islamic Environment” and “Communauté virtuelle.” Both Gräf and


Galal, “Yūsuf al-Qaraḍāwī and the New Islamic TV,” 30 fn 4. During the present author’s own second interview with al-Qaradawi at his home in Doha on 6 February 2013, he appeared to attribute little importance to his appointment to Sharia and Life, though highlighting that it was at his suggestion that it included an interactive question and answer segment, tapping into what Henry Jenkins termed the emerging “participatory culture” in mediated communication. Yūsuf al-Qaraḍāwī, interview by David H. Warren, February 6, 2013; Henry Jenkins, Convergence Culture: Where Old and New Media Collide (New York, NY: New York University Press, 2006).


169 IslamOnline.net was founded in 1999 by Maryam al-Hajari and Hamid al-Ansari from Qatar University’s Sharia Faculty. It was supported by the al-Balāgh Council, also based in Qatar, and while it was not a personal website of al-Qaradawi’s as such, it made use of his name and stature and he was often involved in its projects. For more on IslamOnline.net and the circumstances surrounding its dramatic closure in March 2010 see Gräf, “Sheikh Yūsuf al-Qaraḍāwī in Cyberspace”; Gräf, “IslamOnline.net”; Ermete Mariani, “Youssef al-Qaraḍāwī: pouvoir médiatique, économique et symbolique,” in Mondialisation et nouveaux médias dans l’espace arabe, ed. Franck Mermier (Paris: Maisonneuve et Larose, 2003), 195–204; Mona Abdel-Fadil, “The Islam-Online Crisis: A Battle of Wasatiyya vs. Salafi Ideologies?,” CyberOrient 5, no. 1 (2011), http://www.cyberorient.net/article.do?articleId=6239; Mona Abdel-Fadil, “Islam Offline - Living ‘The Message’ behind the Screens,” Contemporary Islam: Dynamics of Muslim Life 7, no. 3 (2013): 283–309.

170 See for example Gary Bunt, iMuslims: Rewiring the House of Islam (Chapel Hill, NC: University of North Carolina Press, 2009); idem, Islam in the Digital Age: E-Jihad, Online Fatwas and Cyber Islamic
Ermete Mariani by contrast emphasise the importance of the physical infrastructure supporting al-Qaradawi’s online presence. In fact it is a further pursuit of the networks surrounding al-Qaradawi that has formed part of the rationale for this thesis’s emphasis on his relationship with his interlocutors as detailed in the following chapters.\footnote{Mariani, “Youssef al-Qaradāwī: pouvoir médiatique, économique et symbolique”; Gräf, “Sheikh Yūsuf al-Qaradāwī in Cyberspace.”}

The means by which an individual is rendered a subject to a discourse is a complex process that Louis Althusser termed “interpellation.” This literally involves the “hailing” of a subject who, in their “recognition” of being addressed by this “call” becomes situated within a particular discourse and becomes subject to it.\footnote{Louis Althusser, “Ideology and Ideological State Apparatuses (Notes towards and Investigation),” in Lenin and Philosophy and Other Essays, trans. Ben Brewster (New York, NY: Monthly Review Press, 1971), esp., 41–54. While Althusser was referring specifically to “ideology” rather than “discourse,” these two concepts often overlap. In an attempt to address this conceptual haziness, Purvis and Hunt provide a useful re-reading of Althusser’s work and provide a means for discourse to be usefully distinguished from ideology as well as a means to relate the concept of interpellation to discourse. Trevor Purvis and Alan Hunt, “Discourse, Ideology, Discourse, Ideology, Discourse, Ideology...,” The British Journal of Sociology 44, no. 3 (1993): 473–99 (10-13).}

Through his platform on al-Jazeera, al-Qaradawi was not only given the opportunity to comment upon seemingly all the pressing issues of the day: the plight of the Palestinians,\footnote{See also al-Qaradawi’s work, al-Quds: Qaḍiyyat Kull Muslim, vol. 10, Silsilāt Rasāʾil Tarshīḥ al-Ṣaḥāwa (Cairo: Maktabat Wahba, 2000).} the place of Muslim minorities in Europe,\footnote{Al-Qaradawi has played a leading role in attempting to conceptualise a new branch of Islamic law that aims to take into account the specific contexts in which Muslim minorities in Europe, North American and elsewhere, by “making easy and lightening the burden (taysīr wa-takhfīf)” of fiqh norms as they would be applied in a Muslim-majority context, known as fiqh al-aqalliyyāt. Yūsuf al-Qaradāwī, Fī Fiqh al-Aqalliyyāt al-Muslima: Ḥayāt al-Muslimīn Wāṣaṣ al-Muṣṭamaʿāt al-Ukhrā (Cairo: Dār al-Shurūq, 2001). For more on this topic see Alexandre Caeiro and Mahmoud al-Sairify, “Qaradāwī in Europe, Europe in Qaradāwī? The Global Mufti’s European Politics,” in Global Mufti: The Phenomenon of Yusuf al-Qaradawi, ed. Bettina Gräf and Jakob Skovgaard-Peterson (London: C. Hurst & Co., 2009), 109–48; Said F. Hassan, Fiqh al-Aqalliyyāt: History, Development, Progress (New York, NY: Palgrave MacMillan, 2013). Ôbrrecht, Islamisches Minderheitenrecht.}

9/11, and the subsequent wars in Afghanistan and Iraq.\footnote{In those instances while al-Qaradawi condemned the 9/11 attacks and issued a noted fatwa in favour of American Muslims serving in the army against the Taliban in Afghanistan, he was a leading voice in calling on Muslims to unite against the later invasion of Iraq in 2003. Basheer M. Nafi, “Fatwa and War:} This opportunity also facilitated his interpellation of a transnational Muslim

public,\textsuperscript{176} which significantly began to recognize itself as such (i.e. in the existence of a Muslim global community of which one was a member). In other words al-Qaradawi’s audience, in recognizing his addressing of a global Muslim community as referring to themselves, helped bring that transnational community into existence.\textsuperscript{177} Pierre Bourdieu’s concept of recognition is useful here:

The symbolic efficacy of words [here we might say al-Qaradawi’s words] is exercised only in so far as the person subjected to it recognizes the person who exercises it as authorised to do so, or, what amounts to the same thing, only in so far as he fails to realize that, in submitting to it, he himself has contributed, through his recognition, to its establishment.\textsuperscript{178}

“Recognition,” then, is a concept that is useful both for theorizing the interpellation of a transnational Muslim public, but also for approaching al-Qaradawi’s authority. That is, al-Qaradawi’s being recognized as possessing ‘ilm (sacred knowledge of the Sharia) and being an ‘ālim. As Bourdieu termed it, this recognition was in fact a “misrecognition,” because neither the actor in question (al-Qaradawi in this case) or the subject (the segments of the Arab public who consider him an authority) are aware of the deeper structures of power that were “producing” the situation (producing al-Qaradawi as, not just an scholar of the fiqh tradition, but an ‘ālim of global stature). As has been seen here, it is the support of the Qatari state, and al-Jazeera, which is the most significant of these structures. Though recognition was a more nuanced concept introduced in the place of “ideology,” Bourdieu’s approach has been criticised. This is because of the break it presupposes between the actor and their subjects (al-Qaradawi and his audience), as well as between the observer (the author) and the objects under study. It portrays those observed solely as naïve, “judgemental dopes,” rather than reflexive

\textsuperscript{176} See also Yusuf al-Qaraḍāwī, \textit{Khīṭābunā al-Īslāmī fī ‘Aṣr al-‘Awlama} (Cairo: Dār al-Shurūq, 2004).

\textsuperscript{177} In fact, during an interview with the author al-Qaradawi describes his “al-madrasa al-wasaṭiyya” as something akin to a transnational movement saying: “The movement focuses on what’s agreed upon, not what’s disputed, encompassing all Muslims, and working to enrich people in their lives by trying to make things easier not more difficult, drawing people to Islam rather than alienating them. These are not like fundamental principles (\textit{mabādī}), but what I mean is, after a time you found people benefitting from this, and becoming fond of me and my school.” Interview between the author and Yusuf al-Qaradawi (Doha, 6 February 2013).

agents.\textsuperscript{179} The response in the discipline of Critical Sociology was to specify that Bourdieu’s original, structural politics of recognition was referring to the “macropolitics” of recognition. At the same time, however, it was also important to pay attention to the “micropolitics” of recognition. This refers to actors’ (al-Qaradawi and his colleagues’) “everyday practices of justification and critique.”\textsuperscript{180} This growing awareness of taking individuals’ own arguments seriously is similar to the shift that occurred in the discipline of Anthropology where, Ovamir Anjum, following Talal Asad, argued that “it is the arguments and discourses of the thinking subjects with their specific styles of reasoning couched in their historical and material context that [should] become the focus.”\textsuperscript{181}

As far as the conceptual resources of the tradition are concerned, following Rida al-Qaradawi legitimated this increasing intervention in the public sphere through a markedly expanded understanding of \textit{maṣlaḥa} to the extent that it “coincide[d] with everything that facilitates life for human beings and guides them in social intercourse.”\textsuperscript{182} This conceptual expansion similarly impacted upon al-Qaradawi’s understanding of \textit{ifṭā’} (the formulation and issuance of fatwas), now broadened far beyond individual guidance offered to a specific petitioner. While not binding, a fatwa becomes the means “to Islamize, regulate, and incorporate in the legal corpus new developments occurring in the wider society”\textsuperscript{183} and a useful tool for al-Qaradawi to facilitate his efforts in doctrinal change, evangelism, or other social interventions. Since 1979 these fatwas have been intermittently collated into thematic chapters and published

\textsuperscript{181} Anjum, “Islam as a Discursive Tradition.” Italics in original.
as volumes in their own right under the title, *The Guidance of Islam: Contemporary Fatwas*.

The changing view of Islam as a moral-ethical guidance for societies’ fragmented spheres of knowledge is echoed by al-Qaradawi’s understanding of the mufti, as now a combination of “teacher, advisor, doctor and guide,”

who as Skovgaard-Petersen puts it aptly, “circumscribes the mental and moral universe of their day, always balancing around the boundaries of what is conceivable, legitimate and right.”

It was on all these varying bases that, by the time the Brotherhood asked al-Qaradawi to become General Guide for a second time in 2002, in his refusal he would claim that he was of greater use as an independent guide to the entire Muslim *umma*.

While al-Qaradawi has never held an explicitly juridical position within a Qatari state institution, Qatari support again supplied the crucial backing for the building of institutions to support the claim to such a lofty position. This support has ranged from backing the Dublin-registered European Council for Fatwa and Research (ECFR), funding for al-Qaradawi’s Doha-based RTQ and IUMS, along with providing the opportunity and access to all the various other charitable, Islamic financial or *da'wa* institutions that al-Qaradawi has been able to become involved with as a board member, Chairman and so on. While on IUMS’s founding in 2004 al-Qaradawi may well have

---


187 Tammam, “Yusuf al-Qaradawi and the Muslim Brothers” 18. Similarly when asked on Qatari national television, again in 2002, if he still maintained his childhood aspiration to be Shaykh of al-Azhar he said, “the Shaykh of al-Azhar does not have the ability to achieve the reform and renewal he desires by himself, he needs the support of the state, or at least its permission.” Yūsuf al-Qaraḍāwī, *Ibn al-Qarya wa’l-Kuttāb: Sīra wa-Maṣīra*, vol. 1 (Cairo: Dār al-Shurūq, 2002), 211.

188 These close links to Qatar are shared by his family too; his daughter Ilham is an internationally-recognised professor of nuclear physics at Qatar University, while his youngest son Usama works for the Qatari embassy in Cairo. Idem, 25 *Yunāyir Thawrat Sha’b: al-Shaykh al-Qaraḍāwī wa’l-Thawra al-Miṣriyya* (Cairo: Maktabat Wahba, 2012), 12.

appeared the ideal choice as the organisation’s leader, with Rashid al-Ghannushi (head of the Tunisian Ennahda party, b.1941) writing that al-Qaradawi’s positioning as the IUMS President was in recognition of his “[scholarly] integrity, attested to by the authoritative consensus of all the leading figures from all the legal schools and sects (ṭawāʾif) of the umma,”¹⁹⁰ the role of Qatar in producing al-Qaradawi as the seemingly natural selection should not be understated.

The membership of the IUMS is also noteworthy, as well as its definition of an ‘ālim. On the one hand al-Qaradawi defines the ‘ulamāʾ as those who are specialists in the Sharia, the link between heaven and earth and “inheritors of prophets,” who are to form the wise leadership of the grassroots Islamic revival.¹⁹¹ At the same time however, al-Qaradawi’s Chairmanship of the IUMS makes him and his staff the gatekeepers to a financially well-endowed organisation.¹⁹² The IUMS and RTQ’s membership of a very diverse group, their definition of who the ‘ulamāʾ are is very broad and not limited to graduates of Islamic institutions. The IUMS’s membership ranges from: Jalal al-Din al-Haqqani (a militia leader in the Afghan resistance against the Soviets), Muhammad ‘Ali al-Taskhiri (a leading Shiʿi originally from Najaf who since held high positions within the Iranian government), Muhammad Husayn Fadl Allah (the leading Shiʿi scholar in Lebanon until his death in 2010), Muhammad Taqi ‘Uthmani (from Karachi’s Dār al-‘Ulūm) as well leading journalists and lawyers from al-Qaradawi’s native Egypt such as Fahmi Huwaydi and Muhammad Salim al-ʿAwwa.¹⁹³ Zaman puts this notable diversity of membership down to al-Qaradawi’s celebration of what Rida termed the “golden rule,” whereby cooperation upon matters of agreement should be the focus, with areas of disagreement put to one side whenever possible.¹⁹⁴

---

¹⁹² At the author’s own attendance at the RTQ’s last meeting in February 2014, all the attendees’ expenses were paid in cash with large wads of Qatari Riyals.
¹⁹³ Zaman, Modern Islamic Thought, 153–4.
¹⁹⁴ As Rida put it, “we cooperate [with fellow Muslims] on the basis of what we agree on and we exercise forbearance where we disagree.” See al-Qaraḍāwī, Kayfa Nataʾāmal maʿa ’l-Turāth waʾl-Tanadzhub waʾl-Ikhilāf?, 177; idem, Min Hadiʾl-Islām: Fatāwā Muʾāṣira, vol. 2 (Kuwait: Dār al-Qalam liʾl-Nashr
For al-Qaradawi, the transnational Muslim community that he has addressed through al-Jazeera is an embattled one, with the preserving of unity in the face of both military and cultural “attack” an important necessity.\textsuperscript{195} As broad as the intellectual differences and backgrounds of IUMS’s members might be, with the marked diversity noted above comes the exclusion of other prominent Muslim intellectuals and ‘ulamā’. Particularly noticeable by their absence was the Syrian ‘ālim Said Ramadan al-Buti (d.2013) or other high profile intellectuals such as the Syrian Muhammad Shahrur (b.1938), the Algerian Muhammad Arkoun (d.2010) or the Egyptian Nasr Abu Zayd (d.2010) who was famously accused of apostasy and fled Egypt in 1995 after being forcibly divorced from his wife.\textsuperscript{196} As such, for all al-Qaradawi’s emphases on the importance of respect for diversity and the plurality of opinions, a divide exists between acceptable and unacceptable diversity. Zaman argues that this “real divide” is between those “committed to the totality and nonnegotiability of Islamic norms” and those whom al-Qaradawi considers as seeking the subversion of these norms (“the constants of the community”), those he primarily terms “secularists (‘almāniyyūn)” and “modernists (ḥadāthiyyūn)” (see Chapter 3).\textsuperscript{197} There is much more to be said and argued however about the actual dynamics of the conceptual exchanges between al-Qaradawi and the members of diverse groups such as the IUMS, the RTQ, and within the Doha context as a whole. The impacts members of these groups have had on al-Qaradawi’s own writings are to taken up in this thesis’s third and fourth chapters in particular.

Conclusion

In drawing this chapter to a close, it has been argued that the fiqh tradition as articulated by the ‘ulamā’, whether from al-Azhar or those close to the Brotherhood, is envisaged as a form of moral-ethical guidance that, while outside the other fragmented spheres of


\textsuperscript{196} Al-Qaradawi’s relationship with Arkoun and Abu Zayd is discussed in Chapter 3, with al-Buti in Chapter 5.

\textsuperscript{197} Zaman, Modern Islamic Thought, 153–6. Italics in original.
modern life, politics, economics etc., is expected to comment on all of them. Rather than being marginalized, the Egyptian state’s need (most notably) for al-Azhar to provide an added legitimacy in times of crises facilitated the bureaucratic expansion and communication with the lay public. It is on that basis, combined with ‘Abduh and Rida’s development and expansion of the concept of *maṣlaḥa* that the *ʿulamāʾ* came to a new and different prominence in Arab societies in the wake of the Islamic Awakening from the 1970s onwards.

From his humble beginnings in the Nile Delta, al-Qaradawi has been seen to rise to a particularly lofty position. It has been argued here that this was not based solely on his individual scholarly aptitude, but also support from both the Brotherhood and the Qatari royal family. Having dedicated this first chapter to providing a detailed introduction to both al-Qaradawi and the reformist legacy and context he is situated in, the next chapters will now move to consider the variegated dynamics of his own efforts at renewing the *fiqh* tradition. The second chapter will discuss al-Qaradawi’s writings on the Prophetic Sunna and its place in the *fiqh* tradition, specifically highlighting his reconstruction of the thought of his predecessor and Shaykh, Muhammad al-Ghazali, after his death in 1996.
2. Yusuf al-Qaradawi’s Hadith Criticism: Taking the Middle Way between Muhammad al-Ghazali and Muhammad Nasir al-Din al-Albani

In the first chapter it was emphasised that the project Muhammad ʿAbduh and Rashid Rida had embarked upon in their renewal of *fiqh* and Islam was a particularly modern one. Their project’s “modernity” was defined by the imagining of binary, contrasting categories: between blind imitation and independent reasoning, between superstition and rationality, between backwardness and advancement, with the possibility of progression from the former to the latter.

Under the terms of this project new issues came to be at stake, which had not been considered problematic before. The place of the Prophetic Hadith within the *fiqh* tradition is one such example. These accounts of something the Prophet said, did, or approved of, were categorized according to their chains of narrated transmissions as sound, good, or weak (*ṣaḥīḥ, ḥasan, ḍaʿīf*). In the late nineteenth and early twentieth centuries, the *fiqh* tradition’s tacit acceptance of weak Hadith, for the purposes of sermonizing, issuing fatwas, or promoting certain beliefs and practices (that now appeared “backward” in the light of scientific discoveries) became problematic. For Rida, this problem was epitomised by the existence of so-called *isrāʾīliyyāt* (false Hadith from the Jewish tradition) and other spurious hadiths relating to popular festivals celebrating the Prophet’s birthday or other saints’ days (sg., *mawlid* pl., *mawālid*). These came to be understood as superstitions holding back the umma and not in keeping with the desired progressive, modern Islam.

---


Yusuf al-Qaradawi lays claim to this modernist legacy, and the goal of this second chapter is to examine his own approach to the issue of Hadith criticism (*takhrīj al-hadīth*) in the *fiqh* tradition. This will be done to illustrate one aspect of al-Qaradawi’s strategy for *tajdīd al-fiqh*. It will be argued that his style of argumentation and understanding of wasaṭīyya are evidence of his attempt to reconcile two very different approaches illustrated by two very contrasting figures: the unstructured, and highly controversial method articulated by Muhammad al-Ghazali (d.1996), al-Qaradawi’s own shaykh and mentor, and the similarly provocative but punctilious approach of Muhammad Nasir al-Din al-Albani (d.1999).

This chapter will first compare and contrast al-Ghazali and al-Qaradawi’s approaches to the Hadith. In explaining the difference, the “Salafism” of al-Albani and his colleagues in the Arabian Peninsula, and the critiques they directed at both al-Ghazali and al-Qaradawi will emerge as particularly important. Al-Qaradawi’s location in Qatar and attentiveness to a possible rapprochement between these Salafists and his own wasaṭī approach means that, while he remained silent during the controversy that erupted in 1989 after al-Ghazali published his famous *Approaching the Prophetic Sunna: Between the Partisans of Fiqh and the Partisans of Hadith* (*al-Sunna al-Nabawiyya: Bayna Ahl al-Fiqh wa-Ahl al-Ḥadīth*), al-Qaradawi actually reconstructs al-Ghazali’s style of argumentation after his death. Reconstruction and reconciliation, alongside an attentiveness to the possibilities of greater unity among the Muslim community and the ‘ʿulamāʾ’ establishment (highlighted as a key concern of al-Qaradawi’s in Chapter 1), will be the key points this second chapter makes about al-Qaradawi’s approach to the question of *tajdīd al-fiqh*.

While al-Albani was Syrian-Albanian, and al-Qaradawi and al-Ghazali Egyptian, what connected these figures was their location and contact as exiles from the respective Syrian and Egyptian regimes in the Arabian Peninsula. This chapter must therefore withdraw slightly from the specifically Qatari context in favour of the Arabian Peninsula

---

201 The term “strategy” here is borrowed from Talal Asad, where he uses it to signify a concept that not only presupposes a practical aim, “but a special kind of practical aim; of antagonistic wills struggling for supremacy over a terrain that may not always be delimited, with forces that are not always constant, in conditions whose changing significance cannot always be anticipated. Such an aim does require some theoretical understanding and knowledge of rules, although of course that is not all it requires.” Asad, *Genealogies of Religion*, 138–9 fn 13. Italics in original.
more broadly. While the third, fourth and fifth chapters of this thesis are concerned with al-Qaradawi’s recent works since 2000, this second chapter is concerned primarily with al-Ghazali’s Understanding the Life of the Prophet (Fiqh al-Sīra) and Approaching the Prophetic Sunna alongside al-Qaradawi’s How we Engage with the Prophetic Sunna: Landmarks and General Rules (Kayfa Nata’āmalu ma’a al-Sunna al-Nabawiyya: Ma’ālim wa-Ḍawābiḥ) and his Shaykh al-Ghazali As I Knew Him: A Journey of Half a Century (al-Shaykh al-Ghazālī ka-mā ‘Afaratuḥu: Rīḥlat Niṣf Qarn). This last work was written following al-Ghazali’s death in 1996. While al-Ghazali and al-Qaradawi’s approaches to the Hadith are considered one and the same in the prevailing academic literature, their markedly different styles of argumentation will be highlighted here. The reason for this, as noted, is al-Qaradawi’s concern to preserve unity or at least begin a rapprochement between those ‘ulamā’ close to the Muslim Brotherhood and the ‘ulamā’ of the Arabian Peninsula where he is based. These latter ‘ulamā’: al-Albani, ‘Abd al-‘Aziz b. Baz (d.1999), Salih Fawzan (b.1933), and others were noted in the first chapter as having been markedly critical of al-Qaradawi’s perceived liberality in his key early work The Lawful and The Prohibited in Islam. They are somewhat nebulously and pejoratively named “Salafists” or “partisans of Hadith.”

Yusuf al-Qaradawi’s Relationship to Muhammad al-Ghazali

Al-Qaradawi describes al-Ghazali as his second most important teacher after Hasan al-Banna. They are commonly cited in the same sentence as representatives of an Egyptian “New Islamist,” “Centrist,” or wasaṭī School. Haifaa Khalafallah’s doctoral thesis about al-Ghazali even goes as far as to substitute al-Qaradawi’s conceptualisations of the Sharia in his Madkhal li-Dirāsat al-Sharīʿa al-Islāmiyya

202 ‘Abd al-‘Aziz b. Baz was born in Riyadh in 1910 and after received a traditional religious education in 1961 he was appointed vice-president of the University of Medina and later became its president. At the age of sixteen he began to lose his eyesight and by the age of forty he was completely blind. He was a regular guest on the popular radio program Nūrun ʿalā al-Darb (A Light on the Path) and he was the Grand Mufti of Saudi Arabia from 1993 until his death.

203 Salih Fawzan studied at Faculty of Sharia in Riyadh, where he graduate in 1960 and was later appointed to a teaching position and also made a member of the Committee for Islamic Research and Iftā’, of which Ibn Baz was chairman. He also regularly contributes as the religious authority on the radio show Nūrun ʿalā al-Darb. His personal website is http://www.alfawzan.af.org.sa/.

204 Tammam, “Yūsuf al-Qaraḍāwī and the Muslim Brothers” 2 fn 6.

205 Baker, Islam Without Fear; Polka, “The Centrist Stream in Egypt.”

66
(Introduction to the Study of the Sharī‘a) for those of al-Ghazali, who did not write a book on the topic and “himself said on occasions that he found this type of legal fiqh boring.”

Motaz al-Khateeb’s essay in Global Mufti hints at the fact that, while al-Ghazali was al-Qaradawi’s “mentor” and “shaykh,” it was the latter’s emphasis on wasatiyya that “distinguishes him from a writer of the type of Muhammad al-Ghazali, despite [al-Ghazali’s] profound thoughts and clear reformist attitude (ittijāh islāhī).” It was pointed out in the first chapter that, for al-Qaradawi, wasatiyya is defined alongside variegated adjectives: moderation (iʿtidāl), balance (taʿādul, tawāzun) and the taking of a middle position between two opposing views (tawassût). This led Gudrun Krämer to opine that “the idea of moderate Islam, or the Islam of the middle ground, al-wasatiyya, invites further study, not least to highlight even more forcefully that moderation can mean different things in different contexts.”

Al-Qaradawi’s wasatiyya is often coined between a pair of terms: between excess and neglect (ifrāṭ-tafrīṭ, ghulūw-tafrīṭ), discipline and neglect (indībāt-tasayyub, indībāt-infirāṭ), extremism and denial (tatarruf-juhūd, tashaddud-tasayyub), and between those al-Qaradawi considers too liberal in their interpretations (ittijāh al-ghulūw fiʾl-tawīʿ) and those who take the route of restriction and self-righteousness (ittijāh al-taḍyīq waʾl-tashdīd).

It was noted in the introduction to this chapter that it is the Arabian Peninsula where all these figures interact. This speaks to a significant gap in Daniel Brown’s 1996 landmark study, Rethinking Tradition in Modern Islamic Thought. In Brown’s examination of new approaches to the place of the Sunna and Hadith in both Egypt and South Asia, the Arabian Peninsula context is neglected. However it is in the Arabian Peninsula that the approaches of ’Abduh and Rida came into contact with that of South

---

210 Brown, Rethinking Tradition.
Asian partisans of Hadith such as Delhi’s Nazir Husayn (d.1902) or Bhopal’s Siddiq Hasan Khan (d.1890). This interaction comes through those “peripheral ‘ulamā’” close to the Muslim Brotherhood in Egypt who went into exile and then engaged with the successors of Muhammad Ibn ʿAbd al-Wahhab, pejoratively termed the “Wahhabis.”

al-Ghazali’s Approach to the Hadith

Born in a village of the lower Nile Delta on September 22, 1917, al-Ghazali then attended primary and secondary schools in Alexandria. It was there that in 1937 he met Hasan al-Banna who, impressed by the young man, appointed al-Ghazali to be his assistant and secretary. During this time he also began studying in the faculty of Usul al-Din at al-Azhar University. His outspokenness would see him expelled from the Brotherhood in 1953, and he then worked at Egypt’s Ministry of Awqaf before similarly falling foul of Anwar Sadat’s regime and losing his post in 1977. Like al-Qaradawi, al-Ghazali left the country but instead of Qatar he went to Saudi Arabia. There he took up a position in the Sharia faculty at Mecca’s Umm al-Qura University. In 1984 he would leave for Algeria, and remain at the University of Amir ‘Abd al-Qadir until 1989, but his time in Saudi Arabia had been a formative one. Being immersed in an educational environment that taught a restrictive understanding of the Hanabli madhhab was a marked difference from his experience at al-Azhar. He witnessed the draconian abuses carried out by the Saudi Arabian regime in Mecca itself, justified by their reference to Islamic norms, and contrasted this experience with that of his own childhood upbringing in the Egyptian countryside. Al-Ghazali began to ponder these differences and the relationship between local practices and the norms, often drawn from the Sunna or a hadith, to justify them. It made him write *Understanding the Life of the Prophet*, a review of the Prophet’s biography and an attempt to use it to elucidate what he saw as Muslims’ correct behavioural patterns. Al-Ghazali argued that many of the practices he

---

211 Nazir Husayn and Siddiq Hasan Khan are credited as major leaders of the South Asian Muslim revivalist movement.
had witnessed, while claiming to follow the Prophetic example, negated many of the principles of its message.\textsuperscript{213}

Significantly al-Ghazali asked Muhammad Nasir al-Din al-Albani, who had also become a fellow exile at the neighbouring University of Medina in 1960, to critique al-Ghazali’s use of Hadith in that work. These critiques were then published as footnotes to the text. Al-Albani concluded that many of the hadiths al-Ghazali had cited had a weak chain of transmission and should not therefore have been used. Al-Ghazali’s response was a controversial one. He wrote that while al-Albani and a “majority of Hadith scholars may think a hadith is weak. However I may look at its wording and find that it is in total agreement with an āyah (verse) of the Qur’an or an authentic hadith and thereby find no harm in relating or writing it.”\textsuperscript{214} Moreover, for al-Ghazali the converse was also applicable, “I rejected those hadiths which were described as authentic, because they did not conform to the fixed principles and laws according to my understanding [of Islam].”\textsuperscript{215} Al-Ghazali then illustrated his point:

Take for example, the first hadith which Shaykh [Nasir al-Din al-Albani] judged to be weak: “Love Allah for the bounties He bestows upon you and love me for the love of Allah.” He may reject the authentication of this hadith by [Muhammad b. ʿIsa] al-Tirmidhi and al-Hakim [al-Nishapuri] and he has the right to do so. However I found nothing in its meaning to prevent me from accepting it without hesitation. On the other hand, I hesitated to record the hadith of Muslim and al-Bukhari [concerning] the way the battle [with the] Banu al-Mustaʿalḥiq took place.\textsuperscript{216} Their narrations of the hadith suggest that the Prophet suddenly attacked that tribe without first offering them the daʿwa or without any

\textsuperscript{213} After his return to Egypt in 1989 he became director of the Intentional Institute for Islamic Thought’s Cairo office. He died in Riyadh on March 9, 1996 and was buried in Mecca. Khalafallah, “Rethinking Islamic Law,” xii–xiii, 75–6.
\textsuperscript{214} Muhammad al-Ghazālī, Fiqh us-Seerah: Understanding the Life of the Prophet, 2nd ed. (Riyadh: International Islamic Publishing House, 1999), 17.
\textsuperscript{215} Ibid.
\textsuperscript{216} The Banu al-Mustaʿalḥiq were a tribe allied to the Quraysh, who and in Ibn Ishaq’s own biography of Muhammad were subjected to a pre-emptive surprise attack by him and the Muslims in 5 AH/625 CE. Alfred Guillaume, The Life of Muhammad: A Translation of Ibn Ishaq’s Sirat Rasul Allah (Oxford: Oxford University Press, 1955), 490–3.
breaking of a treaty on their part […] just as I bypassed this hadith, I also bypassed another.\textsuperscript{217}

In taking this approach to the Prophetic Hadith and preferring to consider the \textit{matn}, the text, in relation to the Qur’an and its message rather than analysing the chain of transmission, al-Ghazali was not himself attempting to destroy the tradition’s methodology of Hadith criticism, but rather revive what he considered to be its correct usage. He argued that weak hadiths should most certainly not be used to assist in Qur’anic exegesis (\textit{tafsīr}), and even called for al-Azhar to establish a committee to systematically remove weak hadiths from already existing \textit{tafsīr}. Following Ibn Taymiyya however, what al-Ghazali did allow for was the usage of weak hadiths in one’s preaching to affirm or encourage an action or belief already established as legitimate and beneficial, or dissuade from actions already established as reprehensible by the Qur’an or other authoritative sources.\textsuperscript{218} “As I see it, the [weak] hadith brings nothing new into the field of law or good deeds; it only explains what has already been fixed in the authentic sources.”\textsuperscript{219} For al-Ghazali and his peers, like al-Qaradawi and al-Albani, these discussions were not mere intellectual ruminations on “points of theology,” but questions of direct importance relating to the practical implementation of norms and law, reviving Islam in all aspects of daily life.\textsuperscript{220}

In asking al-Albani for his assistance, but then taking the decision to whether or not accept his recommendations, al-Ghazali was highlighting what he considered to have been the “division of labour” that had existed during the classical period but had long since broken down. Al-Ghazali considered it the role of the Hadith specialists (\textit{muḥaddithūn}) to only assess a hadith’s \textit{isnād} as potentially applicable. It was then passed on to the scholars of \textit{fiqh}, who would assess the \textit{matn} and consider the hadith as potentially actionable in the deriving of rules and norms, in the light of the Qur’anic message. Al-Ghazali argued that this no longer occurred, and attacks on Hadith scholars like al-Albani for not scrutinizing a hadith’s \textit{matn} correctly were similarly misplaced in

\begin{itemize}
\item \textsuperscript{217} al-Ghazālī, \textit{Fiqh us-Seeerah}, 17–20.
\item \textsuperscript{218} Brown, “Even If It’s Not True It’s True,” 36–7.
\item \textsuperscript{219} al-Ghazālī, \textit{Fiqh us-Seeerah}, 17; idem, \textit{al-Sunna al-Nabawīyya Bayna Ahl al-Fiqh wa-Ahl al-Ḥadīth} (Cairo: Dār al-Shurūq, 1989), 79.
\item \textsuperscript{220} Brown, \textit{Rethinking Tradition}, 109.
\end{itemize}
al-Ghazali’s eyes, it had never been their job to do so. For al-Ghazali, *matn* criticism was an integral part of the tradition’s model, but had been neglected, and a hadith with a sound *isnād* was useless if the *matn*, by far the more important of the two, was itself judged to be compromised.\(^{221}\) Furthermore, al-Ghazali argued that the tradition’s five-point model for assessing hadith had mistakenly only been applied to the *isnād*, whereas the two most important criteria; the non-existence of any distortions, errors or irregularities (*shadhūdh*) or weaknesses and defects (‘illa qādiha), should actually be applied to the *matn*.\(^{222}\)

This argument was presented most completely in al-Ghazali’s famous and controversial work *The Prophetic Sunna*, vaunted in the Egyptian daily *al-Ahram* as signalling the advent of an “Islamic Perestroika.”\(^ {223}\) *The Prophetic Sunna* continued al-Ghazali’s task, as he saw it, of restoring the tradition’s model of Hadith criticism and application, while correcting what he considered to have been the mistakes of the past, well-meaning or otherwise.\(^ {224}\) While classical scholars such as the famous Abu Hamid al-Ghazali (d.1111) had come to be criticized for their improper usage of weak hadiths, by Rida in a famous *al-Manār* article most notably,\(^ {225}\) in *The Prophetic Sunna* al-Ghazali also pointed to the mistakes of transmitters amongst the earliest Muslims such as Nafiʿ Ibn Sarjis al-Daylami (d.742, narrator of the aforementioned rejected report about Banu Mustaʾlliq) and al-Hakim al-Nishapuri.\(^ {226}\) The criticism of Nafiʿ is particularly significant because his reports, recorded by his student Malik Ibn Anas (d.795), form part of what is referred to as “the golden chain” by the Hadith specialists. Their credentials are usually, by their very definition as “forebears” (*aslāf*), considered irreproachable by many contemporary Hadith specialists. Al-Ghazali even wrote that


\(^{226}\) Abu ʿAbd Allah al-Ḥakim al-Nishapuri (d.1012), from Nishapur in Khorasan, was one of the most famed hadith specialists of his time. G. H. A. Juynboll, “Nafiʾ, Mawla of Ibn Umar and His Position in Muslim Hadith Literature,” in *Studies on the Origins and Uses of Islamic Hadith*, ed. G. H. A. Juynboll (Farnham: Ashgate, 1996).
Nafiʿ “reported far worse” and his rejoinder to al-Albani criticized him in turn for giving preference to this “lost reporter” in his critiques of Understanding the Life of the Prophet. Regarding the battle with the Banu Mustaʿlīq, al-Ghazali’s position was that Nafiʿ’s report contravened the Islamic emphasis upon faith through persuasion, not force.227 Al-Ghazali went on to highlight a lack of rigour throughout the history of Islamic scholarship, even amongst famed scholars such as al-Nawawi who had seemingly accepted these faulty hadith without question and incorporated them into famous codices such as Riyāḍ al-Ṣāliḥīn (Meadows of the Righteous), still enormously popular today.228

al-Qaradawi’s Approach to the Hadith

As noted above, al-Qaradawi’s work The Lawful and the Prohibited in Islam was also critiqued by al-Albani, and al-Qaradawi published the defence of his major early work in a fatwa. In the fatwa, the petitioner questions al-Qaradawi about the critique al-Albani published (entitled The Aspirational Goal of Critiquing the Hadith in the Lawful and the Prohibited (Ghāyat al-Murām fī Takhirīj Aḥādīth al-Ḥalāl waʾl-Ḥarām),229 and the fact that al-Albani had similarly considered a number of the hadiths cited in the work to be those with a weak isnād. The petitioner asks whether or not it was permitted to have used such weak hadith in the work. In his response al-Qaradawi adopts similar positions to that of al-Ghazali, and makes six key points: first he emphasizes that he never used a weak hadith to establish an act as permitted or forbidden, he only used them for the purpose of familiarizing (istiʾnās) the people with a particular ruling. In the second part of his argument, al-Qaradawi acknowledges the process of transmission (marḥalat al-taqlīd) from the work of earlier scholars. In his citing of certain hadiths, he was trusting and transmitting (muqallid) the conclusions of his predecessors. Al-Qaradawi writes that there is nothing unusual about a scholar of fiqh relying on the work of Hadith scholars, for no one can be a specialist in all fields. Next, al-Qaradawi writes

227 al-Ghazālī, al-Sunna al-Nabawiyya, 103.
228 Videotaped interview by Muhammad al-Ghazali. Quoted in Khalafallah, “Rethinking Islamic Law,” 151. Khalafallah had access to a series of recorded monologues by al-Ghazali that are currently held by the Institute for Islamic Thought (IIT) at their Cairo office.
that, while in his opinion al-Albani is certainly the most famous and renowned Hadith scholar of their time, this does not mean his opinion is correct in everything. As such, al-Albani’s classifying a hadith as weak does not serve as a definitive proof, nor is it the last word on any matter. Fourthly, al-Qaradawi argues that there are often multiple hadiths about a certain issue, with some having stronger isnāds than others, or reflecting a verse from the Qurʾān. So including a weak hadith does not invalidate the intended point. Fifthly, while a hadith’s isnād or its enunciation (lafẓ) might be open to revision or downgrading, the hadith’s intended meaning (maʿnā) might well remain sound. Finally al-Qaradawi, like al-Ghazali, speaks of the division of roles. Al-Albani should stick to his role and expertise, which is critiquing a hadith’s isnād, rather than critiquing al-Qaradawi’s decisions over whether or not to include a weak hadith in his own work.  

In al-Qaradawi’s own expansive work on the issue of Hadith criticism however, How We Engage with the Prophetic Sunna, his approach emerges as far more cautious than al-Ghazali. Matn criticism, while always part of the fiqh tradition of Hadith criticism, leads to a foundational tension. This was due to the appearance of individual scholars’ inherent subjectivity in their interpretations. Some scholars would dismiss certain hadith out of hand (like al-Ghazali above), while others would advocate strict rules but be more charitable in practice. An attempt at addressing this tension emerged through the binding principle of authoritative consensus (ijmāʿ). Al-Qaradawi’s own argument is an attempt at reconciling the tensions between independent matn criticism, and isnād criticism while also maintaining the integrity of authoritative consensus as an institution. First of all then, al-Qaradawi writes that the critic should use the methodology of isnād criticism to determine a hadith’s potential authenticity. The critic should also look to the context in which the hadith was uttered, attempt to understand the language of the text and its intent, while being aware that different hadiths had different functions. Not all hadiths were intended to establish atemporal behavioural

---

norms. Preservation of the Hadith corpus where possible was essential; rather than weighing-up between (tarjīḥ) seemingly opposing hadiths and discarding one of them, or discarding a hadith that contravenes the Qur'an like al-Ghazali, al-Qaradawi emphasises first and foremost the importance of finding a way of reconciling (tawfīq) between hadiths that appear at first to be in contradiction to one another.

An example of this style of argumentation can be seen in regard to the controversial hadith that states the bloodwit for a woman is half that of a man. In al-Ghazali’s frank approach the favouring of such a report, and “the claim that the financial obligation for the blood of a woman is less is a worthless claim that contradicts the clear meaning (zāhir) of the Book.” The Saudi Arabian scholar Salman al-‘Awda (b.1955) wrote a noted rebuttal of al-Ghazali’s position, and he cited an ijmā’ that included such figures as al-Shafi‘i, Ibn Hazm and Ibn Taymiyya. As such, al-‘Awda asks rhetorically, “where is the respect for these great men of Islam?” Similarly, one of al-Ghazali and al-Qaradawi’s prominent colleagues at al-Azhar, Muhammad Abu Zahra (d.1974), also argued that there had been a definitive ijmā’ among the Companions that had fixed the bloodwit of a woman as half that of a man.

Al-Qaradawi’s own stance attempts to account for both of these positions. He argues that the re-examining of once well-established hadiths should be done in a structured fashion, and a new ijtihād should ask: “Are they [the hadiths] truly authentic, without any challenge to their chain of transmission? Are they clear in their guidance, without any uncertainty regarding their impact on a ruling (ḥukm)?” With that in mind, in his Approaching the Sunna he states that while many scholars have accepted that the hadith stipulating a woman’s bloodwit was half that of a man in the past, the narrator Abu Bakr al-Bayhaqi (d. 994) had said that “an isnād like its isnād is not

---

232 Brown, Rethinking Tradition, 125–6.
237 Al-Qaradawi argues that there are actually only two hadith that state that the bloodwit of a woman is half that of a man, both of them are to be found solely in al-Bayhaqi’s al-Sunan al-Kubrā and nowhere else. Ibid., 4:530–1.
[accepted as established]” because, despite its multiple chains of transmission, in every instance it was technically mawqūf (stopping at a Companion) and was therefore not marfūʿ (known to be from the Prophet himself).238

While the results of al-Ghazali and al-Qaradawi’s ijtihād are the same, and they agree that a hadith detailing a woman’s bloodwit as half that of a man should be discarded, there is a clear difference in their style of argumentation. While al-Ghazali is frank and outspoken, confiding to an audience at a Cairo lecture “sometimes I find in the Sunna that which disturbs me,”239 al-Qaradawi’s technical discussion extends to over thirty pages.240 Al-Qaradawi’s argument proceeds through the four foundations (uṣūl) of the fiqh tradition: looking first to the Qur’an, then the Hadith (as above), then the possibility of drawing an analogy (qiyās). Al-Qaradawi then argues that the consensuses cited by scholars such as al-ʿAwda or Abu Zahra were not definitive, but rather were examples of a “consensus by silence” (ijmāʿ sukūtī), or rather, an ijmāʿ by several scholars where no dissent has been recorded.241 As such, al-Qaradawi argues there can be no justification for a woman’s bloodwit being considered half that of a man and these scholars are mistaken. Perhaps anticipating a response from his readers, al-Qardawi asks rhetorically why then, given the innovative reasoning of great scholars from the past such as Ibn Taymiyya, did we not see any new ijtihād on this issue before Rashid Rida’s condemnation of these differing portions in the twentieth century?242 Al-Qaradawi points out that the bloodwit is only liable after an accidental death or in the wake of a quarrel between individuals or tribes where the killing was not pre-meditated. He suggest that the levying of a woman’s bloodwit would have been an extremely rare occurrence then, for while men might kill each other during quarrels, “most of the time

239 Khala'allah, “Rethinking Islamic Law,” 169.
241 Ibid., 4:553.
242 In Rida’s reading of Surat al-Nisāʾ verse 97, “He who has killed a believer (muʾmin) by mistake must set free a believing slave, and pay the blood-money to the family of the slain, unless they remit it as a charity” the term muʾmin is clearly referring to both men and women and so there is no possibility of their being differing bloodwits. Muḥammad Ṭūḥuḍ and Rashīd Riḍā, Tafsīr al-Qurʾān al-Ḥakīm al-Shahīr bi-Tafsīr al-Manār, 2nd ed., vol. 5 (Cairo: Dār al-Manār, 1947), 333.
when women fight each other they pull each other’s hair, bite, tear each other’s clothes and so on.”  

al-Qaradawi and the Importance of the Arabian Peninsula Context

It has been argued up to this point that when comparing al-Ghazali and al-Qaradawi’s approach to Sunna and Hadith criticism they are quite similar. At the same time al-Qaradawi has been seen to utilise a far more technical discourse that emphasises it attentiveness to earlier consensuses (even if concluding they should be overruled) and hadiths’ isnāds, while al-Ghazali is far more forthright and unstructured. In explaining this difference and elucidating al-Qaradawi’s approach further, it will be argued that the Arabian Peninsula and the critiques emanating from it have been particularly significant.

Brown’s Rethinking Tradition focused solely on new approaches to the Sunna arising in Egypt and South Asia, missing out the location where these two trends came into contact, Saudi Arabia and its peripheries. At the time of al-Qaradawi’s arrival in Qatar in 1961 at the age of thirty-five, the tiny emirate was a British protectorate with no local ‘ulamā’ establishment of its own. Qatar was only just beginning to institutionalise a state-system of Islamic education. While more recently the Qatari state has taken a markedly divergent course from Saudi Arabia in terms of its relationship to its ‘ulamā’ and its foreign policy (see Chapter 5), at this point in the historical discussion Qatar remained very much the periphery of a Saudi Arabian core. It was Saudi Arabia that al-Qaradawi would visit often with his students in the 1960s, and with whose ‘ulamā’ he would regularly meet with and engage (see Chapter 1).

Since the 1950s the Kingdom of Saudi Arabia had been a veritable “melting pot” for multiple intellectual currents after the implementation of the policy of “Islamic Solidarity” by King Faisal to counter the “Socialism” of Nasser and his allies. Saudi Arabia became a place where “all those who were being persecuted for their Islamic activism could find refuge.” Stéphane Lacroix categorises these various activist-exiles

244 Baskan and Wright, “Seeds of Change”; Hamed, “Islamic Religion in Qatar During the Twentieth Century.”
into five types. The first type is “Muslim Reformism,” which refers to the intellectual heirs of ʿAbduh and Rida. Second is the “Ṣahwa (Awakening),” which refers to activists from the Muslim Brotherhood or similar organisations. Lacroix’s third type are the “ahl al-hadīth” to refer solely to the classical trend close to the Hanbali madhhab, which re-emerged through ʿAbd al-Wahhab’s movement (the Wahhabis).²⁴⁷ Fourth is the contrasting term, “ahl-e hadith” (with an Urdu transliteration) refers to those South Asian scholars who also lay claim to the legacy of the classical ahl al-ḥadīth. Significantly, their thought was brought to the Arabian Peninsula in the late nineteenth century by followers of ʿAbd al-Wahhab’s movement who had been sent to study there. Fifthly this leads to the “neo-ahl al-hadīth,” by which Lacroix refers to al-Albani and his followers. Lacroix then defines the now common term “Salafism” as referring to “all the intellectual hybrids that sprouted from the Wahhabi structure in Saudi Arabia in the 1960s and thereafter.”²⁴⁸ It was on the periphery of this complex Salafi milieu that al-Qaradawi found himself in 1961 and has remained for the latter two-thirds of his life. It is al-Qaradawi’s attentiveness to the Salafi critique that closely informs the contrast between his discourse and that of al-Ghazali.

**Muhammad Nasir al-Din al-Albani: The “Iconoclast Extraordinaire”**

It has already been seen that al-Albani is a significant figure in this chapter’s discussion given that he wrote critiques of both al-Ghazali and al-Qaradawi’s early work. While al-Ghazali was quick to rebuff al-Albani’s criticisms, al-Albani’s relationship with al-Qaradawi was more nuanced. In contrast to al-Ghazali’s dismissiveness, it will be argued that al-Qaradawi is far more attentive to maintaining the possibility of rapprochement with al-Albani and the Salafists. Al-Qaradawi’s attentiveness to these critiques will explain his reconstruction and attenuation of al-Ghazali’s unstructured approach to Hadith criticism in *Shaykh al-Ghazali as I Knew Him.*

²⁴⁷ *Ahl al-hadīth* is a generally amorphous term referring to literalist groups throughout Islamic history that attempted to divorce themselves from the use of personal reasoning and focus instead on the direct replication of the Prophetic example. Khaled Abou El Fadl, *The Great Theft: Wrestling Islam from the Extremists* (New York, NY: Harper One, 2005), 89.

Al-Albani was born in Shkodër, Albania in 1914, and his family had a long history of scholarship in the Hanafi madhhab. He was taken to live in Syria aged nine with his family. He recalls that as a young student in Damascus he read Rida’s well-known article in the journal al-Manār where he criticized Abu Hamid al-Ghazali’s use of Hadith in his famous Reviving the Religious Sciences (Ihyā’ ‘Ulūm al-Dīn). It was this that set al-Albani on his path to independently re-evaluate many of the Hadith long taken for granted, and ultimately become one of the most influential Hadith scholars of the twentieth century. Mahmud Sa’id Mamduh has calculated that ultimately a total of 990 hadith, which the majority of the ‘ulamā’ had long considered authentic, were declared weak by al-Albani.249 Most controversially this included many that were to be found in the Ṣaḥīḥayn of al-Bukhari and Muslim. His revisions were published in a thirteen-volume work, The Series of Weak and Forged Hadīths and their Negative Influence on the Umma (Silsilāt al-ḥādīth al-Ḍaʿīfa wa-l-Mawdūʿa wa-Taʾihirah al-Sayyiʿ fiʾl-Umma) that led Jonathon Brown to dub him the “iconoclast extraordinaire” of the Salafi movement.250

Kamaruddin Amin has argued that it was al-Albani, of all the twentieth century ‘ulamā’, who re-applied the model of the classical ahl al-ḥadīth with the greatest consistency.251 Al-Albani followed the South Asian ahl-e ḥadīth, for whom the “apex” of the Islamic sciences was the science of Hadith (‘ilm al-ḥadīth). In their approach, fiqh is not understood as seeking a deep and true understanding of the Sharia, jurisprudence, or the human, temporal derivation of rules and norms from the Sharia as al-Qaradawi and al-Ghazali understand it.252 Instead, for al-Albani fiqh was quite simply “law” and all that was needed was to understand the hadith’s legal intent precisely. There was no need to consider the current social reality for example, as al-Qaradawi reasons. In al-Albani’s fiqh (that is, fiqh al-ḥadīth) one might critique the text (matn), but only in formulaic terms, in order to understand precisely the text’s syntax, grammar and subsequent legal rule. Only the hadith’s chain of transmission (sanad)

may actually be called into question. It is “ʿilm al-rijāl,” the appraisal of the trustworthiness and reliability of the transmitters, which is therefore the highest priority.253

Given the controversy of his views, and the forthrightness of their expression, al-Albani’s position in Syria quickly became untenable. He hurriedly moved to accept the offer of a position at the recently-founded University of Medina in 1960. He was offered this position by Ibn Baz, the University’s then vice-president, and a figure who would become al-Albani’s veritable protector in the coming decades of controversy and who shared his interest in reviving Hadith criticism along the lines of the South Asian ahl-e ḥadīth. Ibn Baz had himself been a student of Saʿid b. ʿAtiq (d.1930), one of the followers of the Wahhabi movement who brought the ideas of the ahl-e ḥadīth back to the Arabian Peninsula after being sent to study in India in 1881.254

Once in Medina, it was not long before al-Albani’s “iconoclastic” approach angered the ʿulamāʾ establishment there as well. Matters came to a head with the publication of one of al-Albani’s most famous works, The Veil of the Muslim Woman (Ḥijāb al-Marʾa al-Muslima) in which he argued against the wearing of the niqab.255 After Medina University declined to renew his contract al-Albani was forced to return to Syria in 1963, Ibn Baz attempted to secure al-Albani’s official return to the Sharia faculty in Mecca in 1967 after he had been arrested again in Syria.256 These efforts were not successful and, after being jailed, al-Albani ultimately moved to Jordan in 1979, though he would return to Saudi Arabia often.257

al-Qaradawi’s Defence of al-Ghazali and the Salafi Critiques
The publication of al-Ghazali’s The Prophetic Sunna in 1989 heralded enormous controversy and the writing of numerous rebuttals, primarily from among those whom

254 Ibid., 6.
255 This should not be taken as an indication that al-Albani adopted more socially liberal positions than the scholarly establishment in Saudi Arabia and indeed he agreed with them on many other socially conservative issues, such as the banning of photography. His approach was purely based on his evaluation of the hadith, and nothing else.
256 Lacroix, “Between Revolution and Apoliticism,” 8.
al-Ghazali had termed the “ahl al-hadith” or the “partisans of the Hadith.” While this was the term al-Albani and his supporters used for themselves, al-Ghazali used it in an extremely pejorative fashion. *The Prophetic Sunna* quickly became a best seller, going through five editions in five months.\(^{258}\) Within two years at least thirty rebuttals had been published.\(^{259}\) Al-Ghazali had argued for distinguishing between the specific “ends” and the general “means” of a hadith, and positing the possibility of the former’s “expiration” (*intiḥāʾ*).\(^{260}\) He was accused of challenging Prophetic authority and attempting the “historicisation” of the Sunna. With all that in mind Khaled el-Fadl noted with some surprise that al-Qaradawi, the scholar commonly introduced as al-Ghazali’s “student,” remained “conspicuously silent” throughout the entire duration of the controversy.\(^{261}\)

It was only after al-Ghazali’s death in 1996 that al-Qaradawi would publish his defence in *Shaykh al-Ghazali as I Knew Him*. Al-Qaradawi emphasised that, contrary to the accusations of his critics, al-Ghazali did indeed “consider the Sunna essential for understanding the Qur’an, both its theoretical explanation and its practical application.” In al-Qaradawi’s attenuation of the more controversial aspects of al-Ghazali’s critique one can see the modernizing discourse of ʿAbduh and Rida’s project. The only sound hadith al-Ghazali rejected, the reader is told, were those that “disagreed with rationality, science and logic.”\(^{262}\) Al-Ghazali was not against the Sunna however, and “rejecting one, two or three hadiths […] does not entail a rejection of the Sunna as the second fundamental principle” of *uṣūl al-fiqh*.\(^{263}\) In fact al-Qaradawi goes further in his attenuation, and highlights that al-Ghazali never wrote a book on the topics of *uṣūl al-fiqh* or *furūʿ al-fiqh*. He was not to al-Qaradawi’s mind a specialist in *fiqh*, a *faqīh*, at all.\(^{264}\) In this work it appears as though al-Qaradawi’s goal is to reconstruct al-Ghazali’s argument so that it resembles al-Qaradawi’s own style of argumentation.

\(^{259}\) Tammam, “Yūsuf al-Qaradāwī and the Muslim Brothers,” 20 fn 52.
\(^{261}\) Abou El Fadl, *The Great Theft*, 301 fn 85.
\(^{263}\) Ibid.
\(^{264}\) Ibid., 157.
Consider, for example, their respective approaches to the well-known hadith, “A community does not succeed that is headed by a woman.” Al-Ghazali’s *ijtihād* in this instance was that the hadith had a particular historical context, and was referring to the Queen of Persia whose Empire had crumbled in the face of early Muslim expansion. Al-Ghazali also notes that Ibn Hazm and Abu Hanifa allowed for women holding positions of authority (with the exception of being the Caliph). His *ijtihād* rested first and foremost on the Qur’an, which portrays the Queen of Sheba as a fine ruler. Al-Ghazali argues that whoever cites the first part of Surat al-Nisā’ verse 34 “men are the guardians of women” (*al-riḍāl qawwāmūn ‘alā al-nisā’*) as a reason for denying women positions of authority is sorely mistaken “for whoever reads the rest of the verse realizes that this guardianship (*qiwāma*) is in reference to a man’s place as head of his household and his family.” Al-Ghazali then provides the historical example of the caliph ʿUmar’s appointment of al-Shifa’ b. ʿAbd Allah as a market inspector, a position where she exercised her authority over both men and women. Citing the contemporary examples of successful female leaders such as Margaret Thatcher, Queen Victoria, Golda Meir, and Indira Ghandi, al-Ghazali asks “where was the predicted failure that befell the nations who chose these [excellent] women? […] I testify that Thatcher is superior to 70 men with beards and moustaches. It is sufficient [proof of her superiority] that she greatly served her country. She does not need me to defend her.”

Al-Ghazali’s position on female roles in public had undergone a marked change from his earlier, far more conservative work *From Here We Know* (*Min Hunā Na’lam*). This was written in the 1950s when he had considered women unsuitable even to be public clerks. In that book al-Ghazali stated that this was due to a concern for the public interest (*maṣlaḥa*), morality and the prevention of social discord (*fītna*). Moreover, a woman’s own nature (*tabīʿatuhā*) meant her role was to remain in the home and care for the children and their best interests. His change in stance, which Khalafallah attributes to al-Ghazali’s witnessing of the prominence in the media of successful female leaders, has been widely discussed. There are two hadith cited by al-Ghazali and al-Qaradawi in this discussion: “*khāba qawmūn wallawu amrāhumu imrā’atan*” and “*lā yufliḥu qawmūn wallawu amrāhumu imrā’atan*.”

---

265 There are two hadith cited by al-Ghazali and al-Qaradawi in this discussion: “*khāba qawmūn wallawu amrāhumu imrā’atan*” and “*lā yufliḥu qawmūn wallawu amrāhumu imrā’atan*.”
266 Al-Ghazālī, *al-Sunna al-Nabawīyya*, 47.
267 Khalafallah, “Rethinking Islamic Law,” 146.
leaders during the 1980s, also highlights the foundational tension in *matn* criticism. Not only is there variation between scholars as to the meaning and purpose of a hadith, this can also vary within a scholar’s own oeuvre. In the Salafist Salman al-‘Awda’s rebuttal *An Open Conversation with Muhammad al-Ghazali* (*Fī Ḥiwdā Hāḍī‘ ma‘ Muḥammad al-Ghazzālī*) also published in 1989, this apparent deficiency is self-evident, and al-‘Awda writes “I do not see a need to give a detailed refutation of al-Ghazali [in this instance], for he has refuted himself” with his own inconsistency.

Al-Qaradawi’s position on this hadith was similar to that of the later al-Ghazali. There was nothing in women’s nature or the Sunna that should prevent them from holding positions of leadership and authority as ministers, ambassadors, or judges. The exception for al-Qaradawi was that a woman could not be head of the Islamic state. He would also draw criticisms from the Salafis of the Arabian Peninsula for this stance. Among the most noteworthy of these was that authored by al-Albani’s famous Yemeni student Muqbil al-Wadi’i (d.2001). Al-Wadi’i had been the first person to compile a new collection of revised, *ṣaḥīḥ* Hadith in nearly a thousand years. The virulence of the critiques directed at al-Qaradawi from this quarter is evidenced by the work’s rather colourful title, *Silencing the Baying Dog* (*Iskāt al-Kalb al-‘Āwī*). Each of the work’s sections begins with a hadith followed by a list of al-Qaradawi’s “distortions (*ṣubḥāt*)” along with al-Wadi’i’s rebuttals. In his examination of the hadith discussed above “a community that is headed by a woman does not succeed” (*lā yufliḥu qawmun wallawu amrahumū imra’atan*) one can see the manner in which the Salafi style of argumentation and hermeneutics follows the syntactical and semantic rules of the Arabic language. For al-Wadi’i, among al-Qaradawi’s distortions is his restrictive interpretation of the word “*amr*” as referring specifically to a female’s political leadership as a head of state, rather than as a general refusal of all kinds of leadership. Similarly because the hadith’s verb (*lā yuflīḥu*) occurs as a negation without any specificity, for al-Wadi’i it is incomprehensible that any specification of the hadith’s intended meaning could be justified. Al-Wadi’i’s own justification for his avocation of a blanket ban on women

269 Khalafallah, “Rethinking Islamic Law,” 144–7.
271 Ibid., 52.
holding positions of authority is, in a manner very similar to al-Ghazali’s earlier argument in From Here We Know, to speak of a concern for the social order. Women’s engaging in public life leads to a mixing of the sexes and the spread of moral corruption. Like al-Ghazali had written previously, for al-Wadi’i it was in women’s nature to be unsuited to such positions, and “God knows women’s weaknesses.”

With these points in mind it is now worth looking to al-Qaradawi’s Shaykh al-Ghazali as I Knew Him. In that work what al-Qaradawi does is recast al-Ghazali’s ijtihād on this hadith, writing that they both knew and respected the fact that there had been a historical debate amongst the ‘ulamā’ about this hadith. This debate had led to an ijmā’ that agreed to prioritise the wording of this hadith over the context of its utterance (as referring to the Queen of Persia’s imminent downfall). This meant that the hadith came to be understood as having a general meaning rather than a specific one. Al-Qaradawi again argues, however, that this ijmā’ was not definitive. He relates that, although both he and al-Ghazali did not like contravening an ijmā’, “in some situations we find that the minority opinion is of the greatest weight.” In al-Ghazali’s own writing there is no mention of an ijmā’, and there is certainly none of the emphasis on the importance of the ijmā’ as a principle that one finds in al-Qaradawi’s work. Even in al-Qaradawi’s earlier writings such as A Deep and True Understanding of Alms-Giving (Fiqh al-Zakāt) he is sceptical towards instances during the classical period where the existence of an ijmā’ had been claimed, quoting Ahmad b. Hanbal “whoever claims that an ijmā’ on any matter ever existed is a liar, for how could he know?” Nevertheless in the same text he also wrote, “As for a true ijmā’, [that is an] ijmā’ that truly has no known opposition, it is an acceptable ruling in the Sharia and I bind myself to following it in spite of objections raised about its ruling nature.” Al-Qaradawi’s attenuation of al-Ghazali’s unstructured approach, alongside his emphasis on the fiqh

274 Al-Qaradawi calls on his fellow jurists to only cite the existence of an ijmā’ when it was “definitive” (al-ijmā’ al-mutayaqqin). ‘Umar Sa’dāwī, Qadāyā al-Mar’a fī Fiqh al-Qaradāwī (Giza: Qaṭār al-Nadā, 2006), 39–40.
tradition’s historical consensuses will be argued as being part of al-Qaradawi’s attempt to engage with the Salafi critiques in his local milieu of the Arabian Peninsula.

al-Qaradawi, al-Albani and the Salafi critiques

It will now be argued that al-Qaradawi’s more explicitly technical discourse regarding Hadith criticism and his reconstruction of al-Ghazali’s work along similar lines after his death is due to the figure of al-Albani and the Salafi critiques emanating from al-Qaradawi’s local context of the Arabian Peninsula. Turning to al-Qaradawi’s memoirs, he recalls that he first met al-Albani in 1964 in Medina. In his description of the meeting, al-Albani reproaches the young al-Qaradawi for his liberal positions in The Lawful and the Prohibited in Islam. Al-Abani told al-Qaradawi that he himself explicitly forbade the taking of photographs, which al-Qaradawi had permitted. Al-Qaradawi responded by saying that, in his interpretation the pretext behind the hadiths in question related to preventing imitations of God’s creation and that photographs were only a reflection (ʿaks). The reader is then told that al-Albani, in typical combative fashion it seems, “did not budge one hair’s breadth” (lam yatazhazah qayda sha’ratin).

It is his second meeting with al-Albani in Beirut in 1969 to which al-Qaradawi directs his readers’ attention, and is significant for the purposes of this chapter. This meeting was in the house of their mutual friend Zuhayr al-Shawish, owner of the influential Salafi publishing house al-Maktab al-Islāmi (with presses both in Damascus and Beirut) and the publisher of many of al-Albani’s aforementioned critiques. This time, al-Qaradawi tells the reader how he saluted al-Albani’s efforts in critiquing his usage of hadith in both The Lawful and the Prohibited in Islam and a second work, The Problem of Poverty and How Islam Solved It (Mushkilat al-Faqr wa-Kayfa ‘Āljahā al-Islām). Notably, al-Qaradawi then writes “I said to him [al-Albani]: truly I am one of those who sees that it is essential to find a bridge between the partisans of fiqh and the partisans of Hadith.” Al-Albani’s response is portrayed as similarly decisive. Al-

---

278 The Problem of Poverty and Islam’s Solution was a book published in 1966 during the interim period between al-Qaradawi’s completion of the manuscript of his thesis A Deep and True Understanding of Alms-Giving, and its final publication in 1973. al-Qaraḍāwī, Mushlikat al-Faqr.
Qaradawi writes, “He [al-Albani] welcomed the cooperation between us, in his capacity as a famous Hadith scholar and my capacity as one of the practitioners of fiqh.”

There is a clear difference between al-Ghazali and al-Qaradawi in relation to their attitudes to al-Albani and his fellow Salafists, or partisans of Hadith. For al-Ghazali they were the “hadith hurlers,” who simply bombard their opponents with hadiths without any consideration to their meaning and intent, and “followers of Bedouin fiqh” whose criticisms could be dismissed and ignored, whilst for al-Qaradawi engaging with this powerful group is of paramount importance. Husam Tammam argues that al-Qaradawi made a conscious decision to seek reconciliation with the Salafists. He often sends copies of his publications to them as gifts and at his attendance of Ibn Baz’s funeral in 1999 made an effort to meet and have a dialogue with leading Salafi Shaykhs in Saudi Arabia such as the aforementioned Salman al-’Awda. He also often receives Salafi Shaykhs who are visiting Qatar at his home.

Al-Qaradawi’s attentiveness to Salafi criticisms can be seen in relation to another controversial issue both he and al-Ghazali were involved in. This relates to women’s leadership of prayer. For al-Ghazali, *imāma* (the leading of prayer) “was solely based on a better knowledge and recitation of the Qur’an; it was not based on gender or age.” While al-Qaradawi stopped short of this, and only said that women should be encouraged to lead female-only congregations, al-Ghazali elaborated on his own position by stating “for me, [is it possible for] a woman such as Dr. ‘A’isha ‘Abd al-Rahman […] to pray behind a man who is a junior scholar?”

This question was taken further, and put to a controversial test by Amina Wadud. A professor of Islamic Studies at Virginia Commonwealth University, Wadud led a mixed congregation in their Friday prayers in New York in 2005. The widely-reported event caused uproar in the Middle East with a number of scholars, including al-Qaradawi,
issuing fatwas in protest. In al-Qaradawi’s *Contemporary Fatwas* his own response begins by stating “it has never been known in fourteen centuries of Muslim history that a woman has delivered a Friday sermon and acted as Imam in front of men.” This time in his reasoning al-Qaradawi emphasises that this came as the result of a “definitive scholarly consensus” (ijmāʿ yaqīnī). Al-Qaradawi argues that this consensus was so definitive that it comprised not just the four main legal schools, but even the marginal ones. While some of these scholars permitted a woman to lead the relatives of her household in prayer in private, “not a single jurist from these followed schools or outside them has permitted a woman to deliver the Friday sermon or lead Muslims in the prayer [publically].”

While Amina Wadud’s deliverance of the Friday sermon and leadership of the prayer in the United States occurred long after al-Ghazali’s death, he had allowed for the latter instance at least.

Al-Qaradawi’s fatwa tells his readers that this position is “fixed by sound hadiths,” and the issue at hand revolves around the so-called “Umm Waraqa hadith.” This hadith relates that Umm Waraqa, with Muhammad’s blessing, led a mixed group in prayer in her home. While al-Ghazali had reasoned that this was because Umm Waraqa was better versed in the Qur’an than the male members of her household, al-Qaradawi argued that she was only leading her relatives (muḥāram) and so there was no possibility of social discord occurring. Al-Qaradawi’s own concern for female leadership of prayer more generally was for men’s sexual arousal and disturbance by women’s movement in front of them. The hadith occurs in Abu Dawud al-Sijistani’s (d.889) collection *Sunan Abū Dawūd* and reads “The Prophet (peace be upon him) used to visit her [Umm Waraqa] in her home; he appointed a muʾadhdhin for her, and ordered her to lead the members of her household (dārihā) in prayer.”

While in this instance al-Qaradawi’s emphasises the ijmāʿ that has fixed this hadith’s meaning, Ahmed Elewa and Laury Silvers name a number of ʿulamāʾ from both within and outside the tradition’s legal Schools who do permit unrestricted female leadership of prayer, most notably the

---

famous scholars Ibn Rushd and Ibn ʿArabi. There is also much discussion as to whether or not the word “dār” refers to Umm Waraqa’s “home,” or refers to her “community” at large (hence the need for a muʿadhdhin). Unlike the previous hadith, where the meaning of the word “ʿamr” was open to interpretation for al-Qaradawi, here he prefers to emphasise the integrity of the ijmāʿ. While the Umm Waraqa hadith’s isnād is considered to be either ḥasan or daʿīf, in al-Qaradawi’s footnote it is in fact al-Albani’s own revised version of Abu Dawud’s compilation that he actually cites.

al-Albani’s Relationship with al-Qaradawi

In al-Qaradawi’s style of argumentation there is an emphasis on both a hadith’s isnāds as well as the ijmāʿ. This is in marked contrast to al-Ghazali’s unstructured approach, forthrightness, and dismissal of Salafi criticism. Al-Qaradawi displays a clear attentiveness to the substance of Salafi critiques and, in looking to contextualise this consideration, it is worth returning to al-Qaradawi’s memoirs and the house of Zuhayr al-Shawish. Here al-Qaradawi’s concern for the kinds of debates that should occur between the ‘ʿulamāʾ, and how they should be publicized, comes to the fore.

The suggested co-operation between al-Qaradawi and al-Albani that was highlighted above is portrayed in stark contrast to a second incident that occurred shortly after. Another famous Syrian ʿālim, ʿAbd al-Fatah Abu Ghudda (d.1997, who counted among his students the aforementioned Mahmud Saʿid Mamduh), was also present that day, and his own discussion with al-Albani appears to have taken a very different course:


288 ʿAbd al-Fatah Abu Ghudda was born in Aleppo, and in 1944 travelled to Egypt to study at al-Azhar, where he counted ʿAbd al-Halim Mahmud and Mahmud Shaltut amongst his teachers. In Egypt he met Hassan al-Banna and he joined the Muslim Brotherhood in the 1940s and was eventually imprisoned in 1966 before being released in the general amnesty of 1967 and then moving to Riyadh.
Abu Ghudda: “I have seen in your books some things the purpose I do not understand.”

Al-Albani: “Like what?”

“Like your commentary on the Hadith related by al-Bukhari, so it is not satisfactory that [a hadith] has been related by al-Bukhari in his Ṣaḥīḥ and has been accepted by the Umma, until you have critically re-evaluated its status and declared it sound?”

Al-Albani coolly replies that, in actual fact, his project is to critically revise all of the hadiths found within al-Bukhari’s Ṣaḥīḥ. On hearing this, an incredulous Abu Ghudda then explodes “You are critically revising al-Bukhari? The most correct book there is after the book of God?”

What followed was a particularly virulent debate between these two figures, with rebuttals being published to and fro. The tone of their exchanges was extraordinary, and al-Albani’s rebuttals were littered with insults such as “May God paralyse your hand and cut off your tongue!”

It is common in many scholarly memoirs and biographies to use conversations between scholars as a pedagogical or didactic tool. They are not necessarily replicated verbatim, and may not have even occurred. Usually, there is the depiction of one scholar “winning” the debate and exposing the failing of the other’s arguments. By contrast, in al-Qaradawi’s own memoirs what can be seen is that the intended lesson from this debate is somewhat different. Al-Qaradawi concluded “this battle between both scholars was not necessary [...] and had the effect of blinding the two sides in a cloud of dust and smoke, and harmed both of them.”

Alongside his clear attentiveness to al-Albani’s Hadith scholarship, as seen in the preceding section, what al-Qaradawi wishes to provide here is a contrasting model for

---

290 An example of this style can be seen in Rashid Rida’s early work. Skovgaard-Peterson, “Portrait of the Intellectual as a Young Man.”
how debates between rivals should be conducted and make an attempt to preserve the integrity of the ‘ulamāʾ establishment. These debates are to be epitomised by politeness and courtesy. In an appendix to the third volume of his memoirs, al-Qaradawi publishes the cordial exchange of letters between himself and Ibn Baz in 1976 regarding The Lawful and the Prohibited in Islam. The tone adopted is notably polite. Ibn Baz praises the work, already in its ninth edition, but suggests a list of eight issues that he feels are in need of correction (such as al-Qaradawi’s permitting the playing of music and chess). On publication of a duly updated tenth edition, Ibn Baz writes that he would be all too happy to purchase a large number of copies for the University of Medina. Ibn Baz opines that perhaps al-Qaradawi might turn his attention to Salih Fawzan’s rebuttal, A Critique of the Lawful and the Prohibited (al-ʿIīlām bi-Naqd Kitāb al-Ḥalāl waʾl-Ḥarām) and make his corrections accordingly. Like his Salafi colleagues, Fawzan’s concern was al-Qaradawi’s liberalism and lenience, for example his permitting of photography (an issue al-Albani had been similarly concerned about). While both agreed that blasphemous image-making (tamāthīl) is to be forbidden in accordance with a number of hadiths that appear to curse image-makers, Fawzan argues that al-Qaradawi is wrong to create new, distinct and permissible categories such as that of sculpture, drawing and photography. Like al-Wadiʿi previously, for Fawzan the hadiths in question contain no semantic or syntactical specifications, and therefore represent a blanket ban. While the legal pretext (ʿilla) for this forbiddance “might not be rationally comprehensible,” for Fawzan “that it is not the concern.”

Al-Qaraḍawi’s response and refusal of Ibn Baz’s request was similarly polite. But the substance of the debate is less important than its courteous style. It demonstrates al-Qaradawi’s anxiety to preserve the integrity of the scholarly establishment. This was also a concern for Salman al-ʿAwda whose own article about this exchange, Between the Two Shaykhs, highlighted how important the example of their cordiality and mutual respect represented for other scholars, whose bickering severely damaged the image of the ‘ulamāʾ in the eyes of the Muslim public at large.

It may also explain al-Qaradawi’s conspicuous silence during the controversy of 1989 following al-Ghazali’s publication of *The Prophetic Sunna* because the authors of those critiques were Salafists with whom al-Qaradawi wished to have a dialogue. As noted above, al-Qaradawi was concerned about the possibility of co-operation and engagement with these Salafi critics. In fact, the correspondence between Ibn Baz and al-Qaradawi is one of only two personal debates that al-Qaradawi discusses at length in his memoirs, the second being with Sayyid Qutb. As such, it is clearly a debate that al-Qaradawi feels was very significant, or at the very least, he wishes to emphasise to his readers as being very significant.

There is one final discussion to be mentioned before this chapter concludes, and this relates to the wearing of the niqab, which it was noted above that al-Albani had controversially (given he was in Saudi Arabia at the time) argued against. In al-Qaradawi’s *Contemporary Fatwas*, as well as on a special programme broadcasted on *Sharia and Life*, he frames the debate as being between two positions: those who consider the wearing of the niqab to be obligatory, and those who think a woman’s body should be covered except for her face and hands.294

In this instance again, while the *ijtihād* of al-Ghazali and al-Qaradawi is the same, their styles of argumentation were very different. In his final publication on gender questions, *Woman’s Issues Between Stagnant and Alien Traditions* (*Qadāyā al-Mar’a bayn al-Taqālīd al-Rākida wa’l-Wāfīda*) al-Ghazali cites a hadith narrated by ‘A’isha that states a woman should only reveal her face and hands. Al-Ghazali’s works were intended to be easily accessible handbooks for ordinary readers,295 and as such there is no footnoted information provided, or any information regarding the hadith’s *Isnād*.296 By contrast, in al-Qaradawi’s *Contemporary Fatwas* he says “the reality is that the niqab is an alien innovation (*bid’a dakhīla*), it is not from the religion and has nothing to do with Islam.” The manner in which al-Qaradawi moves to cite other scholars’ concurrence is particularly instructive: “Supporting me in this opinion are

---

294 As al-Qaradawi put it on *Sharia and Life*, “The first of these specifications [of the permissible dress code (*zay shar 3i*)] is to cover the entire body except the face and hands. The battle here is whether the face should be covered or not.” Dima Dabbous-Sensenig, “To Veil or Not to Veil: Gender and Religion on Al-Jazeera’s Islamic Law and Life,” *Westminster Papers in Communication and Culture* 3, no. 2 (2006): 60–85 (14).
295 Khalafallah, “Rethinking Islamic Law.”
many contemporary scholars. Like Shaykh Nasiruddin al-Albani in his book *The Muslim Woman’s Hijab in the Qur’an and Sunna* (*Hijāb al-Ma’r’a al-Muslima fi’l-Kitāb wa’l-Sunna*) and the majority of the scholars of al-Azhar in Egypt, and the scholars from al-Zaytuna in Tunisia and the scholars of al-Qayrawan in Morocco, as well as other scholars from Pakistan, India, Turkey and so on.”297 The only scholar named, and the only work cited, even before either the famed scholars of al-Azhar or al-Zaytuna, is that of al-Albani.

**Conclusion**

This chapter has used the theme of contemporary Hadith criticism to elucidate one side of al-Qaradawi’s strategy for *tajdid al-fiqh*. It has been argued that al-Qaradawi’s strategy has been to attempt to reconcile or preserve unity between the unstructured and forthright approach of his mentor and teacher, al-Ghazali, with the punctilious approaches of al-Albani and his Salafi colleagues. Equally inspired by Rida, both al-Ghazali and al-Albani attempted to renew the tradition of Hadith criticism in very different ways, with the former emphasising the importance of hadiths’ concordance with the Qur’anic message, while the latter believed that the Prophetic Sunna could be reconstructed and followed precisely if enough rigour was applied to revising the Hadith corpus, and earlier consensuses were overturned. In contrast to al-Ghazali’s dismissiveness of the Salafi critiques, al-Qaradawi has been seen to be particularly attentive to the Salafi style of argumentation and their critiques of his positions, and this impacted his later writings. This is due to al-Qaradawi’s own location on the Arabian Peninsula and, despite his distinguishing of his own approach as *wasaṭī*, he has been shown to have been keen to reach out to the Salafists. At the same time however, al-Qaradawi is keen to preserve the principle of authoritative consensus as an institution, acknowledging its importance and validity even when he tries to overturn it, and this is evidenced through his actual reconstruction of al-Ghazali’s own arguments in *al-Shaykh al-Ghazali as I Knew Him*. This was so that they might more closely resemble al-Qaradawi’s own attentiveness to consensus. Al-Qaradawi’s method for renewing the

fiqh tradition’s methodology of Hadith criticism is to incorporate an attenuation of his own subjective matn criticism alongside an added emphasis on hadith’s isnāds and consensus. When al-Qaradawi does state that he is contravening an ijmāʿ, he emphasises that they have never been definitive, and emphasises his respect for the institution.

Considering the concept of authority construction outlined at the beginning of this thesis, then, it is clear that the institution of ijmāʿ and the pre-existing methodology of Hadith criticism are structures that (re)produce an authority, which al-Qaradawi then channels. In so doing, al-Qaradawi is not an entirely free agent able to manipulate the tradition however he might wish, because he is subject to the authority of these structures as well. At the same time, however, he clearly attempts to shape the tradition of Hadith criticism in such a way as to facilitate the changes he desires, while maintaining its persuasiveness and authorativity, particularly within the Arabian Peninsula context. This effort has met with some success, with Tammam noting that al-Qaradawi “has become acceptable, and even an authority, to some Salafi currents, especially from the younger generations who are known as the Salafi reformers in Saudi Arabia and the Gulf,” including the aforementioned Salman al-ʿAwda, now a prominent figure in the Saudi Arabian ʿulamāʾ establishment.298

The next chapter will follow a different theme, rooted more specifically in al-Qaradawi’s local context of Qatar. It is his role in debates over the place of the magāṣid al-sharīʿa (the higher intentions and purposes of the Sharia) in the fiqh tradition that will be discussed. Attempting to maintain the integrity of the fiqh tradition’s established hermeneutics, al-Qaradawi will be seen to attempt to establish boundaries limiting the possibilities of this much in vogue concept.

298 Tammam, “Yūṣuf al-Qaraḍāwī and the Muslim Brothers,” 19.
3. Debating the Place of the *Maqāṣid al-Shariʿa* in a Renewed *Fiqh* Tradition: Yusuf al-Qaradawi’s Authority and his Qatar-based “Internal Critics”

In analysing the dynamics surrounding Yusuf al-Qaradawi’s renewal of the *fiqh* tradition, this chapter will focus on al-Qaradawi’s authority; how it is conceived of, articulated, and how it functions. The chapter will use debates surrounding the place of the *maqāṣid al-shariʿa* (the higher intentions and purposes of the Sharia) in a renewed *fiqh* tradition to illustrate this argument. Al-Qaradawi’s input into this particular debate is his articulation of boundaries that attempt to limit the potentially far-reaching possibilities of a hermeneutical approach to the source texts based on the *maqāṣid* (sg., *maqṣad*). Al-Qaradawi instead emphasizes that ultimately it is the rules of the Arabic language for deriving a text’s juristic meaning.

While al-Qaradawi does not use a specific term to describe his hermeneutical approach, in order to describe it more fully, I will employ Wael Hallaq’s concept “Arabicate hermeneutic” which speaks to an organic link between the Islamic legal tradition, the Arabic language, and the Arab context. Hallaq uses this concept primarily to argue that the construction of “Anglo-Muhammadan Law” resulted in a transformation of the Sharia in colonial India because this legal system used English-language translation of Arabic legal texts, which resultingly channelled British preconceptions of law into the Islamic tradition.\(^{299}\) This hermeneutical concept is useful in this chapter specifically because it not only “assumes a dense linguistic link between the law and the revealed sources,” meaning “a word’s connotation, as a rule, cannot be turned into its opposite,”\(^{300}\) but also because the concept draws attention to the fact that words and the signifiers they invoke have their own particular histories. This means that, not only will al-Qaradawi be seen to defend the methodology for understanding the texts’ legal intent according to the rules of the Arabic language, but also to defend the meanings of Arabic terms and concepts as having particular histories. The grammatical

---


rules of the Arabic language and the established meaning of words, then, are the final arbiters of the texts and rulings that enjoy the highest level of proof for al-Qaradawi.

In order to make sense of al-Qaradawi’s impact in this debate, it will be argued that a Weberian, ideal-typological understanding of his authority is not useful here. As noted in this thesis’s introduction, it is instead “a study of modes of reasoning […] and the structures that (re)produce authority” that should become the focus. An attendance to the *maqāsid* was a significant feature of Muhammad ‘Abduh and Rashid Rida’s modern project, part of their expansion of the *maslahā*’s purview. However, it is also important to recognise that debates surrounding the *maqāsid*’s place in the *fiqh* tradition are currently taking place in a global context that discusses the (in)compatibility of Islam and discourses of universal Human Rights and secularism. Under the terms of that global discourse and the worldwide distribution of capital, al-Qaradawi and his *ʿulamāʾ* peers exist in a subordinate position and unequal power relationship relative to those discourses. It will be argued that this affects al-Qaradawi’s modes of reasoning and style of argumentation in a number of ways, with an anxiety over the “Westoxification” (*taghrībiyya*) of “the secularists” (*al-ʿalmāniyyūn*) coming to the fore.

Al-Qaradawi’s authority does not function uni-vocally, it is not understood and experienced by all his interlocutors, readers, and critics in the same way. Rather, authority is relational and dependent on individuals’ relative positions to one another. Muhammad Qasim Zaman introduces the concept of the “internal critic” to theorise this observation. Authority within a tradition is (re)produced through continual contestation. As such, it is the debates, contestations and disagreements between those who share their agreement in the *fiqh* tradition’s foundational claims and modes of reasoning that are the most significant, rather than those occurring with “radical dissenters” who reject a tradition entirely. As noted in the introduction to this thesis, this view has been a key part of Alasdair MacIntyre’s original conception of tradition:

---

302 Charles Hirschkind was seen to call attention to Arab Middle East’s subordinate position in global capital distributions in the introduction to this thesis. Hirschkind, “Heresy or Hermeneutics.”
A tradition is an argument extended through time in which certain fundamental agreements are defined and redefined in terms of two kinds of conflict: those with critics and enemies external to the tradition who reject all or at least key parts of those fundamental agreements, and those internal, interpretative debates through which the meaning and rationale of the fundamental agreements come to be expressed and by whose progress a tradition is constituted.\(^{304}\)

For Zaman, an internal critic’s arguments are selective, some of a tradition’s claims are defended or expressed in a new way, while others might be critiqued or even abandoned. Internal criticism is both contextual and relational, what might render a critique thoroughgoing are the terms of the tradition at which it is directed, rather than outsiders’ expectations.\(^{305}\) In this chapter the work of two of al-Qaradawi’s Qatar-based interlocutors involved in this discussion, Jasser Auda and Tariq Ramadan, will be used to elucidate the function of al-Qaradawi’s authority in relation to internal critics.

The key text for this chapter is al-Qaradawi’s 2006 work *A Study in the Deep and True Understanding of the Higher Intentions and Purposes of the Sharia: Between Overarching Purposes and Prescriptive Textual Stipulations* (Dirāsa fī Fiqh Maqāṣid al-Sharīʿa: Bayn al-Maqāṣid al-Kulliyya wa ’l-Nuṣūṣ al-Juẓ’iyya). As is clear from the title, an issue that has come to be seen as crucial in contemporary discussions is the relationship between what are considered to be the Sharia’s overarching intents and the source texts’ seemingly explicit stipulations. Jasser Auda’s *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach* and Tariq Ramadan’s *Radical Reform: Islamic Liberation and Ethics* will also come under discussion below. Interviews with each of these figures conducted between 2012 and 2014 will be also drawn upon.

The chapter will first introduce the concept of *maqāṣid al-sharīʿa* in its classical formulation, and then describe al-Qaradawi’s own approach in relation to his predecessors. The following section will elaborate on the question of al-Qaradawi’s authority, as it appears in the text and in his own conception. The work and activities of the two aforementioned Qatar-based scholars who are closely involved in discussions surrounding the *maqāṣid* will then be introduced. The Egyptian Auda, who is a member of the Association of al-Qaradawi’s Students (Rābiṭat Talāmīḍh al-Qaraḍāwī, RTQ) and

---

the International Union of Muslim Scholars (al-Ittiḥād al-ʿĀlamī liʾl-ʿUlamāʾ al-Muslimīn, IUMS), and the Swiss scholar Ramadan, who in 2012 co-founded with Auda their Research Center for Islamic Legislation and Ethics (Markaz Dirāsāt al-Tashrīʿ al-Islāmī waʾl-Akhlāq, CILE) in Doha. The examination of Auda and Ramadan’s engagement with al-Qaradawi’s stance on the primacy of the Arabicate hermeneutic for establishing texts’ jural intent will then allow an argument to be made over how al-Qaradawi’s authority as an ʿālim should be understood for the purposes of tajdīd al-fiqh.

Khaled Abou El Fadl’s landmark study Speaking in God’s Name: Islamic Law, Authority and Women used a study of the Saudi Arabian Permanent Council for Scientific Research and Fatwas (al-Lajna al-Dāʾima liʾl-Buḥūth al-ʿIlmiyya waʾl-Iftāʾ) to argue against the emergence of an “authoritarian discourse” among the contemporary ʿulamāʾ. In defining this authoritarian hermeneutic, Abou El Fadl argued that those ʿulamāʾ marginalize the divine author’s “textual intent.” By “textual intent” Abou El Fadl is referring to an anthropomorphization of the text, attributing to it a “will” that is “embodied in [its] mechanics of language and symbolism.” As will be seen, for al-Qaradawi, the tool for understanding this “will” is the Arabicate hermeneutic.

However, al-Qaradawi’s delegitimization of diverse approaches far outside this frame of reference and arguing that some positions are non-negotiable led a number of academics such as Dima Dabbous-Sensenig and Jacob Høigilt to consider al-Qaradawi the epitome of such authoritarian trends. Preserving the privileged position of himself and other ʿulamāʾ as mediators of the source texts above all else is considered to be the rationale for this authoritarianism. The chapter will argue this assumption lacks nuance, and will call attention to the ʿulamāʾ’ subordinate position within global discourses and the nuances of power relationships from a Foucauldian perspective, as first detailed in the conceptual framework. In Speaking in God’s Name Abou El Fadl contrasted this authoritarianism with his alternative concept of an authoritative discourse that was based

upon what MacIntyre would term the tradition’s “fundamental agreements.”

With that point in mind, and with reference to the work of Charles Hirschkind, this chapter will argue that it is this kind of authoritative discourse that al-Qaradawi is aiming to achieve.

Such a discourse is a “collaborative achievement between narrator and audience [where] the former cannot speak in total freedom: there are conceptual and institutional conditions that must be attended to if discourses are to be persuasive.”

The Place of the Maqāṣid al-Shariʿa in Classical Fiqh

In classical fiqh it is in Abu Hamid al-Ghazali’s (d.1111) The Clarified in Legal Theory (al-Mustaṣfā min ʿIlm al-Uṣūl) where the classification of the maṣlaḥa into five distinct maqāṣid al-shariʿa is most famously described: “The purpose of the Sharia is the people’s well-being, which lies in the preservation of their faith, self, intellect, lineage and wealth. Whatsoever ensures the safeguarding of these five principles is part of the public interest, and whatsoever harms them is against the public interest.”

Al-Ghazali also made a tripartite distinction of maṣlaḥa into “necessities” (ḍarūrāt), “needs” (ḥājāt), and “embellishments” (taḥṣīniyyāt), but maṣlaḥa-based reasoning was to remain a marginal source for a scholar given that it was not linked to a specific textual stipulation. The contribution of Abu Ishaq al-Shatibi (d.1388), the most well-known classical author to write on the subject, was to further promote maṣlaḥa-based reasoning as a potentially independent category. This was on the presumption that human beings were able to use their own moral agency to accurately discern the good, the bad, and the maṣlaḥa.

---

307 As Abou El Fadl puts it, “I would like to add that as a matter of intellectual conviction, I believe the Islamic juristic heritage should be a part of a restrictive community of meaning when interpreting and reading legally relevant Islamic texts. This arises from an intellectual conviction in the value of tradition and precedent in forming both communities of meaning and cultures of authority. This means that as a normative matter, I am starting out with an assumption in favor of the relevance and authoritativeness of the Islamic juristic tradition.” Abou El Fadl, Speaking in God’s Name, 31. Italics in original.

308 With that point in mind, it is noteworthy that Abou El Fadl includes a note of thanks to al-Qaradawi in the preface for his efforts to defend the banned Arabic translation of Speaking in God’s Name. Ibid., xii.


311 David L. Johnston argues that al-Shatibi’s shift beyond al-Ghazali had three characteristics: A new ontological position that right and wrong have an objective value outside God and humanity; an epistemological argument that individuals are able to know and judge ethical values; a hermeneutical shift toward legal interpretations that go beyond the literal stipulations of the text to a discernment of the divine
Given that it is the relationship between the *maṣlaḥa*, the *maqāṣid al-sharīʿa* and the explicit texts that is significant for this chapter’s discussion, it is the work of Najm al-Din al-Tufi (d.1316) that will be seen to be particularly noteworthy. In contrast to al-Ghazali’s carefully gradated categorization of the *maṣlaḥa* into necessities, needs and embellishments, al-Tufi preferred an approach close to a wholly substantive rationality that could also conceivably determine the *maṣlaḥa* through individual agency alone. If a ruling were considered to achieve the *maṣlaḥa*, either directly or by averting harm, then it could overturn a ruling that was perceived as contradictory. 312 It was on this basis that al-Tufi then wrote a phrase that has since come to be understood as very controversial, “if the explicit text, with regard to its authenticity and legal indications, is in contradiction with the *maṣlaḥa*: we prioritise the *maṣlaḥa*.”313 While al-Tufi ultimately excluded the usage of *maṣlaḥa*-based reasoning from questions of worship, or fixed textual injunctions (*muqaddarāt*) and legal indicants (*dalīl khāṣṣ*) found in the Qur’an, the Sunna or an *ijmāʿ*, it was al-Tufi’s approach to the *maṣlaḥa* that ‘Abduh and Rida would themselves adopt and develop. Rida approvingly reprinted Jamal al-Din al-Qasimi’s (d. 1935) 1906 commentary on al-Tufi’s work in the journal *al-Manār*. 314

Rida would come to elaborate in turn on ‘Abduh’s own suggestion that some historical rulings from the *fiqh* tradition no longer achieved the *maṣlaḥa* that God desired for mankind and, as such, were liable for change. Rida chose to develop further the originally classical differentiation between rulings related specifically to acts of worship (*ʿibādāt*), which were to remain unchangeable, and interpersonal relations and transactions (*muʿāmalāt*) that could in fact be altered or overturned in order to reconcile them with the contemporary *maṣlaḥa*. As can be seen, he was following his reading of al-Tufi in this regard. However, Rida was not specific in relating which precise determinants were to be abided by in order to discover what the *maṣlaḥa* was. This

---


meant he left behind a somewhat nebulous model for his successors, of whom al-Qaradawi is one of the most notable. As Aria Nakissa puts, it is Rida’s “guiding principle” that differentiations can be made between those aspects of the fiqh tradition and historical rulings that are open to utilitarian reasoning (the muʿāmalāt) and those that are not that underpins the contemporary ‘ulamāʾ’s mašlaḥa-based mode of reasoning and interventions in the public sphere. As will be seen in the following section, it also underpins al-Qaradawi’s own approach to the maqāṣid al-sharīʿa.

al-Qaradawi’s Dirāsa fī Fiqh Maqāṣid al-Sharīʿa

Al-Qaradawi’s Dirāsa has come in for some discussion in the recent work of two authors, David L. Johnston and Zaman, and this section will to an extent proceed in tandem with them. It will however focus on different aspects of the text in order to make its argument. In his introduction al-Qaradawi positions his interest in the maqāṣid as stemming from the works of a long line of preceding scholars, be they the aforementioned classical ‘ulamāʾ or more recent works such as those by Muhammad al-Ghazali. In particular though it was the words of Ibn Qayyim al-Jawziyya “that repeatedly brought the idea home to me clearly and forcefully, becoming firmly rooted deep within me: the Sharia is built and founded upon the good (maṣāliḥ) of Mankind, it is entirely justice, entirely mercy, entirely the good, and entirely wisdom.” He follows Abu Hamid al-Ghazali’s distinguishing between necessities, needs, and embellishments and also conceptualizes more maqāṣid beyond the original five:


316 Muhammad Qasim Zaman’s discussion of al-Qaradawi’s Dirāsa appears in a chapter of his Modern Islamic Thought where he analyzes contemporary ‘ulamāʾ’s debating of the mašlaḥa. Zaman’s chief interest lies in the “sociological insight that contestation of the common good is constitutive of its conceptions.” David L. Johnston’s interest in the work stems from a forthcoming book chapter where he views al-Qaradawi’s “rather late” interest in the maqāṣid as part of an effort to maintain his position at the forefront of current debates where the maqāṣid are used to assert the fiqh tradition’s alternativeness to, or compatibility with, potentially universal norms of human rights and gender equality. Zaman, Modern Islamic Thought, 108–39; David L. Johnston, “Yusuf al-Qaradawi’s Purposive Fiqh: Promoting or Demoting the Future Role of the Ulama?,” in Maqasid al-Shariʿa and Contemporary Muslim Reformist Thought: An Examination, ed. Adis Duderija (New York, NY: Palgrave MacMillan, forthcoming).

317 al-Qardažwī, Dirāsā, 12.
If I were to add to Ghazali’s definition of *maṣlaḥa*, I would use his original formulation but say: “By *maṣlaḥa*, we mean safeguarding the purpose[s] of the Sharia. And the purposes of the Sharia for the people are to protect their religion, life, rationality, progeny, property, honour, peace, rights and freedoms, the institution of justice and shared responsibility in [what ought to be] a moral community.”

It is al-Shatibi that informs the structure of al-Qaradawi’s work most clearly though. Hallaq argues that the motive behind al-Shatibi’s own work was to rebut what he perceived as the two extremist groups of his time. On the one hand were the Sufis, whose selective approach to the available legal opinions would not only subject themselves to an unwarranted strictness in the pursuit of a “rigorous piety,” but who also aimed to impose their puritanism upon the wider community. At the other extreme were those scholars who were similarly selective, but by contrast always chose the more lenient option, disregarding those obligations and responsibilities that al-Shatibi saw as necessary. It was argued in the first and second chapters of this thesis that since the 1960s al-Qaradawi has similarly seen his role as guiding the Islamic Awakening along a middle way between extreme Salafi puritanism and secularist laxity. In introducing the structure of his Dirāsa, al-Qaradawi writes that there exist three schools of thought concerning the *maqāṣid*. First there are the literalists (*al-madrasa al-lafżiyya*). Then, there is the “Westernizing School” (*al-madrasa al-taghrībiyya*). Finally, occupying the centre ground there is the “School of the Straight Path” (*madrasat al-ṣirāṭ al-mustaqīm*) or rather, al-Qaradawi’s “School of the Middle Way” (*al-madrasa al-wasaṭiyya*).

In al-Shatibi’s time the issue was perceived to be a hermeneutical one. In aiming for a convincing centrist alternative al-Shatibi advocated a hermeneutical approach termed “juristic induction” (*istiqrāʾ*) as a means of authoritatively deriving the *maṣlaḥa* and the *maqāṣid* from the source texts. Rather than seeking corroborating evidence for specific injunctions through their appearance in multiple reports or their concurrence with multiple themes, al-Shatibi argued for the incorporation of a holistic reading of the

---

Qurʾan into the ‘ulamāʾ’s methodology. It was argued that this method would be able to achieve legal certainty on the basis that principles had been derived from the text as a whole rather than in part. This method saw the generally more abstract, indicative Qurʾanic verses that were revealed in Mecca assuming a more prominent place than they had previously, in contrast to those more prescriptive, specific verses understood to have been revealed in Medina.  

Similarly, for al-Qaradawi the question is also one of hermeneutics. The literalists’ approach, also termed the “new Zāhirīs” (madrasat al-zāhirīyya al-judud), is characterized by their inflexibility and obduracy (jumūd wa-tashaddud) and sole focus on the clear meaning of the specific texts (al-nuṣūṣ al-juzʿīyya). The Westernizing School are also termed the “new obstructionists” (madrasat al-muʿaṭṭala al-judud) because they ignore, or “obstruct,” these specific textual injunctions. Most disconcertingly for al-Qaradawi, this “permitting of the forbidden and forbidding of the permitted” is structured by nothing “except the following of their own inclinations, or the whims of others (ahwāʾ al-ākhirīn).” For al-Qaradawi’s School of the Middle Way, “the centrisms (wasaṭiyya) of this school manifests itself by linking the specific texts to the higher, comprehensive purposes [of the Sharia].” Like al-Shatibi, “the proof of this [approach] is to be found in the way that the Sharia is induced: the reflection upon the texts’ indications, both comprehensive and specific, as well as the general considerations based on the meaning of those texts.”

For al-Qaradawi then, the particular issue is the correct relationship between those prescriptive texts, mainly the Qurʾanic verses revealed in Medina and referred to as al-nuṣūṣ al-qaṭʿīyya or al-nuṣūṣ al-ṣariḥa, and those texts whose meaning is speculative and more abstract. These were primarily revealed in Mecca, and al-Qaradawi refers to them as al-nuṣūṣ al-ẓanniyya. The increasing prominence of

---

322 Hallaq, A History, 196.
323 The Zāhirī School was named after Dawūd b. Khalaf al-Zāhirī (d.883) and is another term for the ahl al-hadīth discussed in the second chapter. Wael B. Hallaq, The Origins and Evolution of Islamic Law (Cambridge: Cambridge University Press, 2005), 124.
324 al-Qaraḍāwī, Dirāsa, 45, 85–7, 137.
325 al-Qaraḍāwī continues, “This general reading cannot be confirmed 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.” Ibid., 139–40. Quoted in Johnston, “Yusuf al-Qaradawi’s Purposive Fiqh,” 28.
global discourses of “universal Human Rights” and gender equality has meant that the place of the Qur’an’s linguistically explicit verses, relating to the *hudūd* or female inheritance for example, have come to be viewed as problematic. The Sudanese scholar Mahmoud Muhammad Taha, executed in 1985 by the Sudanese regime, wrote in *The Second Message of Islam* that it was the Meccan verses that related the essence of the Sharia, while the specific Medinan verses represented the Sharia’s elaboration in a specific historical context that had now passed. These ideas were then developed by his student Abdullahi An-Naim, now a Law Professor at Emory University in the United States, who advocated a secular state. This was based on the argument that a state’s fixed legal code derived from the *fiqh* tradition’s prescriptions and incorporating *al-nuṣūṣ al-qaṭʿ iyya* would be unable to avoid being oppressive to non-Muslims and women.328

More generally, the relationship between *maqāṣid* and *al-nuṣūṣ al-qaṭʿ iyya* has come to be considered an issue in discourses on the question of Human Rights. Themes of universalism, authenticity, and cultural or religious specificity are deployed by those who have variously attempted to incorporate the concept of universal Human Rights into the Islamic tradition, or attempted to posit alternative “Muslim Human Rights schemes.”329 David L. Johnston’s own study of the various approaches to “an Islamic theology of human rights” also highlights the creativity employed by various scholars in their approaches to the *fiqh* tradition. These range from Muslim academics working at


universities in the United States such as Ebrahim Moosa and Abou El Fadl, who employ a “postmodern epistemology” in their reading of the specific texts alongside a concern for the maqāṣid al-sharīʿa and the maslaha, to those Johnston terms “progressive conservatives” or “traditionalists.” The figures discussed include al-Qaradawi’s colleagues like Rashid al-Ghannushi, Muhammad ʿAmara, and the late Muhammad al-Ghazali.

Looking toward this latter group, many of the themes and concerns that are raised are also present in al-Qaradawi’s work, which will be discussed below. Al-Ghazali emphasised that the maqāṣid represent that adaptability of the Islamic tradition, and Islam’s own distinctive emphasis on insāniyya (humaneness). This was in contrast to a colonizing and hegemonic West that promulgated its own understanding of individual rights (that it hypocritically did not extend to minorities in the West) as valid for all nations of the world. For ʿAmara the presence of discourses that are both for him of a Western origin, and yet established as universal, is also problematic. In ʿAmara’s opinion, in the West Human Rights are considered to be a political and cultural privilege. In Islam, by contrast, they are an entitlement, an entitlement that also contains explicit duties and necessities (darūrāt wājiba). Al-Ghannushi similarly writes of humanity’s status as God’s trustees, and their subsequent responsibility (taklīf) to obey God’s commands. Human Rights are therefore not bestowed by a Western declaration, al-Ghannushi says, but come from the Sharia. Again, in al-Ghannushi’s

330 Johnston, “Maqāṣid al-Sharīʿa.”
331 For Muhammad al-Ghazali, this humaneness comes through Islam’s “[granting to] the human person (insān) an independent life, a fact that clarifies the rights bestowed on each person, and even more, which details those rights in a way that negates any ambiguity or debate.” Muhammad al-Ghazālī, Ḥuqūq al-Insān bayna Tāʾīm al-Islām wa-l-lān al-Ummal al-Muttaḥida (Cairo: Dār al-Kutub al-Islāmiyya, 1984), 11. Quoted in Johnston, “Maqāṣid al-Sharīʿa,” 18.
332 al-Ghazālī, Ḥuqūq al-Insān, 49.
334 For al-Ghannushi, this is based on al-Shatibi’s expanded understanding of the maqāṣid and maslaḥa that is taken, “[T]o represent the general framework for conceptualizing human rights and for the protection of life, together with all necessary means to achieve this; for the protection of the mind and that which pertains to it, like education, freedom of thought and expression; for the protection of human progeny [...] for the protection of property, and the rights which flow out of this – both economic and social.” Rāshid al-Ghannūshī, al-Ḥurriyāt al-ʿĀmma fi ’l-Dawla al-Islāmiyya (Beirut: Markaz Dirāsat al-Wiḥda al-ʿArabiyya, n.d.), 39; Johnston, “Maqāṣid al-Sharīʿa,” 26. For more on al-Ghannushi and his work al-Ḥurriyāt al-ʿĀmma see Nagib Ghadbian, Democratization and the Islamist Challenge in the Arab World (Boulder, CO: Westview Press, 1997), 53-4, 75, 83-4.
General Freedoms in the Islamic State (al-Hurriyāt al-ʿĀmma fiʾl-Dawla al-Islāmiyya) the main challenge is to find a means to combat the West’s new cultural “crusader campaign” that attacks “the minds of our youth.”

Alongside this anxiety to protect Islamic values from Western universalism, Hallaq sees the issue as ultimately revolving around the “Arabicate hermeneutic,” the rules of interpretation, grammar, syntax and semantics based on the Arabic language and the organic link between language and history. This became established in the fiqh tradition as the legitimate means for authoritatively approaching the jural meaning of the texts. Moosa considers it to be a fundamental problem that even a “purposive” (maqāṣidī) hermeneutical approach to the Qurʾan is still dependent on what he terms this “text fundamentalism.”

At this point in the discussion the concept of maqāṣid al-sharīʿa can be seen to emerge as a prominent feature in contemporary discussions of tajdīd al-fiqh. Many of these scholars close to al-Qaradawi appear highly concerned over a perceived Western cultural encroachment and attack under the aegis of universal rights and norms. At the foundation of this discussion lies the question of which hermeneutical approaches are legitimate and which are not.

Similarly for al-Qaradawi, the maqāṣid and the maṣlaḥa are to be derived holistically with an attendance to the texts whose meaning is speculative and abstract (al-nuṣūṣ al-ẓanniyya). There is however the possibility of apparent contradictions arising between this independent maṣlaḥa-based reasoning and the texts that are considered clear and explicit under the terms of the Arabicate hermeneutic (al-nuṣūṣ al-qaṭaʿiyya). While in the second chapter it was seen that al-Qaradawi emphasised reconciliation between seemingly contradictory hadiths where possible, in this instance his position is somewhat different. Here, if human reasoning appears to see a contradiction between the abstract maqāṣid derived from al-nuṣūṣ al-ẓanniyya and the specific injunctions prescribed by al-nuṣūṣ al-qaṭaʿiyya, then the answer is clear. It is human reasoning that is at fault and the textual injunctions that are to be followed, “For

336 Hallaq, Sharīʿa, 502.
God does not legislate for people other than that which is good for them.”338 As such, there is “no true maṣlaḥa in banning God’s prescribed limits (ḥudūd Allāh), which the explicit texts made obligatory,” or in the permitting of alcohol, usury, moral depravity, obstructing the giving of Alms, forbidding polygamy, or equalizing between the inheritance portions allotted to sons and daughters.339

Others scholars have argued that the explicit texts’ injunctions such as those listed above have a specific context and should now be consigned to history. They cite the example of the aforementioned al-Tufi and his statement that if a text appeared “in contradiction with the maṣlaḥa: we prioritise the maṣlaḥa.” The well-known example of the caliph ʿUmar who famously did not apply the punishment of amputation for theft during a time of famine is also cited. Al-Qaradawi devotes a substantial section of his Dirāsa to these two examples. He bemoans the “unjust treatment” al-Tufi has received at the hands of the “secularists” and those who would purport to obstruct the prescriptions of al-nuṣūṣ al-qaṭaʾ iyya. Al-Qaradawi writes “it is definitively clear to me that when he [al-Tufi] refers to ‘the text’ in his treatise, he only means ‘the text that is speculative’ (ẓannī) with regard to its chain of transmission, its authenticity, or the specific legal indications of its wording (matnihi wa-dalātihi)” and would never have suggested prioritising an independently conceived of maṣlaḥa over the prescriptions of a specific text.340

Similarly, al-Qaradawi takes issue with the suggestion that ʿUmar decided to “obstruct” the punishment of amputation for theft as it was explicitly proscribed in the text purely on the basis of his own independent maṣlaḥa-based reasoning. In a manner similar to his reconstruction of Muhammad al-Ghazali’s mode of reasoning seen in the second chapter, here al-Qaradawi also relates ʿUmar’s mode of reasoning as one that is carefully structured according to the methods of the fiqh tradition. Al-Qaradawi writes that, for ʿUmar, the ongoing famine represented a legal doubt (shubha). As such, and in accordance with the hadith, “avert the punishments as much as you can […] the Imam

338 al-Qaraḍāwī, Dirāsa, 101.
who errs in forgiving is better than he who errs in punishing.”

ʿUmar reasoned that in this context the punishment of amputation would not achieve its intended purpose \((\textit{maqṣad})\) at that time. It is on that basis that al-Qaradawi was critical of those states such as Sudan or Iran that he believes have selectively implemented the \(\textit{ḥudūd}\) in the absence of a broader social justice as intended by the Sharia. The Sharia is applied as a whole or not at all, and given that “currently the unemployed and hungry cannot find work, the orphan cannot find bread and the sick cannot find medicine […] How can this punishment [of amputation for theft] be applicable in such a situation?”

Rida’s own emphasis on the responsiveness of the \(\textit{fiqh}\) tradition to changing needs and circumstances also appeared to cause him an anxiety. For there appeared to be the clear possibility of the Sharia and its \(\textit{fiqh}\) lapsing into a solely human and historically-evolving endeavour. This was best demonstrated by the vociferousness of Rida’s responses to those he considered to have strayed too far in their own emphases on moral agency at the expense of divine prescription. Al-Qaradawi is similarly markedly forthright in his attacks on those whose utilitarian reasoning is apparently not restrained by the tenets of the \(\textit{fiqh}\) tradition to a suitable extent.

Like his colleagues mentioned above, al-Qaradawi is particularly concerned about the encroachment of what he understands as Western norms and values into the Muslim world. It is therefore the preservation of the perceived norms of an Arab-Muslim identity that are among the most important issues in al-Qaradawi’s \textit{Dirāsa}. The only two members of this “obstructionist” school that al-Qaradawi names in the text is Amina Wadud, who was seen in the second chapter leading a mixed juma’ prayer in a New York church in 2005, but is referred to in the \textit{Dirāsa} often simply as “the American,” and the French-Algerian scholar Muhammad Arkoun. The defining characteristics of this “group of secularists, liberals and Marxists” for al-Qaradawi are their “enslavement” to the West and its thought. Crucially, they prefer “French linguistics” (as he terms the hermeneutic of Muhammad Arkoun) to the rules of the

\(^{341}\) Al-Qaradawi writes that while this hadith has a weak chain of transmission but he states that the meaning of its \textit{matn} renders it sound.


\(^{343}\) Zaman, \textit{Modern Islamic Thought}, 113.

\(^{344}\) Note to self, reference Julianne Hammer and Rashid Khalidi here.
Arabic language for deriving meaning from the source texts. This school views ʿUmar’s example as a “cancellation” or “obstruction” of the text. In so doing, al-Qaradawi says this group are seeking to, “deify themselves, appropriating God’s right to legislate on behalf of His creation by permitting the forbidden and forbidding the permitted in accordance with their own whims, acquiescing to their own inner demons (shayāṭānihim).”

Nakissa suggested that Rida’s legacy was a markedly nebulous model that allowed for the overturning of previous ruling in some instances, while maintaining that in other instances there was to be no negotiation and the texts’ meaning according to the Arabicate hermeneutic must be followed to the letter. There were no explicit guidelines or rules as to how a scholar was to distinguish precisely one from the other. The intent of al-Qaradawi’s Dirāṣa appears then to be the setting out for his readership and peers specific boundaries regarding where, in what form and to what extent, legitimate maṣlaḥa-based reasoning might occur. These boundaries close off a small number of norms (as were listed above) that al-Qaradawi considers, under the rules of the Arabicate hermeneutic, to enjoy the highest levels of proof on the basis of their syntactical and semantic clarity and explicitness. While these norms may well be relaxed or suspended in instances where their intent is not achieved and a case of legal doubt exists (as seen in ʿUmar’s example), they may never definitively be rescinded or historicised. For al-Qaradawi, the importance of the Arabicate hermeneutic in this regard becomes accentuated because it is considered an issue of identity threatened by Western encroachment.

Moreover, for al-Qaradawi this emphasis on identity and cultural specificity permeates the Arabicate hermeneutic itself. Hallaq has argued that the emphasis on the Arabicate hermeneutic arose as a reaction against Muhammad b. Idris al-Shafiʿi’s (d.820) “nativist” emphasis on the “primordial presuppositions” of Arabs at the expense of non-Arabs in understanding the text. This reaction meant an increased emphasis was placed on an interpretative hermeneutic grounded in “linguistic formalism.” This aimed to ensure that the derivation of meaning, and the judging of arguments, was restricted to

---

345 al-Qaraḍāwī, Dirāṣa, 87.
those linguistic features that were equally observable (syntax, grammar, morphology) by both Arabs and non-Arabs. It is on that basis that within the al-Azhar curriculum that al-Qaradawi studied as a young man, one saw and continues to see a noted place given to pre-Islamic poetry and literature. This is intended to aid in the accurate attribution of meaning to concepts invoked during the period of the Qur’an’s revelation. Citations of pre-Islamic poetry are a noticeable feature throughout al-Qaradawi’s oeuvre.

This has an added effect on al-Qaradawi’s hermeneutics. The meanings of certain terms that were established in the fiqh tradition and are considered to relate to Muslim norms under threat of Western hegemony also come to enjoy a similar level of non-negotiability as al-nuṣūṣ al-qāṭa‘īyya. Examples would include the meaning of the word hijab and its obligatory wearing, or prohibitions of homosexuality. Scholars such as Scott Siraj al-Haqq Kugle, Stephen Hunt, Dima Dabbous-Sensenig and Gudrun Krämer see al-Qaradawi’s reasoning that the juristic intent of certain terms is clear, explicit and non-negotiable, be they al-nuṣūṣ al-qāṭa‘īyya, the obligatory wearing of the hijab, or prohibitions of homosexuality as the epitome of the “authoritarianism” of the contemporary ‘ulamā’. For Kugle, al-Qaradawi’s presentation of the Shafi’i madhhab’s position on homosexuality as the only available option, and a straightforward condemnation of those acts as a grave sin, represents a “betrayal” of the pre-modern tradition’s diversity. Dabbous-Sensenig similarly sees in al-Qaradawi’s use of

---


348 Kugle and Hunt, “Masculinity, Homosexuality, and the Defense of Islam.” Kugle’s own argument rests on highlighting variegated readings of sexuality in the pre-modern tradition, as well as a re-reading of the Qur’anic story of Lut. Kugle emphasizes Camilla Adang’s reading of the Córdoban scholar Ibn Hazm who, she argues, saw the basis of human-pairing (izdīwāj) as love and a harmony between two souls that join to form a whole. On that basis, loving attraction might occur between two men or two women in the same manner as it would between a woman and a man and, while acting on such attraction in lieu of a marriage contract (an impossibility for same-sex couples in his period) was a sin/crime (he would not have distinguished between the two concepts), genuine love was the foundation of all these diverse attractions. Camilla Adang, “Ibn Hazm on Homosexuality: A Case-Study of Zahiri Legal Methodology,” Al-Qantara XXIV, no. 1 (2003): 5–31. For more on this discussion see Jamel Amreen, “The Story of Lut and the Qur’an’s Perception of the Morality of Same-Sex Sexuality,” Journal of Homosexuality 41, no. 1 (2001): 1–88; Scott Kugle, “Sexual Diversity in Islam,” in Voices of Islam, ed.
language on *Sharia and Life* that phrases such as “it is clear in the Qur’ān” and “the Qur’ān commands” the wearing of the hijab (she argues that it neither clear nor commanded) semantically conceal the place of human interpretation and insert a barrier between the Qur’ānic text and al-Qaradawi’s audience.\(^{349}\)

In his own analysis of al-Qaradawi’s discourse, Jacob Høigilt also perceives an authoritarian streak. Høigilt argues that al-Qaradawi attempts to “make his own opinions the definition of contemporary Islam […] his language contributes to construing the Islamic religious field as a pyramidal structure, with himself on top, enjoying the power to define correct belief and practice as well as who is allowed to join the field of religious thought.”\(^{350}\) Gudrun Krämer similarly presents al-Qaradawi’s pursuance of his “self-appointed” role as a guide to the Muslim *umma* as similarly strict, though somewhat confused. While he may emphasise Islam’s openness, ease, and adaptability, al-Qaradawi also attempts to establish “clear limits to what one may do, say and think […] Drawing boundaries is his profession.” From Krämer’s perspective, while al-Qaradawi is firm and unequivocal in establishing these boundaries around the Arabicate hermeneutic, his arguments and justifications are markedly unsatisfying. “Vigour does not equal rigour,” as she puts it.\(^{351}\) To Johnston, in al-Qaradawi’s delegitimising of Arkoun’s hermeneutics he takes on “the role of an inquisitor, though refraining from actually calling them *kufār* (plural of *kāfir*, unbeliever, or in this case, apostate).”\(^{352}\) However, in an interview between the author and al-Qaradawi in 2012 he


pointedly stated that he did not consider Arkoun to have been an apostate, though his work represented serious deviations (inhirāfāt).\textsuperscript{353}

The aforementioned portrayals of al-Qaradawi as authoritarian neglects the conditions under which these discussions take place. Discussions of Human Rights, Islamic renewal, secularism, and other discourses on gender and equality take place in a global context with marked asymmetries of power between the varying protagonists. The underlying theme of al-Qaradawi and his peers’ discussions are the anxieties and fears of Western cultural domination. The hijab has become a broader “symbol of the validity and dignity of Muslim tradition as a whole”\textsuperscript{354} and the advancement of sexual rights are considered to be a major part of the work of Western Human Rights organisations, NGOs, and secular-progressive Muslim intellectuals. Al-Qaradawi speaks of the cultural “war” being waged on the Arab world by the “conquering civilisation” of the West.\textsuperscript{355} Indeed, Saba Mahmood has also described in marked detail that encouraging both Muslims’ historicisation of the Qur’ān and Sunna, and promoting Western hermeneutical readings of the texts has been actively promoted as a goal of American foreign policy. Mahmood highlights that the approaches of Muslim liberals and their arguments for secularization are shared by American foreign policy analysts who see those reformers, as critical of American foreign policy as many have been, as the most open to a “Western vision of civilization, political order and society.”\textsuperscript{356}

What brings this disparate group of reformers to the attention of the US State Department is their hermeneutics and epistemology, with both these Muslim secular reformers and the US government seeing the refashioning of Islam in a manner akin to the Protestant Reformation as a necessity. In the wake of 9/11 it was “traditionalist Islam” that became seen as the chief strategic threat to American interests. Mahmood

\textsuperscript{353} al-Qaraḍāwī, interview, February 16, 2012.
\textsuperscript{355} Kugle and Hunt, “Masculinity, Homosexuality, and the Defense of Islam,” 15; Dabbous-Sensenig, “To Veil or Not to Veil,” 16–7. In Uriya Shavit’s detailed study of a large number of what he terms “second-generation Islamist writers” including most notably Yusuf al-Qaradawi, Muhammad al-Ghazali, Rashid al-Ghannushi, Muhammad Qutb, Muhammad Jalal Kishk and Muhammad ‘Amara, Shavit argues that this generation shares the perception that the West is attempting a sophisticated effort to de-Islamize Muslim society. Shavit, Islamism and the West.
highlights the arguments of Abu Zayd, Hasan Hanafi and Abdul Karim Soroush as examples of secular reformers and points out the striking extent to which geopolitical think tanks such as the Rand Corporation focused on Muslim “failures” to regard the Qur’an as an historical document, that Muhammad was a product of his environment and his example could hold no practical value for contemporary experiences, and “their inability to denounce the juristic tradition for its deficiency and contradictory character.”\textsuperscript{357} This traditionalism is “not simply deficient but dangerous,”\textsuperscript{358} far more so than violent militancy. This is because, as that report concluded:

Modern democracy [and the necessary transformations needed for a society in the Global South to be incorporated into the system of global capitalism, we might say] rests on the values of the Enlightenment: traditionalism opposes these values [...] traditionalism is antithetical to the basic requirements of a modern democratic mind-set: critical thinking, creative problem solving, individual liberty, secularism.\textsuperscript{359}

Abu Zayd argued that secularism “in its essence, is nothing but the true interpretation and scientific understanding of religion.”\textsuperscript{360} Arkoun can similarly be included as part of this group, for he also argued for the “\textit{de facto} separation between the spiritual and the temporal [that has] existed in Islam [notwithstanding] any intellectual attempt to give it cognitive foundations.” He referred to this as the desired “organic distinction” between political and religious institutions and realms. This was because Islam is a “religious message” first and foremost with very few verses showing a concern with “legal matters” of the state.\textsuperscript{361}

Al-Qaradawi’s response to the hermeneutics of Muhammad Arkoun, condemning it as illegitimate without showing signs of critical engagement, can be seen

\textsuperscript{357} Ibid., 12.
\textsuperscript{358} Ibid.
\textsuperscript{359} Ibid.
to have drawn similar critiques about the rejection of freedom of speech and illiberalism that arose during the Nasr Abu Zayd (d.2010) controversy. Briefly, Nasr Abu Zayd argued that as the Qurʾan was revealed it became an indistinguishable part of a history, became “humanized” and inextricably enmeshed with its local context. For Abu Zayd, while the Qurʾan was a fixed text, its enunciation had been shaped, and was continually shaped, by human interpretation, becoming a concept (maṭḥūm) without any fixed meanings. It was simply a “sign system” like any other piece of literature or cultural artefact. To Abu Zayd, the metaphysical argument for the Qurʾan as the embodiment of an accessible divine sovereignty “results in the sovereignty of men of religion […] who are] nothing but biased human beings.”

A professor of literature at Cairo University, Abu Zayd was controversially denied tenure in 1992. The tenure committee’s report argued that Abu Zayd’s Qurʾanic hermeneutics were not commensurate with that of a believing Muslim, and were unacceptable. A furore erupted among liberal Egyptian intellectuals and abroad in the West. Abu Zayd’s treatment was a denial of basic freedom of speech and thought.

While this incident prompted a number of liberal academic publications to adopt a similarly critical tone, Charles Hirschkind’s reading of the event took a different approach. As he put it, “the attribution of unscholarly intentions to Abu Zayd should not distract us from taking the argument itself seriously: namely, that the practice of reason occurs within a social context and, thus, presupposes and requires commitment to the principles which sustain that context.”

In so doing, Hirschkind was not seeking to make a straightforward “culturalist argument” that certain types of reasoning or speech are more authentic and in tune with a society’s identity than others. He was saying something slightly different. Hirschkind considered how analysing these events in relation to that of an Islamic “discursive tradition” might affect one’s conclusions. As noted in the conceptual framework of this thesis, such an approach entails attending to the “specific articulations of material processes, structures, and practices, including

---

362 Abū Zayd, Naqd, 56. For more on Abu Zayd’s hermeneutics see Hirschkind, “Heresy or Hermeneutics”; Mahmood, “Secularism, Hermeneutics, and Empire.”
363 As is well known, Abu Zayd’s travails did not end there. His marriage was subsequently annulled on the basis that his beliefs and writings were not consistent with that of a believing Muslim. As a non-Muslim, it was illegal for him to be married to a Muslim woman. He and his wife then fled Egypt for the Netherlands.
364 Hirschkind, “Heresy or Hermeneutics.”
practices of reasoning and speech, embedded in [a] society.”

Due to global imbalances of capital, postcolonial societies in the Middle East are being transformed with ever-greater speed, and the Islamic tradition occupies a subordinate position to the liberal tradition.

As Alasdair MacIntyre was seen to argue in this thesis’s introduction, there is no single, universal rationality. Instead it is tradition-dependent: “There is no standing ground, no place for enquiry, no way to engage in the practices of advancing, evaluating, accepting, and rejecting reasoned argument apart from that which is provided by some particular tradition or other.” At the time of the Abu Zayd controversy al-Qaradawi’s close colleague Fahmi Huwaydi wrote a commentary piece in the Egyptian daily al-Ahrām, where he argued that “for any critical engagement with the religious texts to be acceptable and legitimate, it must begin with a commitment to the text. [...] Every critical activity which seeks to undermine and destroy the Sharia texts, is not protected under the notion of intellectual freedom, but rather falls within the range of that which society must prohibit and prevent.”

In the case of Abu Zayd, Hirschkind concludes that “while Abu Zayd’s suggestions concerning hermeneutic method, the importance of clarifying historical contexts, or the need to weed out superstition and error were seen by many [many observers from the liberal tradition we might say,] to fall within the realm of reasonable argument, his rejection of the Qur’an’s divinity necessarily placed him well outside that realm.” That is, the realm of acceptable argumentation and modes of reasoning according to the foundational arguments of the fiqh tradition.

The position shared by scholars such as Hirschkind, MacIntyre and Talal Asad, is that Huwaydi’s mode of reasoning here (and al-Qaradawi’s perceiving of Arkoun and others’ use of non-Arabicate hermeneutics as seeking to “deify themselves”) should not be understood as “illiberal,” or rather not in keeping with the foundational

---

365 Ibid. My italics.
366 Ibid.
369 Hirschkind, “Heresy or Hermeneutics.”
370 al-Qaraḍāwī, Dirāsa, 87.
arguments of the liberal tradition. Instead it is a mode of reasoning derived from the foundational claims of the discursive *fiqh* tradition. In his own analysis of al-Qaradawi’s rhetoric Høigilt concluded that al-Qaradawi uses language to close down debates and provide straightforward, closed answers to questions that had been the subject of debate within the tradition and between the *ʿulamāʾ*. On that basis, Høigilt argues that for al-Qaradawi “religious authority is an end in itself.” That end is to secure his positions “as the foremost spokesman of a religious ideology, centristism, which is becoming more and more dominant in Egypt” and head of “a religious establishment that jealously guards its power to speak in the name of religion.”

As has been seen in this chapter so far, al-Qaradawi is both unable and unwilling to engage with scholars utilizing hermeneutical approaches far outside the horizons of the Arabicate hermeneutic. In his *Dirāsa* he considers them unacceptable. He also considers it the role of himself and his fellow *ʿulamāʾ* to protect the social order and guide the Arab youth by closing down debates where necessary. While Høigilt is not quite so blunt, in short he considers al-Qaradawi’s “religious” discourse aimed at nothing other than establishing an oppressive orthodoxy and maintaining the power and privilege of himself and his scholar-class. Høigilt discusses a Norwegian magazine article about the European Council for Fatwa and Research, which included a picture of junior members of the council kissing al-Qaradawi as a sign of respect. He concludes “it is difficult to avoid comparing the scene and the whole situation with the Vatican and its hierarchy of priests: religious experts from various countries under the leadership of one undisputed authority treating all sorts of questions with answers and judgements that define correct Islam for the laity.”

A significant portion of this thesis’s introduction was devoted to the arguments of Talal Asad, followed by Timothy Fitzgerald. They argued that there exists an unacknowledged supposition in much of secular academic discourse that “religious leaders,” particularly Muslims or Catholics it would seem, by definition aim to construct an orthodoxy that is oppressive because it marginalizes other interpretations. The secular, objective academic observer considers these heterodox interpretations equally

---

372 Ibid., 154.
valid, or more valid if they are closer to their own liberalism. This in itself involves the taking of a theological position that goes unacknowledged or unrecognized entirely. This is part of, as Fitzgerald terms it, “The ideology of religious studies.”

This next section will argue that the situation is somewhat more complicated, even though al-Qaradawi’s publications for the Arab-reading public do not employ a liberal mode of reasoning and some potential debates are closed. Moving specifically to al-Qaradawi’s local context of Doha, it will consider the fact that al-Qaradawi certainly does not conceptualise his own authority as having the power to define what might be legitimately thought or not. The work of Doha-based Egyptian scholar Jasser Auda and Tariq Ramadan’s own modes of reasoning when it comes to the maqāṣid will be considered, as well as their own engagements with al-Qaradawi and his arguments. This will highlight the argument here that authority is relational, and the achievement of a discourse that is authoritative and legitimate (because it incorporates the necessary “conceptual and institutional conditions”) in the eyes of al-Qaradawi is dependent on its being perceived as sharing in the fiqh tradition’s foundational arguments.

al-Qaradawi’s Authority and Internal Criticism in the Qatar-Context

In al-Qaradawi’s Dirāsa he emphasises the importance of “being open to the world,” “tolerance between religions, and dialogue between civilisations.” Disagreements are a “treasure” that should be valued. Despite his descriptions cited above, Høigilt also admits that “al-Qaradawi has never claimed any kind of absolute authority for himself alone, and the thought would probably be reprehensible to him.” Høigilt then continues, “However, this difference on principle does not detract from the ideological importance of al-Qaradawi’s efforts at securing the position of Islamic religious scholars (and himself in particular) as supreme religious authorities.” For Høigilt, al-Qaradawi’s own reasoning and disavowal’s of supreme religious authority is not relevant, because it superseded by an underlying structure (that Høigilt terms an ideology) of which al-

372 al-Qaradawi, Dirāsa 152.
372 Zaman, Modern Islamic Thought, 134.
376 Høigilt, Islamist Rhetoric, 154.
Qaradawi either does not recognize or is himself not fully cognizant. To Høigilt however, this underlying ideology is clearly observable in al-Qaradawi’s discourse.

However, it is worth exploring this apparent disjuncture, between al-Qaradawi’s disavowal of authority while seemingly exercising it to delegitimize certain hermeneutical approaches, further. Following Hirschkind, MacIntyre, and Asad it has already been argued that Høigilt’s arguments represent a misreading based on an unacknowledged or unrecognized assessment of the Islamic tradition from the standpoint of the liberal tradition. As far as the relationship between a shaykh and his students are concerned, al-Qaradawi highlights his unease at situations where a student places “absolute trust in the shaykh, such that whatever he says is true and his command is to be executed.” The shaykh “should not marginalize [his students’] individuality nor forbid them from questions, discussions or objections.”

Al-Qaradawi has a network of students, the RTQ, which meets in Doha on an approximately annual basis. The author observed the last meeting in February 2014, and will discuss the earlier recollections of Auda, a member and established scholar in his own right. Auda emphasizes:

The Shaykh reminded us more than once in those lessons that he did not want blind imitators (muqallidīn)! He emphasised that he did not want his students to imitate him, except in the key features of his methodology (qaḍāyā manhājiyya raʾīsiyya). Apart from that, the Shaykh always insisted that the door was wide open to differences and discussion with him.

The opinions of Krämer, Dabbous-Sensenig, Høigilt and others suggest that al-Qaradawi betrays an authoritarian streak that is apparently common to most religious leaders and clergyman. A reading of al-Qaradawi’s Dirāsa has suggested that differences of opinion over the Arabicate hermeneutic as the only means to read the texts are unacceptable. It is therefore important to consider Auda’s recollections above regarding al-Qaradawi’s openness to disputation and difference. Given the marked differences between Auda and al-Qaradawi’s hermeneutics, as will be seen, and al-Qaradawi’s

---

acceptance and legitimation of Auda’s approach, there is clearly more to be said on this apparent disjuncture between the language of al-Qaradawi’s Dirāsa and his role among his students in the RTQ.

Auda’s Approach to the Maqāṣid and his Engagement with al-Qaradawi

In Auda’s own work, Maqasid al-Shariah as Philosophy of Islamic Law, his hermeneutics are quite different from that of al-Qaradawi. He is critical of al-Qaradawi’s assessment of textual evidence on the basis of its linguistic clarity according to the terms of the Arabicate hermeneutic: “[L]iteralism remains a general feature in modernist trends, including its reformist stream, as long as it gives ultimate theoretical authority (ḥujjīyya) to the category of ‘clear’ linguistic evidence over ‘unclear and uncertain’ expressions of maqāṣid and higher values.”  

By contrast, Auda wishes to introduce “shades of grey” into the distinctions between the explicit and inexplicit texts adopted by al-Qaradawi and his fellow ‘ulamā’. At the same time he wishes to position himself as an internal critic, and promote “a methodology from ‘within’ the Islamic scholarship that addresses the Islamic mind and Islamic concerns. This approach is radically different from projects for Islamic ‘reform’ and ‘renewal’ that come from ‘without’ the Islamic terminology and scholarship.”

Auda therefore emphasizes the position of a lesser known classical school of thought known as “The Validators” (al-muṣawwiba). This School argued that rulings are first and foremost “assumptions” (ẓunūn) on the part of mujtahidūn when they reflect upon the scripts […] al-muṣawwiba concluded that different juridical opinions, however contradictory they might be, are all valid expressions of the truth and are all correct (ṣawāb).” Put simply, “There are multiple truths.”

---


380 In Auda’s work, he provides a sliding scale of decreasing legal certainty (ḥujjīyya), ranging from: “proof (ḥujja),” “apologetic interpretation,” “interpreted (mu‘awwal),” “supportive evidence (isti’nās),” “minor criticism (fihi shay‘),” “radical re-interpretation,” “void (bāṭil).” Ibid., 156.

381 Ibid., 8–9.

382 Ibid., 194.
with the author conducted in February 2013, Auda relates a discussion with al-Qaradawi in which this point was put to him:

Once I had a conversation with him [al-Qaradawi], at the rābiṭat talāmīdh al-qaraḍāwī, one of the meetings, about al-qāṭaʾ waʾl-ẓann (the explicit and the abstract). I did propose that current philosophy, like the level that humans had reached in their public thinking, is that we don’t have a black and white qāṭaʾ waʾl-ẓann anymore, but that there are different levels of qāṭaʾ and different levels of ẓann or whatever you want to call it, and that there is black and white but there is a lot of grey in between. The Shaykh said that “this is philosophically sound, but philosophy is something that Muslims had rejected,” and that we’re supposed to differentiate between qāṭaʾī and ẓannī and that’s it.\(^{383}\)

Auda’s approach expands on al-Qaradawi and his colleagues’ holistic reading of the Qur’an. For Auda, “the small number of verses related to rulings, which are traditionally called the ‘verses of the rulings’ (āyāt al-aḥkām), will extend from a few hundred verses to the entire text.”\(^{384}\) The al-nuṣūṣ al-ẓanniyya found primarily in the Qur’an’s Meccan verses will come to enjoy the same level of proof, and therefore the same legal relevance, as those found in the Medinan portion of the text. Auda reasons that “This approach will also allow principles and moral values, which are the main themes behind the Qur’anic stories and sections on the hereafter, to become ratio legis (‘illal) for rulings.”\(^{385}\) In Auda’s view this would have the effect of “transforming uṣūl al-fiqh into a philosophy of law (falsafat al-tashrīʿ).”\(^{386}\)

Needless to say, in Auda’s own description of his engagements with al-Qaradawi as cited above one sees acceptable disagreement, but not outright rejection or delegitimization. It should also be noted that, al-Qaradawi and the IUMS’s definition of an ālim is far broader than simply graduates of al-Azhar and other such institutions. Al-Qaradawi instead defines ʿulamāʾ as “the graduates of Sharia faculties and departments of Islamic studies, as well as everyone who has a [serious] interest in the Sharia sciences and Islamic culture and is active and productive as a scholar.”\(^{387}\) As

---


\(^{384}\) Auda, Maqasid Al-Shariah as Philosophy of Islamic Law, 232.

\(^{385}\) Ibid.


\(^{387}\) Yūsuf al-Qaraḍāwī, Malāmiḥ al-Mujtamaʾ al-Muslim alladhi Nunshiduhu (Beirut: Mu’assasat al-Risāla, 1996), 198. Quoted in Muhammad Qasim Zaman, “The Ulama and Contestations on Religious
such, a scholar like Auda (who holds two doctorates, one from Canada’s Waterloo University and a second from the University of Wales) is one of the ‘ulamā’. In an interview between the author and al-Qaradawi, also in February 2013, al-Qaradawi was asked about the extent to which he was concerned that such a “maqāṣidī” approach might represent a problematic alternative (badīl) to the fiqh tradition’s own methodology (namūdhaj al-tashrī’). His response was straightforward and signalled that such an approach was indeed a legitimate part of the tradition’s methodology of usūl al-fiqh, “Some scholars show a great interest in a maqāṣidī approach, some take a middle road, and some show only a slight interest […] but all of them are still scholars of usūl al-fiqh (usūlīyyūn muslimūn).”

The point being made here is that Auda’s hermeneutical approach is as potentially far reaching as that of Abu Zayd or Arkoun, and yet al-Qaradawi’s response to them appears very different. To al-Qaradawi’s rejection of non-Arabicate hermeneutics and concern over Western “philosophy” Auda responds, “I don't take my Shaykh’s view saying that ‘no we don't quote western philosophy, we don’t use western philosophy, because we have our own people, our own civilization and our own identity, that we shouldn't quote western philosophers, we have our own.’” Abu Zayd and Arkoun defined themselves as “secularists” in how they considered society ought to be governed. To al-Qaradawi and his peers such as al-Ghannushi or Muhammad al-Ghazali, this is the colonial legacy that must be rejected. “It’s not possible to improve human life if Islam is responsible for only part of it […] it’s not possible that Islam be [solely] for the mosque, while the school, university, law court, television, journalism, theatre, cinema, souq and street are [left] to secularism.”

Zaman considers there to be a marked lack of clarity as to where the line lies between al-Qaradawi’s encouraging multiple opinions and diversity, and rejection of approaches that he considers a threat to society.

In Auda’s own view, “The line is political,” meaning that the line distinguishing between an acceptable and an unacceptable interlocutor is rooted in


al-Qarāḍāwī, interview, February 16, 2012.

Auda, interview, February 2, 2013.

al-Qarāḍāwī, al-Dīn wa’l-Siyāsah, 70.

Zaman, Modern Islamic Thought, 138.
identity politics and based on al-Qaradawi’s assessment of someone’s personal political convictions, “Muhammad Arkoun’s ideology is a European ideology and Shaykh Yusuf’s is an Arab, Muslim ideology.”

It has already been noted in this thesis that al-Qaradawi’s network of supporters in Doha has facilitated his establishment as one of the most prominent ‘ulamāʾ of his day, through assisting his utilization of social and digital media for example. Al-Qaradawi only authored an explicit monograph about the maqāṣid al-sharīʿa in 2006 and this has led Johnston to argue that al-Qaradawi “jumped on the maqāṣidī bandwagon well after it had gained momentum.” Al-Qaradawi would appear to share this concern that his work might be perceived in such a way. After his Dirāsa was published al-Qaradawi asked Auda, already an internationally-recognized scholar in contemporary discussions on the maqāṣid al-sharīʿa, to author a study about the place of the maqāṣid al-sharīʿa in al-Qaradawi’s oeuvre.

Auda considers this book to be intended for those among al-Qaradawi’s more conservative readership and critics (it was noted in the second chapter that engaging this group was important to al-Qaradawi) who would feel uneasy at the extent of al-Qaradawi’s attentiveness to the maqāṣid in place of the observable meaning of the text. A facet of al-Qaradawi’s approach to the maqāṣid has been to conceptualise new maqāṣid beyond the original five, highlighting the Sharia’s attendance to “freedom,” and “equality” for example. In his work The Higher Intentions and Purposes of the Sharia According to Shaykh al-Qaradawi Auda writes in support of al-Qaradawi’s reasoning that new maqāṣid such as “freedom” and “equality” should be accepted from beyond Abu Hamid al-Ghazali’s five. Auda argues that such new maqāṣid are also

---

392 Auda, interview, February 2, 2013.
395 Auda’s work is the subject of Usaama al-Azaami’s own doctoral thesis at Princeton University.
396 Auda, interview, February 2, 2013. Another example of al-Qaradawi’s network assisting his engagement with the maqāṣid debate can be seen in his visits to London in the mid 2000s at the invitation of newly founded al-Maqasid Centre. This Centre was founded in 2005 by Ahmad Zaki al-Yamani, and with other key supporters of al-Qaradawi such as Muhammad Salim al-ʿAwwa. Auda was the Centre’s director until his move to Doha in 2008. The proceedings of the Centre’s first seminar and conference in 2005 where published in a volume edited by al-ʿAwwa in 2006, with al-Qaradawi’s essay essentially a sixty-page summary of his Dirāsa published that same year. In the preface to his Dirāsa al-Qaradawi includes a specific note of thanks to al-ʿAwwa as well Yamani for their enthusiastic encouragement of al-Qaradawi’s involvement in the al-Maqasid Centre and its project. al-Qaraḍāwī, Dirāsa, 9–10.
“fundamental Islamic principles, even though they both do not occur literally (bila-fazihumā) in the Sharia texts [...] This adoption of new concepts is part of al-Qaradawi’s renewal of the language of discourse (lughat al-khiṭāb) [...] It corresponds entirely with the spirit of Islam, and does not contravene the fixed matters (al-thawābit) in the sciences of the maqāsid as some might think.”

Auda adds that making this argument in support of al-Qaradawi in a work about al-Qaradawi has the added effect of making its readers more receptive to his own approach. It allows Auda to speak authoritatively to those “people who consider al-Qaradawi as the ultimate authority, pushing them towards ‘maqāsidisation,’” or a more “purposive” perspective.

Because al-Qaradawi’s oeuvre extends to well over one hundred works, dealing with a wide array of themes, Auda points out that other scholars will also seek a stream of thought in al-Qaradawi’s oeuvre for the benefit of their own projects. “There are many strands, or sides to al-Qaradawi’s work, some want to expose this [purposive] side, some might want to expose his jihādī side [author interjects: “like who?”], like Khaled Meshaal. Others want to expose his Salafi side.”

In Auda’s reasoning, the prestige and respect al-Qaradawi enjoys makes his authority appear similar to Pierre Bourdieu’s concept of symbolic capital. Possessing symbolic capital depends on another’s “recognition” of your possession of it. Or rather,

The symbolic efficacy of words [here we might say al-Qaradawi’s words] is exercised only in so far as the person subjected to it [those authoritative words] recognizes the person who exercises it [authority] as authorised to do so, or, what amounts to the same thing, only in so far as he fails to realize that, in submitting to it [authority], he himself has contributed, through his recognition, to its [this authority’s] establishment.

397 Auda, Maqāsid al-Sharī‘a ‘ind al-Shaykh al-Qaraḍāwī, 58–60.
400 Khaled Meshaal (b. 1956) is the leader of Hamas.
While in his Dirâsa al-Qaradawi appears to close down hermeneutical debates, there actually appears to be significant room for negotiation. The extent to which al-Qaradawi’s hermeneutical boundaries can be negotiated depends on one’s relational position to al-Qaradawi. His overriding concern is with one’s “secularist” convictions. In a forum such as the RTQ, there is space for a marked degree of diversity. Arguing that Auda perceives al-Qaradawi as possessing an authority or prestige that can be drawn upon, like symbolic capital, is not to suggest that deception is occurring. Rather, it is to emphasise the relational aspect of al-Qaradawi’s authority and that its efficacy is dependent upon recognition.

This recognition and drawing on symbolic capital can take a variety of forms. The final section of this chapter will turn to Tariq Ramadan, who co-founded with Auda the Research Center for Islamic Legislation and Ethics in Doha. It will be argued that Ramadan and Auda’s recognition of al-Qaradawi and his fellow Doha-based ʿulamāʾ means that they attempt to position themselves as “internal critics” in relation to al-Qaradawi’s own project for the renewal of the fîqh tradition. In their view, engaging with the ʿulamāʾ will further their own aspirations for a renewal of the fîqh tradition that places a much greater emphasis on the maqāṣid in its hermeneutical approaches, and this demonstrates the extent to which the ʿulamāʾ’s role in the renewal of the fîqh tradition is recognized by others in the discussion.

**Ramadan, Auda, al-Qaradawi and Doha’s Center for Islamic Legislation and Ethics**

Tariq Ramadan’s recent major work *Radical Reform* and the founding of his Research Center for Islamic Legislation and Ethics in Doha are attempts at internal critique. An internal critique is one that is shaped so that it engages with the foundational arguments

---

402 Auda emphasizes, “I disagreed with the opinions of our Shaykh and al-Ustād, Shaykh al-Qaradawi. I humbly promoted a debate over the Shaykh’s manhaj as it concerned the science of the maqāṣid, as I understood it, so that my opinions were not marginalized.” Auda, *Maqāṣid al-Sharīʿaʾ ind al-Shaykh al-Qaradāwī*, 10–11.

of the tradition. Doha is of course not a blank canvas, but rather it is al-Qaradawi and his IUMS colleagues who represent the ‘ulamāʾ establishment therein. It will be argued that Ramadan’s recognition of the authority of this group and his aiming to engage with them and their perspective has shaped his Radical Reform and the work of CILE up to this point. This will then bring the chapter to its concluding arguments, that al-Qaradawi’s closing down of debates over the Arabicate hermeneutic is not authoritarianism, but a defence of what he considers to be a foundational claim (that this hermeneutic is the correct way to read the texts) sustaining the fiqh tradition. Recognizing al-Qaradawi’s openness to debate and the diverse ideas that he is able to engage with, Ramadan and Auda shape their message to move the ‘ulamāʾ toward a greater consideration of the maqāṣid in their fiqh deliberations.

Tariq Ramadan first came to prominence for his writings on the place of European Muslims. In his 2009 work, Radical Reform, Ramadan looks instead to the fiqh tradition’s methodology as a whole. In Andrew F. March’s review of Ramadan’s work, he argues that Ramadan is ultimately seeking the eventual displacement or “dissolving” of uṣūl al-fiqh as the source of Muslim behavioural norms. This would include the primacy of the Arabicate hermeneutic for ascertaining which texts hold the highest level of clarity and proof. Like Auda, Ramadan aims to develop a “purposive” hermeneutic of “applied ethics” that emphasizes the maqāṣid al-sharīʿa as well as turning the fiqh tradition’s attention towards akhlāq (the moral formation of the individual, ethics). Al-Qaradawi has also argued for a revival of a fiqh al-akhlāq (a deep and true understanding of ethics). In so doing al-Qaradawi criticizes those fellow scholars who have shown an excessive legalism in defining the Sharia as solely

404 See for example Tariq Ramadan, Western Muslims and the Future of Islam (Oxford: Oxford University Press, 2004); idem, To Be a European Muslim: A Study of Islamic Sources in the European Context (Leicester: The Islamic Foundation, 2000); idem, Muslims in France: The Way Towards Coexistence (Leicester: The Islamic Foundation, 1999); idem, Les Musulmans dans la Laïcité, responsabilités et droits des musulmans dans les sociétés occidentales (Lyons: Tawhid, 1994).
“the practical, legislative side of the religion.” In an interview with the author in May 2014, Ramadan stated that he agrees with Hallaq’s arguments in *The Impossible State Islam: Politics, and Modernity’s Moral Predicament.* As noted from in the first chapter of this thesis (and observed by Ramadan’s grandfather Hasan al-Banna), Hallaq argues that it is the “fragmentation of knowledge” into separate spheres (economics, politics, law, religion etc.), all detached from each other, that is at the roots of the crises of the contemporary period. Ramadan does not plan to engender a unification of knowledge himself. Instead, what Ramadan aims to do is encourage the ‘ulamāʾ to shift their hermeneutic themselves and become able to communicate the knowledge from their own sphere (as specialists of the Islamic texts) with experts from other fields of knowledge. As the most prominent of the ‘ulamāʾ based in Doha, this means engaging with al-Qaradawi.

This can be seen to be Ramadan’s aim in *Radical Reform,* though March himself wrote that Ramadan’s work appeared to him as a certain “puzzle.” March saw a disjuncture between Ramadan’s ambition in proposing the beginnings of an innovative methodology of Islamic applied ethics, described below, but this was contrasted by a marked cautiousness when it came to a more concrete discussion of particular “case studies.” This conundrum was described in terms of the “Reformer’s Dilemma,” whereby a would-be reformer’s challenge to the foundational shared-commitments of a moral community is considered far more costly in terms of “theological capital” (March’s adaptation of Bourdieu’s concept) than a more piecemeal approach to altering applied beliefs and practices. This leads March, drawing on John Rawl’s argument that foundational and metaphysical divisions in a society are so divisive that they should be

---

408 al-Qaraḍāwī, *Dirāsa,* 20.
410 Hallaq, *The Impossible State.*
411 In his “case studies” section Ramadan discusses six themes: Islamic Ethics and Medical Sciences; Culture and the Arts; Women: Traditions and Liberation; Ecology and Economy; Society, Education, and Power; and Ethics and Universals. In the discussion of female liberation for example, Ramadan appears very cautious, avoiding the discussion of concrete norms where possible, preferring to emphasize the importance of first “producing a discourse on womanhood that restores the link with meaning rather than single-mindedly focusing on norms.” Tariq Ramadan, *Radical Reform: Islamic Liberation & Ethics* (Oxford: Oxford University Press, 2009), 127.
avoided where necessary, to query why in Ramadan’s case the “inverse” appears to be true. March then elaborates:

His [Ramadan’s] ecumenical applied ethics seems designed to alienate as few potential constituencies as possible both within the Muslim and non-Muslim populations, or rather, where he does alienate a conservative Muslim conscience it is by reiterating what he argues in his methodological, theological and attitudinal reflections. All of this leaves one wondering why it is so urgent for him to take the risks he does in areas of theology and method, potentially alienating conservative Muslims. Indeed, this has also fueled the “esoteric” interpretation of Ramadan. Since even in Radical Reform Ramadan does not single out [Yusuf] al-Qaradawi for rebuke or finally call for the abolition of the ḥudūd punishments.

The argument here is that, like Auda, Ramadan is also positioned as an “internal critic.” In attempting to shift the position of the ‘ulamā’ who articulate the fiqh tradition’s foundational arguments, it is al-Qaradawi and his ‘ulamā’ colleagues in Doha that become the subject of Ramadan’s efforts. Ramadan and Auda’s founding of their CILE in that locale is therefore more than just a case of financial necessity. In positioning himself in relation to al-Qaradawi, Radical Reform’s point of departure is to argue that this “adaptation reform” of al-Qaradawi and his colleagues, overturning individual rulings on the basis of needs (ḥājāt) and necessities (darūrāt) and so on, has reached its historical limits. What is needed instead is a new, “transformation reform.” As he elaborates, Ramadan posits that the Universe and the natural world mirror the Qur’an as a twin revelation from God. These two “Books” are resting in a state of intertextuality with one another. This approach might seem dissimilar to al-Qaradawi’s at first. However, practically speaking, Ramadan explains that this “transformation of the contents and geography” of ʿusūl al-fiqh will emerge jointly from both the scholars of the texts (whom Ramadan terms ‘ulamāʾ al-nuṣūṣ) and scholars of the natural and social

413 Ibid., 3.
414 In Ramadan’s words, “This correspondence between the two books is everywhere present in the Qur’an, which keeps referring to the signs in one or the other of these orders and invites human intelligence to understand the revealed text as well as created nature. The two Universes address and echo each other […] these] are clearly two ‘revelations’ that must imperatively be received, read, interpreted, and understood in their inherent complementarity.” Ramadan, Radical Reform, 89.
scientists (whom he terms ‘ulamā’ al-wāqi’). These scholars would interact on an entirely equal footing (as illustrated in Radical Reform, Figure 1).

Figure 1: Ramadan’s illustration of his vision for an applied ethics. Ramadan, Radical Reform, 129 (figure 10.1)
This is a clear development of al-Qaradawi’s own position, for he has also argued for the importance of knowledge produced by scientists in assisting the ‘ulamā’ in coming to a deep and true understanding of the social reality (fiqh al-wāqi’). For al-Qaradawi these efforts are subordinate to the decisions of the ‘ulamā’, because social scientists’ reasoning are described as partial ijtihād (ijtihād juz’ī). This is part of a broader recognition that the issues of the day are too manifold for one individual’s expertise alone, which led al-Qaradawi to advocate collective ijtihād (ijtihād jamā’ī) by which “the endeavours of a team, or an institution, replace the endeavour of individuals.”

If the universe represents a twin revelation from God, Ramadan argues that the maqāsid al-sharīʿa can be derived from natural and social scientist’s knowledge, not just from the written text alone. While the number of maqāsid conceptualized in al-Qaradawi’s Dirāsa is close to twenty, in Radical Reform it is expanded to include the protection of an individual’s “dignity, integrity, personal development, health and inner balance” among many others, to a total of forty-one in fact. At the same time however, Ramadan takes great pains to emphasize that this is in keeping with the fiqh tradition’s own maxims (qawāʿid fiqhiyya) such as “choose the lesser of two harms” (akhaff al-ḍararayn) or “necessity makes the forbidden permissible” (al-ḍarūra tubīh al-mahzūrāt). In fact, March considers Ramadan’s discourse so recognizable to the ‘ulamā’ that it is “not hard to imagine an ‘adaptation-reform jurist’ like al-Qaradawi reasoning in the exact same way.” It is argued here that this is the whole point.

---

415 al-Qaraḍāwī, al-Ijtihād al-Muʿāṣir, 50, 103. An example of this in practice can be found in the “adaptive reform” context of fiqh al-aqalliyyāt, with the European Council for Fatwa and Research’s controversial fatwa permitting the taking of interest-bearing mortgages and loans on the basis that it now represented a legal necessity (darūra). That decision drew on EU sociological and economic research detailing the disadvantages faced by Muslim households and highlighting the negative impact this had on Muslim integration. This led al-Qaradawi to state “if sociologists and economists have said that Muslim families’ possession of residential houses in the West is considered an urgent need for both individuals and the community [...] then the need has become a necessity.” Al-Qaradawi highlighted “the evaluation of need here is not for the jurists, but the specialists.” al-Qaraḍāwī, Fī Fiqḥ al-Aqalliyyāt al-Muṣliμiṇa, 45. See also Caeiro, “The Social Construction of Sharia.”
Ramadan and al-Qaradawi are well-known to each other, with Ramadan noting his esteem for al-Qaradawi and “profound respect for both the man and the scientist,” and the latter having been profoundly impressed by Hasan al-Banna as a young man. While the appearance of a cordial relationship between Ramadan and al-Qaradawi is considered very controversial in the European context, in Doha it is very useful. As was the case for Auda, Ramadan is recognizing that gaining al-Qaradawi’s engagement with a project lends it greater credence with al-Qaradawi’s wide readership.

The stated purpose of CILE in Doha then is to assist in developing further “a new methodology that precisely aims to the enable fiqahāʾ and scientists to work together on specialized, new, open reflection together, and formulate adequate opinions […] in delicate, but urgent areas.” The way this is done is through CILE’s workshops and seminars, which aim to facilitate engagement between the ‘ulamāʾ (or the ‘ulamāʾ al-nuṣūṣ as Ramadan specified) and natural and social scientists (‘ulamāʾ al-wāqiʾ). In so doing, Ramadan is not making a culturalist argument for the specificity of an “Islamic finance” or an “Islamic bioethics.” Rather he considers the “sciences of the Universe” to be just as Islamic as those of the revealed written text. This chapter has argued that al-Qaradawi’s closing of debates that might otherwise be open was due in part to unequal power relations that existed between himself and other ‘ulamāʾ and advocates of a secular ideology and perceived Western values. This chapter also cited Hirschkind’s argument that rationality, or ways of reasoning about a text to render it coherent to a contemporary reader, was not universal. The importance of the Arabicate hermeneutic is one such aspect of this rationality, which takes on an accentuated

---


419 Ramadan, Radical Reform, 158.

420 For Ramadan the advocacy of a distinctive Islamic bioethics, finance etc., fails to solve this “problem of the dichotomy and discrepancy between the different Universes of knowledge […] can there be an ‘Islamic’ way of operating on hearts or brains surgically or an ‘Islamic’ method to understanding laws of supply and demand?” Ibid., 128.
importance in the light of unequal global capital distributions. Ramadan himself considers al-Qaradawi’s anxieties over Western cultural encroachment to be illustrative of that which Said Arjomand has termed an Islamic “defensive counter-universalism,”\textsuperscript{421} that:

Tends to define what Islam is, not in light of its own principles, but in contrast with what is it not, namely Western civilization. If the latter accepts change, evolution, freedom and progress then, logically, reasonably and as opposed to it, Islam does not. Moreover, in their minds, the more one – whether an individual, group or society – refuses change, freedom and progress, the more he or they are genuinely Islamic.\textsuperscript{422}

Najah Ahmad, a member of CILE’s steering committee, highlights that CILE is not meant to be an alternative “fatwa centre” to rival the ‘ulamā’ of the IUMS, nor does Ramadan hope to establish himself as a new authority in Doha. Rather, as Ahmad points out, “He [Ramadan] is trying to stay away from claiming any authority for himself, he is trying to claim their [the ‘ulamā’]s] legitimacy.”\textsuperscript{423} Like Auda, Ramadan is perceiving the legitimacy and prestige of al-Qaradawi as similar to symbolic capital, which can be drawn upon, and used.

Indeed, looking to the prominent role accorded to al-Qaradawi and other ‘ulamā’ from the IUMS at CILE’s opening conference (see Figure 2.) it becomes clear that Ramadan hopes they will be the ones who eventually realize his methodology in practice. This methodology will ultimately involve the attenuation of the Arabic hermeneutic as the final arbiter of textual proofs, with priority instead given to ethics and the maqāṣid. It will also eventually lead to the ‘ulamā’ and social and natural scientists working on an equal footing. Al-Qaradawi’s own statements at this conference, available online, signal in part Ramadan’s success so far at positioning himself as an internal critic. Al-Qaradawi emphasizes his enthusiasm for the project and his own recognition of the importance of reviving the place of akhlāq and the maqāṣid in the fiqh tradition and a holistic understanding of the Sharia. He insists too that the

\textsuperscript{422} Ramadan, To Be a European Muslim, 55–6. Italics in original.
\textsuperscript{423} Najah Ahmad, interview by David H. Warren, November 12, 2013.
Qur’an and Sunna are to remain the “undisputed sources of legislation, perhaps signalling that he is yet to realize fully the transformative potential of Ramadan’s own project.”

Figure 2: The poster from CILE’s first conference on 9 March 2013. Al-Qaradawi and his colleagues feature prominently. He can be seen to the left of centre. His deputy in the IUMS, Ali al-Quradaghi can be seen to the upper right. Tariq Ramadan can be seen on the far left, Auda on the far right.

Conclusion

This chapter has discussed al-Qaradawi’s contribution to contemporary debates surrounding the *maqāṣid al-sharīʿa*’s place in a renewed *fiqh* tradition. This was done in order to make an argument over how the authority of al-Qaradawi, and the ʿulamāʾ more generally, should be understood. It was noted that Rida had built upon a pre-existing classical distinction between unchangeable acts of worship and changeable regulations of interpersonal relations and transactions to argue that many pre-existing rulings could be overturned on the basis of the *maslaha*, while others must remain fixed. Rida did not leave specific criteria as to how the fixed matters (*al-thawābit*) were to be precisely distinguished from the changing (*al-mutaghayyirāt*).

Through a close-reading of his *Dirāsa* it was seen that al-Qaradawi’s own contribution was to establish boundaries delineating how far one may take a hermeneutic that was attendant to the *maqāṣid*. Al-Qaradawi emphasized the non-negotiability of the Arabicate hermeneutic as the final arbiter of which texts and stipulations enjoyed the highest level of proof. These were those considered most clear and explicit according to the rules of the Arabic language, and termed *al-nuṣūs al-qaṭaʾiyya*. A consideration of the purposes of those texts was essential, as were the *maqāṣid al-sharīʿa* derived from the speculative and abstract texts (*al-nuṣūs al-ẓanniyya*). At the same time however, al-Qaradawi was deeply concerned about those he considered wishing to definitively “obstruct” the prescriptions of those explicit texts. Such an approach was not legitimate, and those who abided by it where secularists purporting to “deify themselves.” In the context of dominant global discourses on universal Human Rights and secularism, the *al-nuṣūs al-qaṭaʾiyya* (relating to the *ḥudūd*, polygamy, alcohol, gendered inheritance portions etc.) have come to be seen as extremely problematic. This in turn has prompted an increased defensiveness on behalf of al-Qaradawi and his colleagues such as al-Ghannushi and al-Ghazali, perceiving Muslim values to be under threat from a colonizing West. As such, other norms not so explicitly defined under the terms of the Arabicate hermeneutic, such as the hijab, also become a “symbol of the validity and dignity of Muslim tradition as a whole.”

To a number of academics, this discourse and unwillingness to engage with diverse opinions outside al-Qaradawi’s usual frame of reference bears all the hallmarks
of either unjustified punctiliousness (“vigour without rigour” as Krämer put it), outright authoritarianism (for Dabbous-Sensenig), or a desire to preserve his and the ‘ulamā’ authority “as an end in itself” (Hoigilt). In the thesis’s introductory conceptual framework several key points relevant to these positions were made. Following Fitzgerald, it was emphasised that the prevailing and unacknowledged assumption in Western academic discourse that defines itself as secular and objective is that “religious” leaders by default seek to preserve their power over the masses through manipulation. This unrecognized pre-supposition stems from the specific European history of the opposing conceptions of the “religious” and the “secular.” Al-Qaradawi’s “self-appointed” role as a guide and preserver of what he perceives to be non-negotiable and threatened Muslim values is therefore also understood in this way.

In the conceptual framework it was argued from a Foucauldian perspective that power does not work in such a straightforward manner. Power it not a “mode of subjugation” or any “general system of domination exerted by one group over another.” Such situations or states are only “the terminal form power takes,” or rather its “effects.” Power is not exercised unilaterally by one over another, but rather functions like a web, or a chain that implicates individuals’ agency.\(^{425}\) In the case of al-Qaradawi and the ‘ulamā’, the unequal global distribution of capital affects their responses to other discourses emanating from the West. Those discourses relating to secularism and its attendant features are the most notable of these. Regarding the case of the Egyptian intellectual Abu Zayd, similar to Arkoun in that they both self-identified as secularists and considered it the best ideology for governing society, Hirschkind not only called attention to global capital imbalances, but also the foundational arguments of the fiqh tradition.

Defending these arguments by denying Abu Zayd tenure and ostracizing him were taken seriously by Hirschkind as more than a simple case of illiberalism and denial of freedom of speech. Rather, following Asad and MacIntyre, Hirschkind argued that the suppositions opposed by Abu Zayd (and by extension, Arkoun) were foundational to the Egyptian and Arab Middle-Eastern context and part of the fiqh tradition’s rationality. This rationality is different to that of the liberal tradition, whose own rationality is not

universal. Actors can only assess the arguments of the traditions from the standpoint of their own, so it is not surprising that Krämer, Dabbous-Sensenig and Høigilt find al-Qaradawi’s concerns and anxieties unsatisfying. It would be surprising if they did.

In making an argument over how al-Qaradawi’s authority should be understood, this chapter took seriously his assertions that difference was a treasure, and that he made no claim to any particular authority over others. It has also taken seriously the recollections to this effect of other prominent scholars in the maqāsid debate, notably Auda who is a member of the RTQ and the IUMS. Auda’s own hermeneutical proposals were seen to be markedly far-reaching, downgrading the place of the Arabicate hermeneutic in place of a greater “purposiveness.” Through interviews with Auda, it was seen that al-Qaradawi’s authority and prestige was conceptualized in a manner similar to Bourdieu’s symbolic capital. The authority and prestige of a scholar like al-Qaradawi can be drawn upon, helping to legitimate Auda’s own project in the eyes of al-Qaradawi’s more conservative readership.

This led the chapter to recall Zaman’s concept of the internal critic. Zaman considered this to be a critic who agreed with the foundational arguments of the fīqh tradition, while critiquing others. Zaman had noted that al-Qaradawi and the other ‘ulamāʾ themselves appeared unclear as to what kinds of debates should be treasured, and which were a threat to the integrity of the community. This chapter has refined this concept and argued that, above all, al-Qaradawi’s own chief criteria for delegitimizing a purposed critic is their own self-identification with the ideology of secularism,⁴²⁶ as nebulous an ideology as that is.

The usefulness of the concept of internal criticism for understanding the function of al-Qaradawi’s contribution to tajdīd al-fīqh debates was further emphasized in this chapter’s final section. It was also emphasised that authority is relational and dependent on the extent of others’ recognition of it. The final section used the example of Ramadan and Auda’s co-founding of their CILE in Doha to make this point. While Auda left the project in 2013, Ramadan has been seen to very consciously engage with al-Qaradawi and his other ‘ulamāʾ colleagues in Doha. In attempting to engage with al-

Qaradawi and shift the boundaries he has established around the Arabicate hermeneutic, Ramadan is implicitly recognizing his authority. Finally, it was argued that the locating of CILE in Doha alongside al-Qaradawi was based on more than purely financial necessity. The emphasis al-Qaradawi has placed on a deep and true understanding of the social reality and his subsequent openness to collaboration with natural and social scientists is consciously taken further by Ramadan for the purposes of his own *Radical Reform*.

The fourth chapter of this thesis will take up a different aspect of the *tajdīd al-fīqh* debate, and al-Qaradawi’s place within it. The movement of concepts from one tradition to another, or the liberal tradition to the Islamic tradition is commonly seen as a case of straightforward transmission. Various foreign concepts are understood as being simply given an Islamic garb and then portrayed as if they had always been part of the Islamic tradition. The fourth chapter will argue this process is far more complex, and will use al-Qaradawi’s approach to the concept of citizenship (*al-muwāṭana*) in the Islamic state, and the place of non-Muslim minorities therein, to make that argument.

So far, the underlying narrative in this thesis has been to emphasise the colonial, and then post-colonial, transformations that occurred in the Middle East region. These transformations were engendered by the emergence of the nation state and the ever-increasing penetration of globalised capital into every corner of social life. To use Alasdair MacIntyre’s term, this prompted an “epistemological crisis” in the *fiqh* tradition. This is a situation whereby:

The use of the methods of enquiry and of the forms of argument, by means of which rational progress [according to the *fiqh* tradition’s rationality, we might specify here] had been achieved so far, begins to have the effect of increasingly disclosing new inadequacies, hitherto unrecognized incoherences, and new problems for the solution of which there seem to be insufficient or no resources within the established fabric of belief.427

Muhammad ʿAbduh and Rashid Rida’s “modern project” for *tajdīd al-fiqh*, detailed in the Introduction and first chapter, emerged in this context. MacIntyre argues that the solution of traditions’ crises requires “the invention and discovery of new concepts and the framing of some new or new types of theory.”428 As such the debates surrounding *tajdīd al-fiqh* are primarily conceptual. Aside from their meaning, the genealogy and history of concepts employed and argued over forms the underlying terrain for most other discussions.

In much of the academic literature the prevailing understanding is that ʿAbduh, Rida, and their contemporaries and successors, seeing their clear inferiority in the face of a hegemonic West, either imitated (and continue to imitate) or flatly rejected (and continue to reject) the concepts of the dominant liberal tradition. As noted in the Introduction, one sees on the cover of far too many books variations on titles analysing Muslims’ responses to a Western “challenge” or a Western “modernity.” In those

---

428 Ibid., 362.
studies the underlying premise adopted is that “the Muslims sought in Western culture the means of warding off Western power.”  

This was never fully successful. According to Albert Hourani, in seeking to make Islam conform with the modern West, ʿAbduh had falsely and eclectically attributed new meanings to the fiqh tradition’s own “religious” concepts of maṣlaḥa, shūra, and ijmāʿ to serve his “political” ends. This end was to manipulate those concepts away from their “essence” so that they would become the equivalent of the liberal West’s own conceptions of utility, parliamentary democracy, and public opinion. In Hourani’s secular pre-supposition, taking a “religious” concept into the “political” realm in this manner automatically entails distortion. This thesis’s own approach toward ʿAbduh and Rida’s project has been to draw upon Samira Haj who, following MacIntyre, views tradition not as a set of fixed concepts and doctrines that are then manipulated to suit contemporary goals, but rather a particular “framework of enquiry.”

Academic studies of Rida’s response to the dissection of the Middle East region into a number of colonial states and mandates under the terms of the Sykes-Picot agreement following the First World War highlights other misunderstanding that emerged on the premise that all Rida and ʿAbduh were doing was grafting European concepts onto Islamic ones. Malcolm H. Kerr viewed Rida’s own attempts to conceptualise the bases of a new Caliphate as an “incoherent” and confused mix of apologies for the fiqh tradition’s historical concepts alongside imitations of Western conceptions of the state, nationalism, and governance. If it was not a case of incoherent imitation or confused apology, the transmission of concepts was a simple case of copying. In the case of “citizenship” for example, Bernard Lewis explains that a

---

430 Hourani, Arabic Thought, 144.
431 In Samira Haj’s fuller description of tradition, then, “what appears to scholars as a commitment to fixed, essentialized tenets that must be preserved at all costs is rather a framework of inquiry within which Muslims have attempted to amend and re-direct Islamic discourses to meet new challenges and conflicts as they materialized in different historical eras.” Haj, Reconfiguring Islamic Tradition, 4–5.
432 As Malcolm H. Kerr explains, “This [incoherence] is partly because of the ambiguity of meanings in the theory he [Rida] inherited and partly, perhaps, because of the pressure of apologetics under which he wrote, which led him, in his zeal to prove the soundness of his own doctrines and errors of others (Turks, Westernizing Arabs, and Europeans), to a tendency to dash off in several directions at once.” Kerr, Islamic Reform, 176.
term simply “was needed and was found” by the nineteenth and early twentieth-century scholars, who began to refer to “al-muwāṭana.”

This chapter will argue instead that the emergence and continual development of new concepts is the outcome of a selective and creative synthesis of European concepts and the fiqh tradition. The conceptual results of these processes are entirely novel, and not attributable to any of their individual sources. This chapter will use al-Qaradawi’s engagement and development of the concept of citizenship and nationalism in the tajdid al-fiqh debate and his understanding of the Islamic state, or the more nuanced “civil state with an Islamic reference” (al-dawla al-madaniyya bi-marja’iyya islāmiyya), in order to make this argument. While there is a markedly unequal power relationship between hegemonic European discourses and those advanced on behalf of the fiqh tradition, this does not mean that the latter simply mimics the former. What it does mean however, is that hegemonic European discourses play a role in setting the terms of debates, and deciding which issues are at stake. David Scott introduces the notion of a “problem-space” in order to theorize this situation as the,

Ensemble of questions and answers around which a horizon of identifiable stakes (conceptual as well as ideological-political stakes) hangs. That is to say, what defines this discursive context are not only the particular problems that get posed as problems as such (the problem of ‘race,’ say), but the particular questions that seem worth asking and the kind of answers that seem worth having. Notice, then, that a problem-space is very much a context of dispute, a context of rival views, a context, if you like, of knowledge and power. But from within that problem-space what is in dispute, what the argument is effectively about, is not in itself being argued over.

**Citizenship, Minorities, and the Problem of Religious Freedom**

The issue of “religious minorities” (al-aqalliyāt al-dīniyya) and their freedom in the Middle East is one such problem-space. It was during the nineteenth century in Europe
that the just distribution of citizens’ rights and their freedom came to be seen as dependent upon the principle of distinguishing between religion and politics. Saba Mahmood highlights however that the emergence of this concern for religious freedom was entwined with the establishment of states and the establishing of state sovereignty as a principle. However, Mahmood also explains that it might be said more accurately that the concern for religious freedom was predicated on the need to violate another state’s sovereignty: “[F]ar from being a measure of a culture’s tolerance towards its others, religious freedom has been tied from its very inception to the exercise of sovereign power, regional and national security, and the inequality of geopolitical power relations.”

For the Middle East region, the dynamics of this concern can be seen in the enforced “capitulations” of the Ottoman Empire, the later treaties of Paris (1856), Berlin (1878) and finally the Empire’s Tanzimat reforms. Those treaties and reforms “ostensibly guaranteed freedom of religion to all its subjects, dismantling distinctions based on religion, language and race, and forms of legal hierarchy between Muslims and non-Muslims.” They also served to facilitate the encroachment upon Ottoman sovereignty by European powers in order to protect the religious freedom of Christian and other minorities. In the wake of the Ottoman Empire’s collapse into emerging nation states and mandates, it was the treaties of the Paris Peace conference (1919) that definitively established the pre-eminence of, not only the nation, but also the essential rights and freedoms of minorities, along with the ever-present possibility that they may need external protection. More recent examples of American “fact-finding” missions to Egypt to confirm the parlous state of its Coptic minority at the influential Coptic

---

438 Ibid., 12.
439 Hannah Arendt also highlighted the significance of the treaties signed at the Paris Peace conference: “Minorities had existed before, but the minority as a permanent institution, the recognition that millions of people lived outside normal legal protection and needed an additional guarantee of their elementary rights from an outside body [the League of Nations], and the assumption that this state of affairs was not temporary but that Treatises were needed in order to establish a lasting modus vivendi - this was something new.” Arendt, The Origins of Totalitarianism, 275. Quoted in Mahmood, “Religious Freedom,” 8.
diaspora’s behest further highlight the complex local/global dynamics mediating how such a concept as “religious minority” is mediated and mobilized.\(^{440}\)

Crucially, debates and contestations over minorities, their rights, obligations and citizenship should not be read simply as a means to marginalize or repress vulnerable others. Instead such debates should be understood as efforts to mediate and reconcile perceived social differences. This is done not only through the establishment of rights under the legal framework of a state, but also the attempts to nurture a mutual sense of belonging across communities in a manner that resonates with tradition.\(^{441}\) It is a close reading al-Qaradawi’s three main books on the subject of non-Muslims in the civil state with an Islamic reference that form the particular focus of this chapter. These are, *Non-Muslims in The Islamic Society* (*Ghayr Muslimīn fī ’l-Mujtamaʿ al-Islāmī*, published in 1985), *Religious Minorities and the Islamic Solution* (*al-Aqalliyāt al-Dīniyya wa’l-Hal al-Islāmī*, 1996), and more recently *The Homeland and Citizenship in the Light of Foundational Principles and the Higher Purposes of the Sharia* (*al-Waṭan wa’l-Muwāṭana fī Dawʾ al-Uṣūl al-‘Aqdiyya wa’l-Maqāṣid al-Sharī‘iyya*, 2010).\(^{442}\) His positions have changed markedly between 1996 and 2010, and so the first two works will be discussed in the following section in order to provide a context for the changes that occurred in 2010.

It is his most recent text that sees al-Qaradawi shift away from mere re-interpretations of the *fiqh* tradition’s *dhimma* contract (*‘aqd al-dhimma*) with non-Muslims, and move instead toward an elaboration of an equal citizenship. This equality is not the same as that established in a liberal framework, but on the basis of al-Qaradawi’s framework in the *fiqh* tradition. Al-Qaradawi’s shift will not only be based on a re-reading of the Prophetic Compact of Medina (*Ṣaḥīfat al-Madīna*) enacted in 622 CE shortly after the Hijra between the Muslims and local Jewish tribes but also, as


\(^{441}\) Ibid., 2.

highlighted in the preceding two chapters, the assistance of his supportive networks. This time it will be the role of Muhammad al-Mukhtar al-Shingiti, a Mauritanian founding member of the Association of al-Qaradawi’s Students (Rābiṭat Tələmīdīh al-Qaradāwī, RTQ) based at the Qatar Faculty of Islamic Studies (QFIS) that will be seen to be particularly significant.

In the light of the arguments made above, this chapter will not understand citizenship as the unifying or “difference-blind” normative concept of liberal citizenship that considers individuals and communities as abstractions without a history or identity. Instead, the framework for approaching the formation of a conception of citizenship will conceptualize it as a foundational contract between the state, individuals and communities. It is a basic agreement that serves to constitute states’ communities and establishes boundaries to exclude others.

**Medina, Najran, and the Dhimma Contract**

Over the course of Muslim history the *dhimma* contract evolved into the general framework for managing relations between Muslims and non-Muslims in areas under Muslim control (*dār al-islām*). It is considered an extension of the pre-Islamic practice of providing protection to strangers. While there were substantial regional and historical variations in its application and interpretation, it was generally understood as an indefinite contract of safety and hospitality extended by the dominant Muslim community in a locale toward Christians, Jews and other non-Muslims. This safety was dependent upon these communities paying the *jizya* tax and the recognition of Muslim

443 In James Scott’s words, this liberal conception of citizenship views citizens and individuals with “no gender, no tastes, no history, no values, no opinions or original ideas, no traditions, and no distinctive personalities [...] none of the particular, situated, and contextual attributes that one would expect of any population.” James Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven, CT: Yale University Press, 1998), 346.


445 Ann K.S. Lambton, *State and Government in Medieval Islam: An Introduction to the Study of Islamic Political Theory* (Oxford: Oxford University Press, 1981), 202; Scott, *The Challenge*, 18. Scott’s own useful and detailed study focuses on Egyptian intellectuals primarily close to, or affiliated with, the Muslim Brotherhood. Many of those scholars are also close to al-Qaradawi and have already appeared in this thesis including Fahmi Huwaydi, Muhammad ’Amara, and Muhammad Salim al-‘Awwa. Scott also discusses al-Qaradawi’s earlier *Non-Muslims in The Islamic Society and Religious Minorities and the Islamic Solution*, though her specific focus was upon the Muslim Brotherhood in the Egyptian context.
authority. In the Qur’an itself the term *dhimma* is referenced twice (9:8 and 9:10), in relation to polytheists’ violation of this contract between themselves and Muhammad.\(^{446}\)

In relation to Muhammad’s own example as it is remembered by the *fiqh* tradition, there are two instances that al-Qaradawi will be seen to reference specifically in his *The Homeland and Citizenship*. These are the aforementioned Compact of Medina, and the later Treaty of Najran. These will both be discussed in greater when al-Qaradawi comes to engage with them. By way of introduction however, shortly after Muhammad’s arrival in Medina following the Hijra, a compact was concluded between Muhammad, the Muslim community and the eight Jewish tribes of Medina. The compact provided a basic framework for managing relations between the communities, and all parties recognized Muhammad as their leader. Its articles include agreed-upon regulations regarding Medina’s defence, mutual aid, and how to deal with those who committed crimes. The Jewish tribes of Medina did not pay the *jizya* tax.\(^{447}\)

The second important example for the purposes of this chapter is the treaty concluded with the Christians of Najran in present-day Yemen. In 630-1 CE a delegation was sent by Muhammad to Najran. While the traditions disagree over precisely what occurred, a large number of the inhabitants converted to Islam and the area came under Muslim rule. Those who wished to remain Christian were permitted to do so, and they began paying a tribute to Mecca. According to the historian al-Tabari, this represented the *dhimma* of the Prophet with the people of Najran. The tribute they paid was understood to be the *jizya*.\(^{448}\)

**al-Qaradawi and the Dhimma Contract**

With these points in mind it is now worth turning to al-Qaradawi’s earlier major works on the non-Muslims in the Islamic state, his *Non-Muslims in the Islamic Society* and *Religious Minorities and the Islamic Solution*. In *Non-Muslims in the Islamic Society*


al-Qaradawi describes the *dhimma* contract extended to non-Muslims (termed *dhimmīs*) as an “everlasting” guarantee of protection and safety, as prescribed by God. In al-Qaradawi’s reasoning at that time, this security was comparable to the “citizenship granted by a government to an alien who abides by the constitution, thereby earning all the rights of a natural citizen.” As such, al-Qaradawi argued that both Muslim and non-Muslim citizens would enjoy protection from both internal and external oppression and aggression, security of their property, lives, and honour, religious liberty, and social welfare. The only exception would relate to these citizens’ rights and duties as prescribed by their different faiths. Al-Qaradawi argued that it would therefore be unreasonable for a non-Muslim to hold positions in government that directly related to Muslims’ Islamic obligations and well-being. These would include positions such as the head of state, head of the army, or being a judge in a Sharia court.

As noted, it is the “difference-blind” model of liberal citizenship that sets the terms for this discussion. Discourses based on the liberal tradition set the hegemonic benchmark against which alternatives must be measured. Egyptian Coptic Christian activist intellectuals such as Samer Soliman therefore came to reason that, “For the Copts, it is only when the concept of nation-state is born that we can begin to dream of ourselves as equals. Otherwise before we could not even dream of equality, we were simply *dhimmīs*.” As David Zeidan opines, both Muslim wives and *dhimmīs* are considered to be similarly, “Inferior, segregated, weak, having specific limited functions in society, obliged to manifest modesty, and humility in their behaviour, not equal before the law, yet protected by the stronger group and in a curious way bearing its honour. As the Muslim male is bound to protect his womenfolk from any breach of honour, so Muslims are honour bound to protect ‘their’ *dhimmīs* from attacks by outsiders.”

In this context al-Qaradawi explains that any differences between this conception of citizenship and liberal citizenship only pertain to realms of religious rights and obligations. Asking or allowing a non-Muslim to hold a position where they exercised

---

450 Ibid., 14–16.
451 Ibid., 47–9.
452 Ibid., 16.
454 As David Zeidan opines, both Muslim wives and *dhimmīs* are considered to be similarly, “Inferior, segregated, weak, having specific limited functions in society, obliged to manifest modesty, and humility in their behaviour, not equal before the law, yet protected by the stronger group and in a curious way bearing its honour. As the Muslim male is bound to protect his womenfolk from any breach of honour, so Muslims are honour bound to protect ‘their’ *dhimmīs* from attacks by outsiders.” David Zeidan, “The Copts – Equal, Protected or Persecuted? The Impact of Islamization on Christian-Muslim Relations in Modern Egypt,” *Islam and Christian-Muslim Relations* 10, no. 1 (1999): 53–67 (9).
authority over Muslims in such realms would compromise both parties’ own religious liberty. This also means that non-Muslims would not be required to fulfil any Islamic obligations nor avoid anything that would be considered lawful under the terms of their own faiths.\textsuperscript{455} Al-Qaradawi emphasizes that non-Muslims are therefore to be granted marked communal autonomy in relation to family law courts, education, hospitals, centres of worship, and other such institutions that would maintain these communities’ specific values. In al-Qaradawi’s reasoning, this system upholds religious freedom to a far greater extent than a citizenship model that makes no allowances for different values and faiths.\textsuperscript{456} Though al-Qaradawi recognizes that some non-Muslims might fear that “Islamic rule may be contrary to their religion; infringe their liberty and human rights and violate the principle of non-coercion,” he argues that the model he describes is far better than the suggestion that “the only response is secular governance based on equal citizenship for all regardless of religion.”\textsuperscript{457} The Islamic state would therefore be far more accommodating to the religious freedoms and obligations of minorities than an atheistic secular model.\textsuperscript{458} While in Christianity it might be permitted to separate religious rights and obligations from state institutions and power, al-Qaradawi emphasizes that preventing the Muslim majority from living according to the Sharia is the epitome of intolerance. It would effectively mean a “dictatorship” of the minority over the majority.\textsuperscript{459} Therefore, in exchange for non-Muslim minorities being permitted religious liberty, Muslims should not in turn be prohibited from theirs.\textsuperscript{460}

Prior to the establishment of the hegemony of liberal citizenship as the de facto model, Arab Christians expressed alternative imaginings of liberty that were not based on difference-blindness. In the 1920s Makram Ubayd, a Coptic Christian leading member of the Egyptian Wafd party was able to describe himself as a “Muslim by country and a Christian by religion,”\textsuperscript{461} while Edward Said also would state much later

\textsuperscript{455} al-Qaraḍāwī, \textit{Ghayr Muslimīn}, 43.
\textsuperscript{456} al-Qaraḍāwī, \textit{al-Aqallīyyāt al-Dīnīyya}, 16.
\textsuperscript{457} al-Qaraḍāwī, \textit{Ghayr Muslimīn}, 48.
\textsuperscript{458} Ibid., 7.
\textsuperscript{459} Ibid., 88.
\textsuperscript{460} al-Qaraḍāwī, \textit{al-Aqallīyyāt al-Dīnīyya}, 11.
\textsuperscript{461} Mahmood, “Religious Freedom,” 18.
that he similarly considered himself “a Christian wrapped in a Muslim culture.”

Engaging with those expressions in Religious Minorities and the Islamic Solution, al-Qaradawi advanced an argument based on Muslims and Christians’ equally contributing to, and sharing in, the achievements of the Islamic civilisation. Al-Qaradawi wrote that Christians “drink from the well of Islamic culture and share its civilizational heritage and are therefore Muslims by culture and civilisation even as they are different by belief and ritual.”

Liberty, for al-Qaradawi, is not absolute however. He speaks of the need to preserve the “public order” (al-nizām al-ʿāmm, al-wilāya al-ʿāmma). The concept of ordre public is first expressed in the French Civil Code of 1804, where the sixth article reads “Private agreements cannot derogate from laws which affect ordre public and good morals” and it emerges in the Middle East region in the late nineteenth century. Al-Qaradawi synthesises this concept with the fiqh tradition and the maṣlaḥa in such a way that freedom may be limited in public spaces in order to protect society’s morals, or the “constants of the community” (thawābit al-umma). While al-Qaradawi therefore asserts that Islamic governance would uphold the religious liberty of non-Muslims to live according to their obligations and revealed laws, active proselytising is to be forbidden, even though that it is an obligation for many faiths. Non-Muslims similarly “should respect the feelings of the surrounding Muslims and the dignity of the Islamic state,” this would preclude, for example, eating openly during Ramadan, selling alcohol to Muslims or impugning the Prophet in public.

Al-Qaradawi’s understanding of the concept of al-nizām al-ʿāmm also leads to an ambiguity. While he emphasises that Islam rejects compelling someone to believe by

---


466 al-Qaraḍāwī, al-Aqalliyyāt al-Dīniyya, 11.

force (by citing 2:256 “there is no compulsion in religion,” lā ikhrāhū fi ’l-dīn) al-
Qaradawi distinguishes between non-Muslims. This distinction is based on the fiqh
tradition’s acknowledgement of the ahl al-kitāb (people of the book), whose faiths the
Qur’an recognizes explicitly as being of divine origin. These include monotheistic
Christians and Jews, as well as communities such as the Manicheans, Zoroastrians, or
Sabeans. Though he affirms that Muslims should conduct themselves well in their
interactions with everyone, believers or not, he is not explicit over the extent to which
al-nizām al-‘āmm can tolerate communities whose faiths the fiqh tradition does not
consider to be divine. While the Hanafi and Maliki madhhab s extended the bounds of
the dhimma contract to include Hindu and other communities, the Shafi’i and Hanbali
madhhab s restricted it to the ahl al-kitāb. In al-Qaradawi’s case this makes the
position of the Baha’i communities problematic. He has described Baha’i beliefs as
“atheism and blasphemy” (zandaqa wa-kufr) because they actively reject Islam and their
texts are not recognised in the Qur’an.

The Homeland and Citizenship (al-Waṭan wa’l-Muwāṭana)

In his preface to The Homeland and Citizenship, al-Qaradawi writes that the work was
written at the request of the European Council for Fatwa and Research (ECFR). Part
of the impetus was to respond to a critique voiced by Tariq Ramadan. That critique was
primarily aimed at al-Qaradawi and the ECFR’s perceived emphasis on the “otherness”
of Muslim citizens in Europe. In Ramadan’s The Quest for Meaning: Developing a
Philosophy of Pluralism the place of the dhimma contract in a citizenship model
becomes an issue at stake:

469 al-Qaradāwī, al-Aqalliyyāt al-Dīniyya, 28.
470 Ibid., 44.
474 Caeiro, “The Power of European Fatwas,” 8; Tariq Ramadan, Western Muslims, 53.
The very idea of minority citizenship based on relations of tolerance “legitimizes de facto discrimination” and does not provide a suitable framework for relations [...] As such, although the dhimma system is not entirely dismissive of the rights of non-Muslims, it asserts a hierarchy of importance, and a commitment to toleration that is both fragile and contingent.\footnote{475}

The Homeland and Citizenship is a work written in two parts, the first discusses the citizenship of non-Muslim minorities in the Middle East, while the second deals with Muslims in Europe under the auspices of fiqh al-aqalliyyāt. As such, this chapter will primarily focus on the first part of this text. It has been noted in several instances in this thesis that the establishment of an authoritative discourse requires “conceptual and institutional conditions that must be attended to.”\footnote{476} Al-Qaradawi’s argument therefore begins by aiming to establish muwāṭana’s place in the Qur’ān’s conceptual universe etymologically, and is attendant to the Arabicate hermeneutic (as discussed in Chapter 3). Al-Qaradawi first notes that muwāṭana is a verbal noun (mašdar) that has no corresponding verb (in the form fāʿala/wāṭana). On that basis, al-Qaradawi reasons that muwāṭana must be derived from the noun waṭan (homeland), the same way as the term qawmiyya (patriotism) can be derived from the noun qawm, meaning people and insāniyya (humanity) is derived from insān, meaning human being.\footnote{477}

Historically, within the fiqh tradition there is little to no emphasis on human beings’ attachment to a particular place.\footnote{478} During the nineteenth century it was the Egyptian, Azharite scholar Rifa’ā al-Tahtawi (d.1873) after studying in Paris from 1826-31 who first most notably attempted a synthesis between European concepts of nationalism and the fiqh tradition. After reading authors such as Montesquieu and becoming aware of new discoveries in Egyptology, al-Tahtawi began to write of an organic link between Egyptians and their land. Al-Tahtawi argued that within a greater community (umma) that encompassed all Muslims, there were smaller, national communities. These communities also owed loyalty to their local governments, whose

\footnote{475} Tariq Ramadan, The Quest for Meaning: Developing a Philosophy of Pluralism (London: Allen Lane, 2010), 168–9.
\footnote{476} Asad, Genealogies of Religion, 210.
role it was to advance their social and moral conditions, achieve the *maslaḥa* and the necessary “progress” required by modernity.\(^{479}\)

Al-Tahtawi was optimistic in his own observations of Egypt’s development under Muhammad ‘Ali (d.1849). His successors such as Jamal al-Din al-Afghani and ‘Abduh saw instead in nationalism the roots of Muslim disunity in the face Western colonial expansion.\(^{480}\) While ‘Abduh supported the Egyptian independence movement against the British occupation he, along with al-Afghani and their peers maintained their own emphasis on a greater “dār al-islām” that would bind all Muslim communities together as one nation through an essential solidarity (taʿaṣṣub). Unlike al-Tahtawi, the term umma was used by them to conceptualize Muslims as a single nation, like the French, or the Germans.\(^{481}\) As such, they were notably concerned not only with the divisive elements of nationalism such as its emphases on constructions like ethnicity or race, but also its increasing appropriation within secularist discourse.\(^{482}\) Hasan al-Banna was similarly wary of nationalism’s potential to divide the umma saying, “We are at war with this perspective as a practical programme, which wants to stain Egypt with [nationalism].”\(^{483}\)

The other key figure mentioned by al-Qaradawi in *The Homeland and Citizenship* is the influential Pakistani scholar Abu al-A’la al-Mawdudi (d.1979). In *The Homeland and Citizenship* the aspects of al-Mawdudi’s thought that al-Qaradawi highlights is similarly his concern over nationalism’s potential for chauvinism and racism (*al-nasliyya wa'l-ʿunṣūriyya*). By contrast, al-Mawdudi highlighted the Qur’ān’s emphasis on the shared origins of humanity, though their separation into different nations and races “so that they may know each other” had been a necessity. While tribes and nations bring people together as communities, if there is to be any superiority

---


\(^{480}\) Ibid., 86.


of one over another, it is on the basis of moral and ethical superiority and not on the basis of one’s origins.\(^{484}\)

These positions and debated concepts all impact upon al-Qaradawi’s own contribution and reading of the Qur’an. In al-Qaradawi’s reasoning the Qur’an acknowledges the concept of a “homeland” through the word \textit{diyār} (sg., \textit{dār}) and its description of the “leaving or being evicted from [one’s homeland] as a great crime, a terrible ordeal, which is equivalent to killing someone, since leaving one’s homeland is like the soul leaving the body.”\(^{485}\) Feelings of a bond to an area of land are therefore part of human nature (\textit{fitra}) and the reality (\textit{wāqi’}). It is also an observable part of human development. After nomadism, people began to settle in towns and villages. As such, a homeland became a foundational human need (\textit{ḥājat al-insān}), evidenced more recently through the Algerian struggle against French colonialism and the plight of the Palestinians.\(^{486}\) Al-Qaradawi notes though that post-colonial Arab liberation movements as in Algeria contained the “secularists, liberals and Marxists” about whom it was noted that he was so concerned in Chapter 3. He reasons however that this does not mean that nationalism (\textit{al-waṭaniyya}) and patriotism (\textit{al-qawmiyya}) are secularist concepts. Al-Qaradawi argues that “it is never a necessity that patriotism or nationalism be secular.” In his reasoning, “nationalism… does not have any guarantted ideological content, no guarrented religion, nor is not non-religious (secular), rather it [nationalism] is neutral” (\textit{al-waṭaniyya}… lā tahmil ayy maḍmūn aydīlājiyya, lā maḍmūn dīnī wa-lā lādīnī (’almānī) bal hiya muḥāyada) with regards to religion or ideology.\(^{487}\)

In making this point al-Qaradawi responds to the concerns of his predecessors from the \textit{fiqh} tradition. With regards to al-Banna, al-Qaradawi emphasises that though al-Banna rejected a partisan and divisive nationalism he also expressed a sense of


\(^{485}\) Al-Qaradawi cites verse 4:66, “If We had ordered them to sacrifice their lives or to leave their homelands (\textit{diyār}), very few of them would have done it: but if they had done what they were (actually) told, it would have been best for them, and would have gone farthest to strengthen their (faith).” While the translation here is from Yusuf Ali, Ali’s translation of \textit{diyār} “homes” has been altered here to “homelands” to reflect al-Qaradawi’s reading. Abdullah Yusuf Ali, Marmaduke Pickthall, and Mohammad Habib Shakir, \textit{Three Translations of The Koran (Al-Qur’an) Side by Side} (Gutenberg Project, 2005), http://www.gutenberg.org/cache/epub/16955/pg16955.html; al-Qaraḍāwī, \textit{al-Waṭan wa’l-Muwāṭana}, 18.


\(^{487}\) al-Qaraḍāwī, \textit{al-Waṭan wa’l-Muwāṭana}, 45–7. If the use of brackets above is not clear, the brackets around the word (secular) are al-Qaradawi’s.
national pride, a “nationalism (waṭaniyya) of freedom, freedom for the society and service to it […] while rejecting a partisan and divisive nationalism (waṭaniyya).” Al-Qaradawi then quotes al-Banna saying, “How can we not work in Egypt’s best interest? How can we not defend Egypt as much as we can? […] truly we are proud of our loyalty to our dear country.” In so doing al-Qaradawi argues that al-Banna was in fact distinguishing between an acceptable nationalism (al-waṭaniyya al-maqbūla), reflected in national service, and an unacceptable and divisive nationalism (al-waṭaniyya al-mardūda) that was based on chauvinism. In rejecting any possible sectarian connotations for acceptable nationalism, al-Qaradawi emphasises the Qur’an’s (28:4) description of the fomenting of sectarianism as one of the great crimes of Pharaoh. If Islam has any special relationship with any piece of land it is with Mecca, but the Muslims of Mecca are equal with everyone else.⁴⁸⁸

Al-Qaradawi’s predecessors such as al-Afghani, ʿAbduh and Rida maintained an aspirational emphasis upon uniting the world’s Muslims under a pan-Islamic dār al-islām (Abode of Islam). Al-Qaradawi shares an affection for the historical Caliphate, and describes its replacement with “mini-states (duwaylāt) here and there” under the terms of the Sykes-Picot agreement as a great “catastrophe” that led to Muslims placing loyalty to their countries above Islam and inter-Muslim solidarity. A conceptual tension begins to emerge into al-Qaradawi’s discourse in this regard on the basis of Muslims’ loyalty to each other in a greater supra-national dār al-islām and their local loyalties with non-Muslims in their shared nations. Al-Qaradawi therefore argues that one’s belonging to a homeland is divinely ordained and pre-determined (qadrī wa-jabārī). This local (maḥālī) loyalty is contrasted with Muslims’ belonging to dār al-islām. Because this latter belonging is chosen, the solidarity it engenders is deeper. Dār al-islām is also therefore the “homeland” of all Muslims. At the same time, he also emphasises that non-Muslims were considered by the scholars of the historical fiqh tradition to be citizens of dār al-islām, even though they used the term ahl al-dhimma.⁴⁸⁹

Having accepted the importance of national pride and service, while attempting to maintain the valence of a greater Muslim solidarity, al-Qaradawi begins to describe

⁴⁸⁸ Ibid., 54–8.
⁴⁸⁹ Ibid., 39.
the bonds between Muslims and non-Muslims in a particular area. It was emphasised at the start of this chapter that the *fiqh* tradition’s management of this relationship, under the terms of the *dhimma* contract, has come to be considered extremely problematic within a hegemonic liberal discourse that sets liberal citizenship as the benchmark. Al-Qaradawi first highlights that early scholars of the *fiqh* tradition had argued that alms (*zakāt*) should be distributed to the poor of a local area, be they Muslim or non-Muslim.\(^{490}\) Within his reading of the Qur’an al-Qaradawi sees a clear emphasis on “neighbourliness” (*al-jīwār*) between inhabitants of a local area, which represents a shared “patriotic brotherhood” (*al-ukhūwa al-waṭaniyya*) and solidarity (*al-takāful*). The next passage in *The Homeland and Citizenship* shows that this work is not directed at non-Muslim minorities in the Middle East, but rather Muslims who would consider themselves superior to non-Muslims, such as Coptic Christians in Egypt.\(^{491}\)

As highlighted in Chapter 2 of this thesis, here again al-Qaradawi includes a pedagogical passage with “one of the extremists” (*aḥad al-mutashaddidīn*) with whom he finds himself “in daily conversation.” In the dialogue, the extremist objects to al-Qaradawi’s referral to “our Coptic brothers,” and argues against al-Qaradawi that there is to be no solidarity between Muslims and those outside Islam. Al-Qaradawi tells the reader he finds this argument ridiculous, and he responds by highlighting to his opponent that in the social reality all kinds of brotherhood and solidarity can be found: patriotism, nationalism, professionalism, the brotherhood between fellow human beings and so on. He maintains though that the bond between Muslims is the deepest and strongest. When al-Qaradawi’s respondent asks for evidence to support this point, al-Qaradawi argues that it is not only clear from the social reality, but can also be clearly seen in four short passages in the Qur’an. These passages (26:105-6, 123-4, 141-2, 160-1) each describe the rejection of four prophets Noah, Hud, Salih and Lot by their fellow tribesman. What is significant for al-Qaradawi is the fact that, while each of these tribes rejected the prophets sent to them, the Qur’an still describes them as brothers.\(^{492}\)

---


\(^{491}\) al-Qaradāwī, *al-Waṭan wa’l-Muwāṭana*, 24, 42.

\(^{492}\) Ibid., 43–4.
For al-Tahtawi, there was a clear moral valence to a national community that entailed shared rights, duties and solidarity between citizens. Al-Qaradawi shares this emphasis by highlighting the importance of Muslim and non-Muslim citizens’ “positive participation in all that helps the nation progress and works towards its prosperity.” He highlights his respect for the fact that non-Muslims reject and find offensive the term “dhimmi,” and regard their past payment of the jizya tax as discriminatory. Al-Qaradawi argues that he understands this fear, and the importance of equality. To al-Qaradawi this means emphasising that, as mutual citizens “they have the rights that we have, and the obligations that we have, and there is to be no discrimination except with regard to natural religious differences (tablîyyat al-khilāf al-dīnī).” This last point clearly highlights the very different framework al-Qaradawi is using to approach citizenship, in contrast to the liberal difference-blind model. Al-Qaradawi highlights the historical example of the Christian tribe the Banu Taglib’s request that the tax they paid to the treasury not be called the jizya, but ṣadaqa (like zakāt al-Qaradawi explains), because they wanted to be considered the same as Muslims. Al-Qaradawi therefore reasons that “historical words and words and concepts,” which are not acceptable to non-Muslims must be “deleted” from the “contemporary dictionary of relations.” These include dhimma, ahl al-dhimma, and jizya.

With these points in mind al-Qaradawi asserts that, “the problem [of citizenship] has been solved from within Islamic jurisprudence, without having to import the concept of citizenship from the Western market place of ideas.” Al-Qaradawi is therefore also clearly aware of the prevailing conception that the fiqh tradition simply imitates the Western liberal tradition. While he reasons himself that his own concept is entirely original to the fiqh tradition, this chapter has argued instead that a more complex synthesis has taken place. As has been emphasised at different points in this thesis, it is not useful to measure al-Qaradawi’s reasoning according to the terms of the liberal tradition because they will always by default be found wanting.

494 al-Qaradāwī, al-Waṭan wa ’l-Muwāṭana, 79.
495 Ibid., 41.
496 Comparing contemporary Islamic discourses with liberal discourses, and viewing the latter as the ideal endpoint for the former’s development, is a very common theme in academic studies even if it goes...
However, this chapter has so far pointed out tensions and inconsistencies in al-Qaradawi’s discourse, relating to Muslims’ multiple loyalties, and the nature of Muslim and non-Muslim relations. The final example for this section relates to the tension surrounding the contemporary phenomena of mass migration. Synthesising this phenomena into his discourse, al-Qaradawi emphasises that human beings’ attachment to a specific homeland is a natural need that is pre-determined and ordained, it is also possible for one to change their homeland, or even have more than one. Al-Qaradawi is also of course a migrant, travelling to Qatar in 1961 and accepting Qatari citizenship in 1969. He argues that, “whoever is born in Egypt, brought into being there is Egyptian, and Egypt is their homeland,” and notes that leaving one’s homeland and adopting another one “is the reality for many people, whether through choice or through force, moving from one homeland to another, exchanging one people for another, and one brotherhood for another.” Al-Qaradawi uses the term jinsiya (that can more commonly be rendered as “nationality” as it generally pertains to passport-rights and the right of abode, though al-Qaradawi is not specific) to note that countries like Qatar do not permit the holding of dual-citizenship. As such, if one adopts the citizenship of a new country, this does not negate their ties to their original homeland. The best example of this experience for al-Qaradawi is that found in the Prophetic example. Muhammad and his companions’ flight to Medina did not mean they renounced their ties to Mecca, or their wish to return there one day, but similarly it did not impinge upon their bonds of citizenship and loyalty with their new compatriots in Medina. It is through al-Qaradawi’s reading of the Compact of Medina enacted between the new Muslim arrivals and Medina’s Jewish inhabitants that he attempts to reconcile the underlying tensions in his discourse, specifically through its reference to the concept of umma.


497 During an interview between the author and al-Qaradawi in February 2012 al-Qaradawi would on occasion use the terms muwāṭana and jinsiya with what appeared to be the same meaning. Non-Muslim members of the civil state with an Islamic reference were referred to as bearing an “Islamic nationality” al-jinsiya al-islāmiyya as well as being citizens. al-Qaraḍāwī, interview, February 16, 2012.

Re-Reading the Compact of Medina

To al-Qaradawi and his colleagues it is the Compact of Medina that represents the founding of the first Islamic state. As such, the Compact (ṣaḥīfa) is also referred to as this state’s “Constitution” (dustūr). Al-Qaradawi’s re-reading of this compact is a prime example of the synthesizing of European concepts (nationalism, citizenship, public order etc.) within a framework of the fiqh tradition. According to the tradition, in 622 CE Medina was beset by internal conflict between the local polytheistic and Jewish tribes. Seeking a solution, an offer was sent by a small group of new Muslims in Medina to Muhammad in Mecca. The offer was for Muhammad and the Muslims of Mecca to travel to Medina and attempt a reconciliation of the various tribes through mediation. The Compact of Medina was a result of these efforts.

While Anver Emon notes that “there is no original document or archaeological evidence” for the Compact, it is the version in the work of the Hyderabadi scholar Muhammad Hamidullah (d.2002) that is the source for al-Qaradawi. Hamidullah completed his doctorate in Paris at the Sorbonne in 1935, and would remain in France between 1948 and 1978. It was during his doctoral studies that Hamidullah first published in French a large collection of documents and treaties from the Prophetic era, including the Compact of Medina. While the historicity and integrity of the Compact is the subject of debate, Hamidullah emphasises that within a century of the Prophet’s death Muslim historians such as Ibn Ishaq ensured it was preserved “word for word.”

This collection was first published in Arabic in 1941 in Egypt with the title A Collection

501 Anver M. Emon, “Reflections on the ‘Constitution of Medina’: An Essay on Methodology and Ideology in Islamic Legal History,” UCLA Journal of Islamic and Near Eastern Law 1, no. 1 (2001): 103–33 (1). In earlier orientalist scholarship on the Compact its historical integrity was contested. As early as 1889 Julius Wellhausen argued that it must have been written before the Battle of Badr in 624 CE/2 AH. Montgomery Watt argued that it must have been changed afterwards. Rather than a single agreement with eight different tribes, Serjeant considered the Compact to have been a later collection of eight separate agreements that were all concluded shortly after the Hijra. Yetkin Yıldırım, “The Medina Charter: A Historical Case of Conflict Resolution,” Islam and Christian-Muslim Relations 20, no. 4 (2009): 439–50 (9 fn 3); Montgomery Watt, Muhammad at Medina (Oxford: Oxford University Press, 1981); R. B. Serjeant, “The Constitution of Medina,” Islamic Quarterly 8, no. 1 (1964): 3–16 (4).
of Political Documents from the Time of the Prophet and Rightly-Guided Caliphate (Majmūʿ al-Wathāʾiq al-Siyāsiyya liʾl-ʿAhd al-Nabawī waʾl-Khilāfa al-Rāshida). 503 It is this work that al-Qaradawi and his colleagues such al-ʿAwwa, Ali Bulaṣç and Hayreddin Karaman credit with drawing the Compact to their attention as a potential framework for approaching the concept of citizenship within the fiqh tradition. 504

Al-Qaradawi’s version of the Compact has forty-seven articles, and it is through the concept of umma that he attempts to reconcile the tensions arising in his discourse. The term occurs in the Qurʾan sixty two times to refer to a general community whose boundaries are defined on the basis of belief. In the Encyclopaedia of Islam, it is suggested that throughout the chronological revelation of the Qurʾan the term umma is continually augmented to refer more and more specifically to the Muslim community, particularly in the wake of the Hijra to Medina. 505 Fred Donner argues by contrast that it was actually nearly a century after Muhammad’s death that his community had changed from being an ecumenical “believer’s movement” including righteous Muslims, Christians and Jews to a community that followed a distinctive faith that came to be known as “Islam.” 506

In al-Qaradawi’s reading of the Compact, the term umma carries four distinct meanings. The first of these relates to the predominant understanding, cited above, of the term as referring to a community defined by shared belief (iʿtiqādī). This is evidenced for al-Qaradawi by the fifteenth article that reads, “The believers are friends to one another to the exclusion of all men.” The second meaning that umma carries is “political” (siyāsī). On this basis al-Qaradawi argues that, under the terms of the Compact, the distinctive Muslim and Jewish believing communities can also share in membership of a single political community. This joint membership is evidenced for al-Qaradawi in the articles numbered 25-34. These articles list the different Jewish tribes

505 Denny, “Umma.”
in Medina and refer to each of them in turn as forming “one community with the believers” (\textit{umma ma' al-mu`minin}).

What is significant in al-Qaradawi’s reading is that this is very different from referring to them “as one community from the believers” (\textit{umma min al-mu`minin}). There is also the statement that “the Jews have their religion (\textit{dīn}), and the Muslims have theirs.” The third meaning of \textit{umma} that appears to al-Qaradawi is a geographical one, found in the first article in the Compact that states it regulates relations “between the believers and Muslims of the Quraysh, the people of Yathrib, and [emphasised by al-Qaradawi in bold type] those who followed them, joined with them, and struggled alongside them.” This geographical meaning is also found in the second article that refers to all the Medinan participants in the Compact as “one \textit{umma} apart from the other people” (\textit{ummatan wāḥidatan min dūn al-nās}) or rather, one geographically-bounded community apart from those other communities that reside beyond the bounds of the Medinan polity, be they Muslim or non-Muslim. As such, the bond of citizenship is only shared between the Medinans, while the other Muslims who remained in Mecca were “not citizens, but brothers in doctrine.” The fourth meaning that \textit{umma} carries is social (\textit{ijtimāʿī}). In their joint participation in the Compact, all the different tribes and communities shared a social bond of mutual support and kinship, “like the members of one tribe.” The final point al-Qaradawi makes about the Compact specifically is in a short series of “important observations.” Here, al-Qaradawi emphasises that the state he is describing, the state founded in Medina and the Compact’s utility as a contemporary model for citizenship, was not the same thing as a “Muslim state.” Rather it is a state of all its citizens, what makes it Islamic is its \textit{al-nizām al-`āmm}, or its public order, and its terms of reference (\textit{taghlīban wa-marja` iyyatan}).

The Transmission of Ideas and Concepts

As has been seen, what is most important with regards to the Compact is that it has provided al-Qaradawi with a framework that acknowledges humans’ multiple identities (\textit{ta’addud al-hūwiyya al-insāniyya}) and the different kinds of bonds and solidarities that

\begin{footnotesize}
\begin{itemize}
\item[508] al-Qaraḍāwī, \textit{al-Waṭan wa`l-Muwātana}, 30–33.
\end{itemize}
\end{footnotesize}
can exist. This framework aids his attempted synthesis of citizens’ multiple loyalties and bonds.

This thesis has argued that the members of al-Qaradawi’s supportive networks have played a crucial role in maintaining his position at the forefront of contemporary debates and trends. This was seen again during an interview between the author and one of the founding members of the RTQ, the Mauritanian Muhammad al-Mukhtar al-Shingiti (b.1966). Though al-Shingiti is no longer a member of the RTQ, he remains based in Doha alongside al-Qaradawi at the al-Qaradawi Center for Research in Moderate Thought at QFIS. During an interview with the author conducted in January 2013, al-Shingiti relates that he reviewed the manuscript of al-Qaradawi’s The

---

509  Ibid., 32–3.

510  Muhammad al-Shingiti was formerly the director of the Islamic Center at South Plains, Lubbock in Texas and gained a PhD degree in Religious History from Texas Tech University in 2010. Andrew F. March cites a fatwa he issued regarding Muslim participation in American elections. In his encouragement al-Shingiti argued that, “Taking part in the US elections […] is not a sign of affiliation (muwāla) to the polytheists, nor is it a kind of support for the Oppressors […] Judging parliaments to be gatherings of disbelief and polytheism is inappropriate, as this does not take into account the complicated nature of such parliaments. The US Congress, for instance, is not a religious organization, as the American constitution neither supports a certain religion nor restricts another. The US Congress is not, thus, a gathering of disbelief, even though its members are disbelievers. Also, it is not a gathering of belief, even if there are Muslim members in it. It is a neutral political body in relation to matters of religion, according to the American constitution. The US Congress can only tackle issues related to public welfare, which a Muslim is enjoined to participate in achieving, whether for the favor of Muslims inside or outside America, or even in relation to non-Muslims.” Muḥammad al-Mukhtār al-Shinqīṭī, “Muslims’ Participation in US Elections,” IslamOnline.net, n.d., http://islamonline.net/fatwaapplication/english/display.asp?hFatwalD=106769. Quoted in Andrew F. March, “Are Secularism and Neutrality Attractive to Religious Minorities? Islamic Discussions of Western Secularism in the Jurisprudence of Muslim Minorities (Fiqh Al-Aqalliyyat) Discourse,” Cardozo Law Review 30, no. 6 (2009): 2821–54 (32).

511  In describing his departure from the RTQ al-Shingiti alludes to two points. Firstly, that the RTQ had already achieved its main goal of promoting and disseminating al-Qaradawi’s thought and secondly due to a disenchantment with the manhaj of wasatiyya that the RTQ promotes. This he understands first and foremost in terms of tawassut, the taking of a middle way between two opposing points. “I don’t want to have to take the middle way if the middle way is wrong.” He now works closely with Tariq Ramadan and CILE, discussed in Chapter 3.

512  Founded in 2009, the al-Qaradawi Center for Research in Moderate Thought’s Director Muḥammad Khalīfa Ḥasan explains that among its goals is the promotion of al-Qaradawi’s wasaṭī framework. The Center has an agreement with the Qatari Supreme Council for Education to provide teacher-training seminars for Islamic studies teachers in Qatar’s schools. These are part of a counter-extremism programme and an effort to promote inter-faith tolerance and dialogue, and although al-Qaradawi’s work is not on the curricula themselves, “of course al-Qaradawi comes through.” The Center also holds seminars for foreign ʿulamāʾ drawn from as far afield as Azerbaijan and China. The Center’s current project is to compile a complete edition of all al-Qaradawi’s books (it has four members of research staff) and publish a books series on “the pioneers of centrism” (ruwād al-wasatiyya) that would range from Ibn Taymiyya to al-Qaradawi. Muḥammad Khalīfa Ḥasan, interview by David H. Warren, January 28, 2013. Cited in Warren and Gilmore, “One Nation,” 5 fn 3.
Homeland and Citizenship. During the interview al-Shingiti recalled that while making his reviews and having discussions with al-Qaradawi at his home,

I did some corrections, of grammatical mistakes and things like that, and I also inserted [pages thirty through thirty three, relating to the multiple meanings of umma and the recognition of citizens’ multiple identities in the Compact] in red and wrote that I suggested he add this, and I said to him [al-Qaradawi] “we need to develop this argument a bit” [...] I told him that even in the time of the Prophet people were not only defined by their faith, but also politically and socially.\(^\text{513}\)

At that point in the interview al-Shingiti pointed out to the author the section he had suggested al-Qaradawi include, and it is the crucial section cited above that argues the Compact that recognizes the multiplicity of citizens’ overlapping identities. In *The Homeland and Citizenship* there is only a brief footnote stating that this section of “important observations” is “drawn from Muhammad al-Mukhtar al-Shingiti’s research on the Medina Document.”\(^\text{514}\) Al-Shingiti explains however that this section is based on his own forthcoming work, *The Accumulation of Identities and Their Overlapping in the Arab Lands* (*Tarākum al-Huwīyyāt wa-Tazāḥumuhā fi’l-Faḍā’ al-‘Arabi’*), which argues for a rethinking of the historical emergence of multiple and overlapping identities during the Prophetic era. Al-Shingiti opines that he hopes this historical work will lead to a more nuanced understanding of Arabs’ multiple identities and may attenuate sectarian, denominational and ethnic tensions in the region. “To build a new future we need a new past” he says.\(^\text{515}\) As was argued in Chapter 3 with regard to Jasser Auda’s relationship with al-Qaradawi, what can be seen here again is that al-Qaradawi’s supportive network of Doha-based *talāmīdh* plays a significant role in introducing and transmitting innovative ideas and concepts into his oeuvre. This facilitates al-Qaradawi’s ability to inform and engage with contemporary debates surrounding *tajdīd al-fiqh*.

Auda and al-Shingiti also see the usefulness for their own project in having their own ideas being partially present in al-Qaradawi’s work. Both Auda and al-Shingiti appear to conceptualize al-Qaradawi’s authority in a manner similar to Pierre


\(^{515}\) al-Shinqīṭī, interview.
Bourdieu’s symbolic capital, and by drawing on this capital their projects are legitimated and given greater authority. This raises further questions over how al-Qaradawi can be understood as an “author.” In Michel Foucault’s 1969 essay “What is an Author?” he proposed a distinction between understanding the author as a physical person (the real al-Qaradawi) and understanding “al-Qaradawi” as his “author-function.” The ideas in a work written by “al-Qaradawi” are read differently than the ideas in a work by Auda, or al-Shingiti. Author-function is a concept that “is tied to the legal and institutional systems that circumscribe, determine, and articulate the realm of discourses.”

Al-Qaradawi’s author-function is tied to the systems and structures that impinge upon the collective discourses of the fiqh tradition. Both Auda, al-Shingiti and Ramadan as well, have been argued in Chapters 3 and 4 as recognizing to an extent that, for the purposes of their internal criticism, in the discourses of the fiqh tradition al-Qaradawi’s author-function is has a greater authoritative effect and appears more authentic.

The Place of the Dhimma Contract and the Jizya Tax

The final point to be made in this chapter relates to the fate of the dhimma contract and jizya tax under the terms of al-Qaradawi’s new approach to citizenship within a framework based on the Compact of Medina. Previously, al-Qaradawi and his Egypt-based colleagues such as Tariq al-Bishri, Huwaydi and al-ʿAwwa had reasoned that the jizya was a special tax that was levied from non-Muslims because they were to be exempted from military service and the defence of the Islamic state. This relates to the terms of the dhimma contract, whereby the Muslim majority would ensure the protection

516 See Chapter 3.
517 Al-Shingiti relates another example of this reasoning with regard to his most well-known and controversial work al-Khilāfāt al-Siyāsiyya bayn al-Ṣaḥāba: Risāla fi Makānat al-Ashkhāṣ wa-Qudsiyyat al-Mabā’d. This work deals with the highly contentious history surrounding the disputes and conflicts between Muhammad’s Companions after his death. Noting the controversy that arose in Saudi Arabia most notably, al-Shingiti relates that he felt it was important that al-Qaradawi write a new preface for the work’s section edition to reduce these criticisms. This would be in place of their mutual colleague Rashid al-Ghannushi, who had written the preface for the first edition. Al-Shingiti explains, “To legitimise the book I wanted a preface from Shaykh Yusuf, al-Qaradawi as a reference is very important […] al-Ghannushi does not have the same credit as Shaykh Yusuf because he does not have the same traditional Islamic education.” al-Shinqīṭī, interview.
of other communities under its sovereignty. Rachel Scott noted that recent years had seen a shift in the thinking of Egyptian Brotherhood-leaning intellectuals like al-Bishri, Huwaydi, al-ʿAwwa, and others who came to argue that the dhimma contract was now an “historical institution.” As such, both the dhimma contract and jizya tax could be rescinded given that non-Muslims were now conscripted into the Egyptian army and had fought bravely in Egypt’s wars with Israel.  

Al-Qaradawi’s approach, drawing on the work of his Doha-based colleague al-Shingiti, is rather different. In *The Homeland and Citizenship* what al-Qaradawi does is set up a comparison between the model of citizenship that emerged under the framework of the Compact of Medina and that enacted by Muhammad under the terms of the Treaty with the Najran’s Christian community. While the Jews of Medina did not pay the special jizya tax, the Christians of Najran did pay the jizya to the Medinan treasury. In al-Qaradawi’s reasoning the Compact emerged in a context where both Muslims and non-Muslims shared residency of the same homeland (a geographical umma), the polity of Medina. Therein all communities participated equally in social affairs and defence of their territory. The Treaty of Najran by contrast was concluded with a foreign nation beyond the borders of the geographical umma that encompassed the city-state of Medina. As such, the dhimma contract enacted by that Treaty and its jizya was an extension of the protection of the property, lives, livestock, wealth, and religious liberty of a newly conquered, foreign nation.  

Al-Qaradawi has therefore not definitively consigned the dhimma contract and the jizya to history in the precisely the same way as his peers in Egypt. Instead he has incorporated al-Shingiti’s approach, which considers both the Muslims and Jews of Medina to be the “founders of the State.” Al-Shingiti argues that there were Jewish tribes in Medina who were not dhimmis when the Najran Treaty was enacted, and therefore Muhammad was not establishing a definitive new framework for managing Muslim and non-Muslim relations. This point is made in relation to the prevailing conception in the historical fiqh tradition that the Treaty of Najran abrogated the Compact entirely because the Treaty occurred later.

---

Conclusion

This chapter has aimed to critique prevailing understanding surrounding the transmission of concepts and ideas into the *fiqh* tradition from the liberal West. Rather than direct imitation or outright rejection, this chapter argued that a far more complex synthesis takes place. Al-Qaradawi’s approach to the concepts of citizenship and nationalism within a framework of the *fiqh* tradition was used to make this argument. Drawing on Mahmood, it was argued that historically the religious freedom of minorities came to be an issue of critical importance in a manner closely intertwined with the emergence of nation states, and the subsequent geopolitical interests of others in intervening in the sovereignty of those states. It was under these conditions that a hegemonic discourse of liberal citizenship establishes the terms of citizenship debates. As Mahmood notes, “One might want to ask not *what* inhibits the realization of religious freedom (as if religious freedom were an ahistorical and universally valid good) but how the national and international regulation and protection of religious minorities makes specific notions of freedom and unfreedom imaginable.”

It was noted that the freedom (or unfreedom) of religious minorities within a framework of the *fiqh* tradition’s *dhimma* contract had come to be considered an issue under the terms of this “problem-space,” and Al-Qaradawi’s approach to the *dhimma* contract was examined in that context. More specifically, it was argued that the development of new concepts (citizenship, nationalism etc.) within a framework of the *fiqh* tradition led to original outputs that were solely not attributable to either the concepts in question or the *fiqh* tradition. The new articulation of the concept of *umma* as a mean of recognizing the multiple identities borne by a citizen was the key point made in this regard. The framework under which this original conception emerged was a re-reading of the Prophetic Compact of Medina.

Al-Qaradawi’s coming to this new reading was assisted and encouraged by one of the Doha-based former members of his student network, the RTQ. As was the case in Chapter 3 concerning Auda, al-Shingiti recognizes the importance of Al-Qaradawi’s author-function and that his transmission of a new understanding of *umma* into Al-Qaradawi’s work through dialogue assists al-Shingiti’s own project. In al-Shingiti’s

---

own reasoning, the importance of al-Qaradawi at this point for contemporary *tajđīd al-fiqh* debates is his prominence and open-mindedness, rather than his own innovativity. “He’s [al-Qaradawi’s] not a philosopher or a thinker, but he’s a scholar and a jurist who knows how to convey his message very well, the impact of his ideas is better than the idea itself, he came at the right time […] Shaykh Yusuf is very open-minded, we as his students [could] refute his ideas and he never got angry.”

*The Homeland and Citizenship* was published in 2010, on the eve of the dramatic and ongoing revolutions and uprisings popularly known as the “Arab Spring” (*al-rabīʿ al-ʿarabī*). As the most prominent ‘ālim in the region, this thesis’s final chapter will look to al-Qaradawi’s own attempts to negotiate these events. His making sense of Egypt’s 2011 revolution and the coup of 2013, the failed uprising in Bahrain and the Libyan and Syrian civil wars will all be seen to emerge from within a framework of the *fiqh* tradition. His personal staff will also be seen to play a role in dialectically constructing his understanding of the reality of unfolding events (*fiqh al-wāqiʿ*). It was argued at the very start of this thesis that al-Qaradawi’s prominence was based upon his careful management of his relationship with the Muslim Brotherhood, the Qatari state, his fellow ‘ulamāʾ and the constraints of the *fiqh* tradition. All of these issues will now finally be seen to come to a head as al-Qaradawi’s stature rises to a zenith in 2011 with his leading of the *jumaʿ* prayer in Tahrir Square on Egypt’s Day of Victory (*yawm al-fath*), only to then fall to a state where even his own position of safety in Qatar appears to come under threat as the sectarianism of Syria’s civil war deepens, and the Egyptian army violently retakes power in 2013.

---

523 al-Shinqīṭī, interview.
5. The Social Construction of ʿIlm, and the Politics of Recognition in the Public Sphere: Yusuf al-Qaradawi, the Arab Spring, and its Aftermath

On Friday, 18 February 2011, exactly one week after Hosni Mubarak’s resignation, al-Qaradawi was delivering a sermon to a crowd estimated by al-Jazeera to number one million in the centre of Tahrir Square. Al-Qaradawi was clearly delighted that, despite all the divisions within Egyptian society over questions of secularism, Islam, gender, minority rights (issues he has been seen to be involved in throughout this thesis), they were able to unite in ousting their dictator:

O Muslims! O Copts! O Children of Egypt! This is the day of all the Children of Egypt together. It is not the day of Muslims alone […] Muslims and Christians, radicals and conservatives, rightists and leftists, men and women, old and young, all of them became one, all of them acting for Egypt, in order to liberate Egypt from injustice and tyranny.

Even the Egyptian liberal media was impressed. A commentator in the Daily al-Masri al-Yawm declared it “one of the greatest sermons of the modern era,” and comparisons with Ayatollah Khomeini’s return to Iran in 1979 began to circulate. As the “Egyptian Khomeini” epithet gained strength it appeared self-evident that al-Qaradawi possessed enormous popularity and prestige. The television channel Misr al-Nahar Da became so concerned that further air time on its channel would boost his stature still further, it barred him from further appearances.

Two years later the picture was entirely different. The Egyptian army had violently re-taken power in July, while Syria’s own peaceful uprising had continued its descent into a sectarian civil war. Even al-Qaradawi’s own position of safety in Qatar,
were he had previously seemed untouchable, was now under threat. *Sharia and Life* had been taken off-air, rumours were circulating in the media that the Qatari Emir had revoked his citizenship and expelled him from the country. He had resigned his position on al-Azhar’s Council of Senior *ʿUlamāʾ* (Hayʿat Kibār al-ʿUlamāʾ), a body disbanded in 1961 by Nasser and reinstated in 2012 by Muhammad Morsi. The new Egyptian government meanwhile continued their appeals to Interpol to issue a warrant for al-Qaradawi’s arrest.⁵³⁰

*Ilm as a Social Construct, “Religious Leaders,” and the Constraints of the Fiqh Tradition*

The rationale for studying al-Qaradawi’s role in contemporary *tajdīd al-fiqh* debates has been based on his prominence, his apparent authority, popularity, and prestige. It has already been argued (particular in Chapter 3) that a Weberian ideal-typological approach is not useful here. Instead, it is the structures and discourses that continually reproduce authoritative effects on a subject (as well as the effects of popularity and prestige) that should become the focus. It was remarked at the beginning of this thesis that al-Qaradawi’s prestige at the height of the Arab Spring had been socially constructed on diverse foundations, namely support from the Muslim Brotherhood, the Qatari royal family, recognition as a leading scholar of the *fiqh* tradition, and an astute utilisation of digital and social media.

It will be argued that being an ‘ālim does not come as a title or qualification given to all graduates of al-Azhar or such institutions, or even scholars of great intellect. Rather, using Pierre Bourdieu’s term, it is the “recognition” of one’s possession of *ʿilm* (sacred knowledge of the Sharia) that becomes highly important. For Bourdieu, this was in fact a “misrecognition” because neither the actor in question (al-Qaradawi in this case) or the subject (the segments of the Arab public who consider him an authority) were aware of the deeper structures of power that had produced their status quo (or

“produced” al-Qaradawi as, not just an scholar of the fiqh tradition, but an ʿālim of global stature). In this chapter, it will be argued that it is the role of the Qatari state, and its support for al-Qaradawi mediated by its own foreign policy concerns, that is the most significant of these structures here.

Though recognition was a more nuanced concept introduced in the place of “ideology,” Bourdieu’s approach has attracted criticism. This is because of the break it presupposes between the actor and their subjects, as well as between the observer (the author) and the objects under study. It portrays the observed solely as naïve, “judgemental dopes,” rather than reflexive agents.531 The response witnessed in both critical sociology, anthropology, and elsewhere, was to theorize a bridging of the gap between actors’ own agency and the power-structures and discourses that rendered some of their actions thinkable and others unthinkable. In sociology Robin Celikates, following Luc Boltanski, refers to a new awareness of the importance of studying the “micropolitics of recognition” that occurs in actors’ “everyday practices of justification and critique.”532 With a similar intent, Ovamir Anjum, following Talal Asad, argued that “it is the arguments and discourses of the thinking subjects with their specific styles of reasoning couched in their historical and material context that [should] become the focus.”533

With these caveats in mind, the growing recognition of al-Qaradawi’s ʿilm and his prestige as an ʿālim that was occurring up until 18 February 2011 and beyond - from his publication in 1960 of the highly popular The Lawful and the Prohibited in Islam, his being asked twice to be the Brotherhood’s General Guide, going on air and speaking directly to thirty five million viewers on Sharia and Life in 1996, and so on (see Chapter 1) - will be considered alongside an analysis of his own efforts and interventions throughout the Arab Spring and the events that followed. Al-Qaradawi’s highly publicized fatwas and interventions in the media throughout Egypt’s revolution, the failed Bahraini uprising, the Libyan and Syrian civil wars, and the Egyptian coup will not, however, be understood solely as another means of maintaining his authority “as an

531 Garfinkel, Studies in Ethnomethodology, 67–73.
532 Celikates, “Systematic Misrecognition,” 1; idem, “From Critical Social Theory to a Social Theory of Critique.”
533 Anjum, “Islam as a Discursive Tradition” 7. Italics in original.
end in itself,” as Jacob Høigilt was seen to suggest in Chapter 3.  

That third chapter’s rebuttal drew upon Timothy Fitzgerald’s arguments that such conclusions rest on an acknowledged presupposition within Western academic, secular discourse. Academic discourse constructs categories of “religion” and “religious leaders” who, by definition, should not intervene in the “political” realm (or in the public sphere in the name of the maslaha in the manner attempted by al-Qaradawi and his fellow ’ulamā’).  

Academic discourse makes normative, theological claims that most practitioners are unaware of. The construction of this binary distinction between religion and politics has a particular history.

As Fitzgerald also points out, then, “if the imam [or al-Qaradawi as we might say here] does not make the same assumption, what kind of communication or miscommunication may be occurring?” With that point in mind, al-Qaradawi’s modes of reasoning, justifications, arguments in his approach to the unfolding events through a framework of the fiqh tradition should be understood, not as a simplistic manipulation of “religious” symbols to achieve “political” goals, but rather as a “tradition-constituted inquiry” into the common good (al-maslaha).

Power-structures and the politics of recognition are important, but so too are al-Qaradawi’s own justifications and concerns. As far as revolution and uprising is concerned, in his Rebellion and Violence in Islamic Law Abou El Fadl explains that the issue of the legitimacy of rebellion has long been a topic of concern for the ’ulamā’ who sought to “[balance] functionalist considerations against theological and moral imperatives, and [construct] a highly technical and symbolic discourse [that] co-opted, constructed, and reconstructed doctrinal and historical precedents.” Crucially however, this chapter will also argue that the fiqh tradition acts as a constraint. An ’ālim like al-Qaradawi cannot just “speak in God’s name” in any way they might wish. The “collective discourses” of the fiqh tradition also serve to constrain, permit or impede certain communicative actions, and limit the meanings available to be given to

---

534 Høigilt, Islamist Rhetoric, 153.
535 Zaman, The Ulama in Contemporary Islam.
537 Haj, Reconfiguring Islamic Tradition, 5.
experiences by rendering other possibilities unthinkable or inconceivable. All these arguments, which have been being made in whole or in part throughout this thesis, will be now illustrated by following al-Qaradawi from his now-famous “Tahrir Square Sermon” on 18 February 2011 through to the 3 July 2013 coup and its aftermath. This will then allow the thesis to be brought to a conclusion. It is with al-Qaradawi back in Egypt, then, where this chapter’s analysis will now begin.

**al-Qaradawi and Mubarak, A Scholar and A Tyrant**

In Tahrir Square that Friday midday, after the cheers and celebration had died down, al-Qaradawi began his sermon. He began with *sūrat al-fajr* (The Dawn), recalling to the crowd God’s reckoning with the tyrannical Pharaoh, and reciting the verses they surely would have known so well. In fact, they might have occurred to many of them when the course of the uprising still appeared to be in the balance:

> By the Dawn, and the ten nights, and the even and the odd, and the night when it departs, is there in this an oath for a thinking man? Have you not seen how your Lord dealt with the 'Ad, Iram with their columns, the like of which was not created in the lands? And with the Thamud, who clove rocks in the valley? And with Pharaoh, firm of might, who all were tyrannic in the land and spread much corruption therein? Therefore your Lord poured on them a scourge of torment. Surely, your Lord is ever on watch.

Al-Qaradawi’s return to Cairo and his deliverance of the sermon that day could be said to represent the achievement of a lifelong aim. As one of the “peripheral ‘ulamā’” who had eschewed a position in al-Azhar’s hierarchy in favour of the Brotherhood’s grassroots activism, he had long understood his role as a scholar of the *fiqh* tradition to guide and lead the *umma* toward the peaceful overturning of the Middle East’s dictatorial governments. The roots of this self-perception can even be seen in his earliest works. In 1948 during his first imprisonment he began writing a play he titled *A

---

Scholar and A Tyrant (ʿĀlim wa-Ṭāghiyya). It was set in the wake the defeat of ʿAbd al-Rahman b. al-Ashʿath’s famous rebellion against the Umayyad caliphate at the Battle of Dayr al-Jamājīm (The Monastery of Skulls) in what is now central Iraq.

Abou El Fadl also considers this rebellion noteworthy due to the number and prestige of the “rebel jurists” who took part, perhaps explaining why al-Qaradawi thought it a suitable context for his play. The play centres on one of these rebel ʿulamāʾ, Saʿīd b. Jubayr, and revolves around a dialogue occurring between Ibn Jubayr and the Umayyad general al-Hajjaj b. Yusuf. At the start of second scene Ibn Jubayr is brought before al-Hajjaj after being captured, who begins a dialogue with him. As Ibn Jubayr continues his defiance, al-Qaradawi refers his audience to a famous hadith, “The best jihad is to speak a word of truth before an oppressive ruler.” Husam Tammam recalls that the play was often performed at the gatherings of Brotherhood student groups. In the penultimate scene al-Hajjaj demands that Ibn Jubayr admit to the blasphemy (kufr) of taking part in the rebellion. In Ibn Jubayr’s response al-Qaradawi’s turns the audience’s attention to a second well-known hadith, which will be seen again later in this chapter. “Our religion does not agree to obedience except to the good, and [we owe] no obedience to what is disobedient (maʿsiyya) to God.” Ibn Jubayr then goes to his execution without fear.

It was highlighted in the first chapter that since the 1960s al-Qaradawi has understood his role as being that of a guide to the Islamic Awakening. Gudrun Krämer alludes somewhat scornfully to this self-perception as al-Qaradawi’s “self-appointed role.” However, the collective remembering of rebellions such as ʿAbd al-Rahman b. al-Ashʿath’s is a more important factor in forming al-Qaradawi’s understanding of his place during the revolutions and uprising of the Arab Spring. Fitzgerald argued that
within secular, academic discourse there is an unacknowledged presupposition that the “religious” and the “political” are distinct realms, and mixing the former with the latter automatically entails the distortion of religion’s essence.\footnote{Fitzgerald, Religion and Politics; idem, “Encompassing Religion.”; idem, Discourse on Civility and Barbarity; idem, The Ideology of Religious Studies.} While the collective discourses of the fiqh tradition limit the possibility that an ʿālim might first recognize that such a religious-political distinction exists, and then also recognize that the maṣlaḥa would be best served by their withdrawal from the latter realm, secular discourses have also been synthesised into the region through “cultural mimesis.”\footnote{Hallisey, “Roads Taken and Not Taken in the Study of Theravāda Buddhism.” For more on this point see for example Partha Chatterjee, Nationalist Thought and the Colonial World: A Derivative Discourse (London: Zed Books, 1986); King, Orientalism and Religion: Postcolonial Theory, India and the Mystic East.} It is therefore common to see the Arab secularist slogan, “no politics in religion, and no religion in politics” or “religion is for God and the homeland is for the collective” (al-dīn li’l-llāh wa’l-waṭan li’l-jamāʿa).\footnote{al-Qaradāwī, al-Waṭan wa’l-Muwāṭana, 58–9.} Even in his own perspective, al-Qaradawi’s rejection of this divide between religion and politics presupposes and recognizes its existence.\footnote{Idem, al-Dīn wa’l-Siyāsa, 70.}

In al-Qaradawi’s two-volume The Jurisprudence of Jihad (Fiqh al-Jihād), then, he can be seen to be vehemently critical of those among his ʿulamāʾ whom he derogates as nothing more than “ʿulamāʾ of the authorities and agents of the police” (ʿulamāʾ al-sulṭa wa’-umalāʾ al-shurṭa).\footnote{Idem, Fiqh al-Jihād, 2010, 1:205.} The denigration and suspicion of ʿulamāʾ who take up positions in a ruling regime is a recurring trope since the formative period of Islam, with Hallaq citing sources that speak of ʿulamāʾ weeping with family members or going into hiding at the news that they had been appointed to high office.\footnote{Hallaq, Sharīʿa, 129.} It was later reappropriated by the ʿulamāʾ of the Brotherhood to refer to those who took up high-ranking positions in al-Azhar under various dictatorial governments.\footnote{For more on the role of the Muslim Brotherhood’s oppositional discourses to the ʿulamāʾ of al-Azhar, and their effects on Islamic and Middle Eastern Studies see Hatina, “The Clerics’ Betrayal? Islamists, ‘Ulama’ and the Polity.”} Al-Qaradawi by contrast argues that it is the responsibility of the ʿulamāʾ to side with the community against their dictators:
Who is to first issue a fatwa declaring [these rulers’] blasphemy? Clear blasphemy as it is defined in the sound hadith? Who is to judge their apostasy (ridda) when the judges and official mechanisms for issuing fatwas are in their hands? There is [nothing] except the Muslim general will (al-raʾi al-ʿāmm) and the Islamic public conscience (al-damīr al-islāmī al-ʿāmm), which guides those among the scholars who are free.

The Micropolitics of Recognition: Cementing al-Qaradawi’s Revolutionary Credentials

The series of events now popularly known as the Arab Spring began of course in Tunisia, whose revolution was sparked after Mohamed Bouazizi’s self-immolation on 17 December 2010. After the Tunisian President Zine El Abidine Ben Ali’s resignation on 14 January 2011 similar demonstrations began to be organized in Egypt, Libya, and across the region. As the demonstrations in Egypt took hold following the first “Day of Rage” (yawm al-ghadab), al-Qaradawi became active in attempting to legitimate and promote the protests, issuing fatwas in their support. This was an attempt to rebut the fatwas issued in turn by the ʿulamāʾ in al-Azhar’s hierarchy who remained close to the Egyptian regime. The fatwas issued by the Egyptian Grand Mufti ʿAli Jumʿa (b.1952), for example, had called on the protesters to remain indoors and even permitted them to

555 The hadith al-Qaradawi cites in a footnote is found in Şāhiḥ al-Bukhārī, and related by ʿUbayda b. al-Samit who recalls that Muhammad “took the pledge of loyalty (bayʿa) from us, that we were to listen and obey [his orders] both when we were active and when we were tired, at times of difficulty and ease, and to be obedient to the ruler and give him his right even if he did not give us our right, and not to fight against him unless we saw him in open blasphemy (kufran bawāḥan).” This hadith will also be seen again, when al-Qaradawi has returned to Egypt in the prelude to the 3 July 2013 coup. See also Yaḥya al-Nawāwī, “Kitāb al-Muqaddimāt,” in Riyāḍ al-Ṣāliḥīn, vol. 1, 186, accessed August 2, 2014, http://sunnah.com/riyadussaliheen/1/186.

556 It might be suggested here that with these two terms al-Qaradawi is positing a concept similar to that of the “general will” (volonté générale). Though made famous by Jean-Jacques Rousseau in Article Six of his Declaration of the Rights of Man, “The law is the expression of the general will. All citizens have the right to contribute personally, or through their representatives, to its formation,” the concept of general will has in fact a theological history that Rousseau did not fully acknowledge. In the work of French writers and theologians such as Nicolas Malebranche, Blaise Pascal, and Montesquieu, the general will (as contrasted with the particular will) referred to the will of God. Unfortunately, further exploration of this concept’s possible synthesis in al-Qaradawi’s discourse and that of the fiqh tradition more generally is beyond the scope of this chapter. James Swenson, On Jean-Jacques Rousseau (Stanford, CA: Stanford University Press, 2000), 163; Patrick Riley, “The General Will Before Rousseau,” Political Theory 6, no. 4 (1978): 485–516.

remain in their homes on Fridays, instead of gathering to pray jumʿa collectively. In so doing, Jumʿa was drawing on the collective discourses of the fiqh tradition, which maintained that loyalty and obedience to a ruler who was unjust was preferable to the chaos and discord (fitna) of a rebellion so long as that ruler did not publically commit acts of apostasy, thereby becoming a source of discord themselves. In one particular broadcast he said, “I say to Egypt’s youth, you must all withdraw [back to your homes], it is obligatory […] Going out to challenge the [regime’s] legitimacy is harām, harām, harām! At this moment you are guilty of causing this turmoil, which is not in the country’s best interest (maṣlaḥat al-bilād).”

In their critique of this position, al-Qaradawi and his colleagues at the International Union of Muslim Scholars (al-Ittiḥād al-ʿĀlamī liʾl-ʿUlamāʾ al-Muslimīn, IUMS) attempted to conceptualize and promote a new and alternative branch of fiqh. This was called “the jurisprudence of revolution” (fiqh al-thawra). In Aria Nakissa’s own study of fiqh al-thawra’s development he recalls the somewhat nebulous legacy of Rashid Rida, which was discussed in Chapter 3. Rida’s legacy was his usage of utilitarian reasoning to overturn pre-existing rulings that were no longer considered as achieving the maṣlaḥa, while always maintaining that other ruling must remain untouched. He did this by demarcating distinct fields of fiqh. In some of these fields utilitarian reasoning was permitted, in others it was not. Rida did not, however, bequeath any precise criteria by which an ʿālim might determine those rulings that should be changed and what form that change should take. Nakissa proposes the term “secondary segmentation” to refer to a ʿālim’s attempts to integrate a new branch of fiqh

558 Nakissa, “The Arab Spring,” 8–9. I am particularly grateful to Nakissa for allowing me to see an early draft of this manuscript.
559 Antony Black, The History of Islamic Political Thought: From the Prophet to the Present, 2nd ed. (Edinburgh: Edinburgh University Press, 2011); Patricia Crone, God’s Rule: Government and Islam (New York, NY: Columbia University Press, 2004); Lambton, State and Government in Medieval Islam. Al-Qaradawi has not always defined the Egyptian regime as blasphemous or apostate. An example of this can be seen during the regime’s notably violent crackdown against an uprising in Cairo’s ʿAyn Shams district in 1988. While the ʿulamāʾ of al-Azhar quickly moved to legitimate the violence of the government’s response, Muhammad al-Ghazali (seen in Chapter 2) and al-Qaradawi emphasised the need for the taking of peaceful measures to re-exert control of the district. At the same time, both al-Ghazali and al-Qaradawi highlighted, “we believe in the faith of the regime and we trust the regime’s faith in Egypt.” They similarly argued that the Qur’an and Sunna “stipulate clear ways for thwarting deviations from the correct path, that do not include irresponsible charges of unbelief nor undue haste in stipulating reforms.” Baker, Islam Without Fear, 83–9.
into the tradition. Significantly, certain modes of reasoning, modes of utilitarianism reasoning more specifically, which would not be permissible in the *fiqh* tradition as a whole, are posited as permissible in these particular branches. The innovations promoted in the field of *fiqh al-aqalliyāt* (the jurisprudence of Muslim minorities), and now *fiqh al-thawra*, are examples for Nakissa of this new trend.\(^{561}\) This has the effect of heading off possible criticisms of subjectivity, or even worse, of seeking to legitimate the prevailing social reality (*tablīr al-wāqi‘*) rather than seek society’s reform.\(^{562}\) According to the terms of the *fiqh* tradition there can be no convincing defence against such criticisms and, as Andreas Christmann puts it, they represent the “killer-argument.”\(^{563}\)

It is worth recalling here Asad’s point that there are specific “conceptual and institutional conditions that must be attended to if discourses [or *fiqh* discourses we might say] are to be persuasive.”\(^{564}\) With that point in mind, al-Qaradawi’s “taking the opportunity to present a new *fiqh al-thawra* to the umma” that is to say, presenting a new methodology and process for generating new rules about to deal with revolutionary situations, through secondary segmentation can be better understood.\(^{565}\) Secondary segmentation facilitated his engagement with the arguments of other pro-regime

---

561 Nakissa proposes that the key part of Rashid Rida’s model was his distinguishing between acts of worship (*'ibādāt*), which were immutable, and those regulations regarding interpersonal transactions and relations (*mu‘āmalāt*), which were mutable. This model facilitated Rida’s “segmenting [of] Islamic law into different fields,” which was part of his own effort to promote the *maṣlaḥa* as an important source of *fiqh* norms and rulings. Nakissa, “The Arab Spring.” For more on this point see Chapter 3; David L. Johnston, “An Epistemological and Hermeneutical Turn in Twentieth-Century *Uṣūl al-Fiqh*,” *Islamic Law and Society* 11, no. 2 (2004): 233–82 (28-34); Hallaq, *A History*, 215; Malcolm H. Kerr, *Islamic Reform: The Political and Legal Theories of Muhammad ‘Abduh and Rashīd Rida* (Berkeley, CA: University of California Press, 1966); Albert Hourani, *Arabic Thought in the Liberal Age 1798-1939* (Cambridge: Cambridge University Press, 1962). For discussions of al-Qaradawi’s own particular indebtedness to Rida see Johnston, “Yusuf al-Qaradawi’s Purposive Fiqh”; Zaman, *Modern Islamic Thought*, 108–18, 148–52, 279–81; Soage, “Rashīd Rida’s Legacy.”


ʿulamāʾ, such as the Syrian Muhammad al-Buti.⁵⁶⁶ Al-Buti had cited the fiqh tradition’s famous maxim “block the means to a harmful outcome” (sadd al-dharāʾiʿ) to argue that what might have otherwise been legitimate demonstrations were in fact illegitimate because they would lead to fitna.⁵⁶⁷ In responding to this position, though al-Qaradawi noted his acceptance of sadd al-dharāʾiʿ as a jurisprudential principle, he countered that protesters’ legitimate goals dwarfed any potential for fitna:

If they are used to achieve a legitimate end, such as calling for the implementation of the Sharia, or freeing those imprisoned without legitimate grounds, or halting military trials of civilians, or cancelling a state of emergency which gives the ruler absolute powers, or achieving people’s general aims like making available bread, oil, sugar, gas, or other aims whose legitimacy cannot be doubted, legal scholars do not doubt the permissibility [of demonstrations].⁵⁶⁸

As already argued in Chapters 3 and 4, al-Qaradawi’s network of supporters once again come to assist him in his project. In assisting the establishment of the legitimacy of fiqh al-thawra’s foundational arguments, Wusfi Abu Zayd’s al-Qaradawi… The Revolutionary Imam (al-Qaradāwī…al-Imām al-Thāʾir) argues that fiqh al-thawra also conforms closely with the fiqh tradition’s own maxims (qawāʿid fiqhiyya). In Wusfi Abu Zayd’s listing of ten well-known maxims such as: “Where preliminary actions are necessary to fulfill an obligation, these actions themselves become obligatory,” “Difficult situations justify easing fiqh regulations,” “Actions are to be judged by their goals” (al-umūr bi-maqāṣidihā), or “The ruling applicable to a [specific] goal carries over to the means used to reach that goal” (liʾl-wasāʾil aḥkām al-maqaṣid), Nakissa argues that they are consciously de-contextualised. This facilitates the attributing of

---


⁵⁶⁷ As Muhammad al-Buti put it to the Syrian youth: “Going out onto the streets, even with a good intention [is forbidden …] This issue is clear, self-evident, and [firmly] known. The Sharia proofs do not permit any discussion. [Protests] are a means [that lead] to harm, and blocking the means to harm is obligatory […] even if the act leading to the harm […] is in itself permissible. Nakissa, “The Arab Spring,” 9. See also Jawad Qureshi, “The Discourses of the Damascene Sunni Ulama during the 2011 Revolution,” in State and Islam in Baathist Syria: Confrontation or Co-Optation?, St. Andrews Papers on Contemporary Syria (St. Andrews: University of St. Andrews Centre for Syrian Studies, 2012), 59–91 (3-7).

new meanings to these maxims with Abu Zayd’s underlying argument being for actions’
legitimacy to be judged on the basis of a form of utilitarian reasoning, one that focuses
first and foremost on the achieving what is understood as the maṣlaḥa of the
community.⁵⁶⁹

Similarly, al-Qaradawi’s colleagues and students at the Qatar Faculty of Islamic
Studies’ al-Qaradawi Center for Research in Moderate Thought and the Association of
al-Qaradawi’s Students (Rābiṭat Talāmīdh al-Qaraḍāwī) were quick to compile the texts
of all of al-Qaradawi’s fatwas and media interventions throughout the eighteen days of
the Egyptian revolution. Emphasising al-Qaradawi’s close support for the
demonstrators from the revolution’s beginning, these were then published under the title
25th January, A People’s Revolution: Shaykh al-Qaradawi and the Egyptian Revolution
(25 Yunāyir, Thawrat Sha’b: al-Shaykh al-Qaraḍāwī wa’l-Thawra al-Miṣriyya, see
Figure 3). The al-Qaradawi Center even announced the establishment of an
international award for the best research by senior ‘ulamā’ on fiqh al-thawra. The top
prize was worth nearly fifty thousand US Dollars.⁵⁷⁰ Similarly, follow Mubarak’s
resignation al-Qaradawi’s supporters were quick to publish opinion pieces in the local
Egyptian press, aiming to further establish his position as one of the key ‘ulamā’ who
supported the revolution, and deflect criticisms that he was too close to the
Brotherhood.⁵⁷¹

---


Figure 3: The front cover of 25th January, A People’s Revolution published at the behest of the al-Qaradawi Center and the RTQ to promote an image of al-Qaradawi as a fellow revolutionary.
These factors contributed to the “micropolitics” of the Egyptian public’s recognition of al-Qaradawi as the one ʿālim who had supported them in their revolution, and made him appear a natural choice to deliver the sermon in Tahrir Square on Friday 18 February. Al-Qaradawi had hurriedly travelled to Cairo from his home in Doha the day before but, rather than being a spontaneous move, it was in fact a carefully managed media spectacle that had involved complex planning and communication between al-Qaradawi’s personal staff in Qatar, his colleagues in Egypt such as Muhammad Salim al-ʿAwwa (mentioned in Chapters 3 and 4), key figures in the Brotherhood such as Muhammad Baltagi (b.1963) and ʿIsam al-ʿAryan (b.1954),572 and high ranking staff-members in al-Jazeera’s managerial board. Even al-Jazeera’s new Chairman Hamad b. Thamir Al Thani was involved. He is the first cousin once removed of the current Qatari Emir Tamim b. Hamid Al Thani (b.1980), and Hamad Al Thani’s insertion was regarded as a move by the Qatari royal family to exercise greater control of this highly influential satellite channel.573

The Macropolitics of Recognition: al-Jazeera and Qatari Foreign Policy

This point leads to the structural “macropolitics”574 underlying the recognition of al-Qaradawi’s ʿilm, and authority as a “revolutionary ʿālim” by the Egyptian and broader Arab public. It was al-Jazeera that, over the eighteen-day course of Egypt’s revolution, via special programmes on Sharia and Life, in-depth interviews, and the live televising of his jumʿa sermons each Friday, which facilitated al-Qaradawi’s self-projection as the only leading ʿālim standing with the protesters against the Egyptian regime. This was starkly contrasted with the positions of opposing ʿulamāʾ who had remained in Egypt and supported the regime for both individual and structural reasons. Qatar’s foreign policy agenda also represents a structure that underpins both the original founding of al-Jazeera in 1996, with what appeared at the time to be little or no regime censorship in

572 Muhammad Baltagi is General Secretary of the Brotherhood-affiliated Freedom and Justice Party (FJP), ʿIsam al-ʿAryan is vice-chairman of the FJP. In the wake of the 3 July 2013 coup both were arrested by the Egyptian army, Baltagi on 29 August 2013, and al-ʿAryan on 30 October 2013. At the time of writing, both remain in detention.
573 al-Qaradāwī, 25 Yunāyir Thawrat Shaʿb, 10–11.
574 Celikates, “Misrecognition,” 1.
comparison to the rest of the region,\textsuperscript{575} and the subsequent promotion of al-Qaradawi on \textit{Sharia and Life}. The decision to establish al-Jazeera was a major part of Qatar’s shifting foreign policy that began to move away from a dependence upon Saudi Arabia’s security umbrella, and chart a very different course.\textsuperscript{576} This shift began in earnest in 2003 with the removal of the former Iraqi dictator Saddam Hussein as a threat to the north.\textsuperscript{577} Following the occupation of Iraq in 2003, Qatar’s new foreign policy began to rely instead on outside powers for security. This was to be achieved by ensuring these powers, notably the United States but also the European Union, develop a concern that Qatar remains an independent and secure state.\textsuperscript{578} While remaining concerned over a potential threat from Iran, it was with this new policy in mind that Qatar began to develop its now very prominent and useful position as a mediator between the United States and participants in many of the regions internal conflicts (between the US, Israel, and Hamas for example).\textsuperscript{579}


\textsuperscript{576} Allen J. Fromherz suggests that Qatar’s moves to distance itself from Saudi Arabia also came as the result of active Saudi Arabian intervention in Qatar’s internal affairs. The meddling extends to Saudi Arabia’s supporting in 1995 of a coup against the current Emir’s father (who himself had come to power through a coup). There have even been violent clashes between Qatari and Saudi Arabian soldiers along Qatar’s disputed southern border. These points and those mentioned above form the background for Qatar’s desire that the United States establish a large military presence in the country. Allen J. Fromherz, \textit{Qatar: A Modern History} (Washington, DC: Georgetown University Press, 2012), 92–3.

\textsuperscript{577} During the so-called “fatwa war” of 1991, it was to the horror of al-Qaradawi’s supporters outside the Arab Gulf that he decided to issue a fatwa consenting to Saudi Arabia’s permitting of American and European soldiers to be stationed in the region. Yvonne Y. Haddad, “Operation Desert Storm and the War of Fatwas,” in \textit{Islamic Legal Interpretation: Muftis and Their Fatwas}, ed. Muhammad Khalid Masud, Brinkley Messick, and David Powers (Cambridge, MA: Harvard University Press, 1996), 297–309 (9).

\textsuperscript{578} With regard to Chapter 3 and the founding of Tariq Ramadan’s Research Center for Islamic Legislation and Ethics in Doha (CILE), the establishment of CILE can also be argued as contributing to this new foreign policy by Qatar’s self-promotion as a centre for the United States’s much desired “Islamic reform.” See Chapter 3; Mahmood, “Secularism, Hermeneutics, and Empire’; Warren, “Doha - the Centre of Reformist Islam?” With that point in mind, Fromherz argues that what the Qatari royal family “seem to have grasped is that ideas, creativity and intellectual innovation are the greatest untapped resources in the Middle East. The positioning of Qatar as a forum for independent thought in the Middle East, and not simply for material profit as in the Dubai model, is not, of course, simply a selfless act done out of spontaneous benevolence and an idealistic belief in freedom of speech. There is perhaps no better way to subtly tune the ideas that will determine the future of the Arabic and Islamic world than to own the stage upon which those ideas are expressed.” Fromherz, \textit{Qatar}, 24.

Saudi Arabia has staunchly supported the various regimes throughout the region in order to maintain the status quo. It was a powerful backer of Mubarak’s regime during the revolution. Qatar’s conscious pursuing of alternative foreign policy to Saudi Arabia has also seen the cultivation of ties with the Brotherhood, itself a useful and powerful transnational network. Alongside al-Qaradawi’s close relationship with the Qatari royal family since his arrival in 1961, Qatar’s continued support and protection of him is also part of a foreign policy concern.

Qatar and al-Qaradawi’s Interventions in the Libyan Civil War
Libya’s own uprising began on 15 February 2011 with peaceful demonstrations that were brutally repressed. Qatar’s foreign policy aim to promote its moves to assert its relevance and importance to its Western allies saw it actively join NATO’s armed intervention after the adopting of UN Resolution 1973 on 17 March 2011. Al-Qaradawi’s networks were particularly useful at this time. Over the course of his long stay in Doha, he has attracted a supporting network of other Brotherhood exiles around him. This time, it was his one of his talāmīdh affiliated with Libya’s branch of the Brotherhood, ‘Ali al-Sallabi, who was to become the main point of contact between the Brotherhood’s militias in the country and Qatari diplomats, facilitating the supplying of armed groups favourable to Qatar.580

Al-Qaradawi would also intervene in Libya’s civil war, but in a somewhat different way. On 21 February, during a live appearance on al-Jazeera for a period of nearly twenty-three minutes he would issue a now particularly well-known fatwa. A fatwa is of course not binding and, while it has been said that the mufti “speaks in God’s

Guido Steinberg writes that ‘Ali al-Sallabi is “considered to be the most influential scholar among Libyans abroad.” Born in Libya’s eastern city of Benghazi, al-Sallabi has lived in Qatar since 1999. His personal website is http://www.alsallaby.com. Steinberg, “Katar und der Arabische Frühling,” 5; Khatib, “Qatar’s Foreign Policy,” 7. Surprisingly perhaps, there does not appear to have been any relationship of significance between Jassim Sultan and al-Qaradawi. Sultan was the head of Qatar’s branch of the Brotherhood, which disbanded itself (seemingly unprompted) in 1999.
name”\textsuperscript{581} in issuing a fatwa, it is argued here that this “speech” is not without constraints. The terms of reference and possibilities open to the would-be mufti are limited by the collective discourses of the fiqh tradition alongside other more immediate concerns. In issuing a fatwa, the mufti is actualising the norms and arguments of the fiqh tradition in a specific social context and circumscribes, as Jakob Skovgaard-Petersen puts it, “the mental and moral universe of their [the mufti’s] day, always balancing around the boundaries of what is conceivable, legitimate and right.”\textsuperscript{582} With all those points in mind, what al-Qaradawi had to say was worthy of attention:

I issue this fatwa: To the officers and the soldiers who are able to kill Mu’ammar Gaddafi, to whoever among them is able to shoot him with a bullet and to free the country and [God’s] servants from him. Do it! That man wants to exterminate the people. As for me, I protect the people and I issue this fatwa: Whoever among them is able to shoot him with a bullet and to free us from his evil, to free Libya and its great people from the evil of this man and from the danger of him, let him do so!\textsuperscript{583}

While the specific impact of al-Qaradawi’s fatwa cannot be measured, a fatwa’s authority is not univocal and it is not possible to know the extent to which the rebels who did execute Gaddafi after he had been captured may have considered al-Qaradawi’s support for their actions. The IUMS backed al-Qaradawi’s opinion, and the usefulness of these ‘ulamā’’s support for the NATO-Qatari intervention is demonstrated by the efforts of the Libyan regime to unsuccessfully garner similar legitimacy from other ‘ulamā’.\textsuperscript{584} In analysing al-Qaradawi’s fatwa what can be seen again is that, unlike Jum’a or al-Buti’s articulating of the more quietist aspects of the fiqh tradition’s collective discourses, al-Qaradawi’s approach to the Gaddafi regime was a creative one while remaining structured within a framework of the fiqh tradition. Al-Qaradawi elaborated on his arguments and justifications in his next Friday sermon. He describes

\textsuperscript{581}The phrase is taken from Abou El Fadl, Speaking in God’s Name.
\textsuperscript{582}Skovgaard-Peterson, Defining Islam, 13.
his mode of reasoning as, “it is from the jurisprudence of balancing (fiqh al-muwāzanāt), and the jurisprudence of consequential outcomes (fiqh al-maʿālāt), and the jurisprudence of priorities (fiqh al-awlawiyyāt), that we sacrifice one man for the sake of the salvation of a people.” The kinds of communicative possibilities that are available to al-Qaradawi can also be seen in his affirmation of the rebels’ status as martyrs and his calling on the Libyan army to disobey orders. Speaking of the rebels who were killed, al-Qaradawi quotes the Qur’an’s verse 3:169, “Think not of those, who are killed in the way of God, as dead. No, they are alive and provided with sustenance from their Lord, rejoice in what God has bestowed on them of His bounty; they also rejoice for the sake of those who have not yet joined them, but are left behind.” Speaking to the Libyan army, al-Qaradawi calls on them to halt their disobedience (maʿsiyya) to God and reminds them of the hadith similarly uttered by Ibn Jubayr, “There is no obedience for the created to that which is disobedient to the creator, rather obedience is to that which is good” (Lā ṭāʾatun li-makhlūqin fī maʿsiyyat al-khāliq innamā al-ṭāʾatu fiʾl-maʿrūf).

Where al-Qaradawi’s discourse is shaped more explicitly by historical precedents they are far more contemporary. In describing Gaddafi’s violent repression of the demonstrations at the start of the Libyan uprising, al-Qaradawi uses the verb baghāʿalā. In Yahya Michot’s own translation of this passage, al-Qaradawi is quoted as saying, “It is not permissible to obey this man [Gaddafi] within disobedience [to God], in evil, injustice, and in the oppression (baghāʿalā) of [His] servants.” However, baghāʿalā can also mean “rebel against” or the transgression of a boundary. This latter usage can be seen in Abou El Fadl’s translation of the Qur’an’s so-called “Verse of the Rebel” (Āyat al-Baghy, 49:9) that reads, “If two parties among the believers fight each other, then make peace between them. But if one of them transgresses (baghat) against the other, then fight, all of you, against the one that transgresses until it complies with the command of God.” In describing Gaddafi as a rebel or as someone who has transgressed a boundary, then, al-Qaradawi is again not drawing upon the fiqh tradition’s early, quietist precedents. Instead it appears to be Rida’s own Qur’anic

---

586 Ibid., 9.
587 Abou El Fadl, Rebellion, 37.
exegesis, the *Tafsīr al-Manār* that is in fact being referred to. In Rida’s exegesis, this verse is read alongside the “Verse of Brigandage” (*Āyat al-Hirāba* 5:33-4).588

First of all, what is significant about Rida’s reading of these verses is that he reads them read side-by-side on the assumption that they share a common theme; this was in contrast to the *tafsīr* tradition’s more common approach of interpreting verses in the order of their occurrence. Second of all, and contrary to the *fiqh* tradition’s historical precedents, Rida argues that in fact the ruler could be the one who is the rebel, against God. As such, Rida reasoned “rebellion against the ruler is obligatory if the ruler deviates from Islam.”589 Michot’s conclusions would appear to support this author’s own rendering of *baghā* as “rebel” in al-Qaradawi’s discourse. This is because, in Michot’s own reasoning, for al-Qaradawi the issue at hand is no longer one of “rebellion against the ruler” (*khurūj ʿalā al-ḥākim*), the legitimacy of which was debated at length by the classical ‘*ulamā*’. Instead, the question now is one of “rebellion of the ruler against the people” (*khurūj al-ḥākim ʿalā al-shaʿb*) or rather, “When it is not the people who rise in arms against a regime but it is the regime which starts massacring them […] that power loses its legitimacy and [the ‘*ulamā*’] must intervene to defend the believers.”590

Al-Qaradawi’s departure from the precedents of the *fiqh* tradition in favour of Rida’s interpretation was a markedly innovative approach, within a framework of the *fiqh* tradition, to the dramatic new questions and challenges arising. Al-Qaradawi was so innovative in fact that he departed markedly from his own arguments, written just a few years prior to the Arab Spring. Though in his *Jurisprudence of Jihad* al-Qaradawi had also argued that it is up to the ‘*ulamā*’ to issue a fatwa pronouncing a ruler an

---

588 In Yusuf Ali’s translation the verse reads, “The punishment of those who wage war against Allah and His Messenger, and strive with might and main for mischief through the land is: execution, or crucifixion, or the cutting off of hands and feet from opposite sides, or exile from the land: that is their disgrace in this world, and a heavy punishment is theirs in the Hereafter. Except for those who repent before they fall into your power: in that case, know that Allah is Oft-Forgiving, Most Merciful.” Ali, Pickthall, and Shakir, *Three Translations of The Koran (Al-Qur’an)* Side by Side.


590 In Michot’s translation al-Qaradawi continues saying, “it is not unlikely that [Gaddafi] will set fire to the whole of Libya for the sake of himself. He said so: ‘I will fight until the last drop of my blood, until the last cartridge in my gun, and until the last of my soldiers!’ […] He wouldn’t care about using biological weapons, chemical ones, any weapons of mass destruction!’” Michot, “The Fatwa of Shaykh Yūsuf al-Qaradāwī,” 2–4.
apostate and a source of *fitna*, he had argued that even those “blasphemous” or “apostate” regimes should only be combatted peacefully (*al-wājib ittikhādh al-wasāʾil al-silmīyya fīʾl-taghyīr*).591 The dramatic events of the Egyptian revolution and Libya’s civil war clearly presented a new challenge to al-Qaradawi and the other ‘ulamāʾ who would purport to speak to these events through frameworks based on the *fiqh* tradition’s collective discourses. It has been seen that both the “micropolitics” of recognition engaged in by al-Qaradawi, his staff, and local networks, alongside the structural “macropolitics” of Qatari state support ensured that he was recognized as an ‘ālim who spoke, and was heard, authoritatively and popularly. A key foundation underpinning this authority and popularity, both before and during the early days of the Arab Spring, was the recognition that al-Qaradawi was independent of the various regimes unlike his rival ‘ulamā’. In Krämer’s words, “To be independent, or at least widely perceived as such, and at the same time be omnipresent on a global scale makes for a powerful mix.”592 In Michot’s own assessment as to why al-Qaradawi appeared so popular in the wake of Egypt’s revolution, and so authoritative as he issued his fatwa against Gaddafi, can be seen to highlight many of the factors listed above:

Shaykh al-Qaradawi provides a remarkable illustration of the way jurisdictional magisterium is managed in contemporary Sunni Islam. There is no Caliphate. No state enjoys universal, uncontested leadership in Islamic matters […] The voices that the *umma* often prefers to listen to originate from other quarters: charismatic scholars and activists independent of established political powers; transnational spiritual networks and movements; international organisations. Shaykh al-Qaradawi in some ways embodies these three dimensions in virtue of his personal qualities and endeavours, his closeness to the Muslim

591 Al-Qaradawi defined these regimes as those which “do not believe in Islam as an authoritative and regulatory reference, are not committed to it as a source of legislation, nor to its concepts and social and cultural values.” On their own renunciation of violence in 2002, the Egyptian extremist organisation *al-Gamāʿa al-Islāmiyya* cited the work of al-Qaradawi as the main influence behind their decision. Convincing these so-called “takfīrī” appears to be one of the major rationales for al-Qaradawi’s writing of his *Jurisprudence of Jihad*. He has argued previously that the causes of this kind of violent extremism were to be found in the oppression the region’s governments forced people to live under. As such it “cannot be resisted except through ideas,” and in Tammam’s opinion al-Qaradawi “was greatly effective in protecting the Brothers’ ranks from this phenomenon [of violent extremism] which for two decades marred the Islamist movements.” Al-Qaradawi maintains, however, that so-called “suicide bombing” is a valid option in the specific case of the Palestinian-Israeli conflict. Yūsuf al-Qaraḍāwī, *Fiqh al-Jihād*, 2:1187–9; Krämer, “Drawing Boundaries,” 33 fn 66; idem, *Zāhirat al-Ghulūw*, 18; Tammam, “Yūsuf al-Qaraḍāwī and the Muslim Brothers,” 7; Zaman, *Modern Islamic Thought*, 271–81.

592 Krämer, “Preface,” 2.
Brotherhood and his role as chairman of the International Union of Muslim Scholars. His credentials are thus impressive and his religious opinions have a particular weight. For many Muslims across the world, his fatwas represent an accurate, legitimate, orthodox actualisation in our time of the teachings of Islam […] By calling for the killing of Gaddafi, Shaykh al-Qaradawi didn’t in fact do anything other than meet his obligations as a renowned Mufti and meet the expectations of a great number of believers.\textsuperscript{593}

However, to continue using Bourdieu’s terminology, the authority or popularity that al-Qaradawi appears to enjoy at this time represents a “misrecognition” of the underlying power relations that contributed to the social construction of al-Qaradawi as an independent “Global Mufti.” In the introduction to this chapter it was noted that Bourdieu’s approach has been critiqued for overly totalizing, that is to say, his theory that it is the hidden structures that cause people to recognize certain authorities marginalizes totally the agency and justification of both those authorities (al-Qaradawi here) and those who consider his words authoritative. However, the importance of Qatar’s role in “producing” al-Qaradawi as an ʿālim of global standing should not go understated. Up to this point in the chapter, all al-Qaradawi’s diverse bases of support - the Brotherhood, the Qatari royal family, large segments of the Arab and Muslim public - appeared united in a desire for the toppling of both the Egyptian and Libyan regimes, and there is no tension between them. In the case of the Bahraini and Syrian uprisings that came next, however, al-Qaradawi’s discourse will be seen to be articulated somewhat differently, leading in turn to a more diverse response from his audience and backers.

al-Qaradawi, Sectarianism, and the Uprisings in Bahrain and Syria

Bahrain’s own uprising began on 15 February 2011, with demonstrations coalescing around the central Pearl roundabout. Following a similar pattern to Tunisia, Egypt, and Libya, violent police crackdowns prompted larger and larger demonstrations. It has been argued so far that being perceived as independent is a key part of al-Qaradawi’s prestige. With the uprising in Bahrain, and then Syria, however, this impression (or misrecognition) will be seen to become compromised. As far as this chapter is

\textsuperscript{593} Michot, “The Fatwa of Shaykh Yûsuf al-Qaradâwî,” 3.
concerned, what marks the Bahraini and Syrian uprisings as different from their predecessors is that their populations are not homogenous, with both containing sizeable Shi`a populations. As will soon become evident, it is al-Qaradawi’s own apparent role in actually contributing to these uprisings’ sectarian factors that is particularly important.

As the repression perpetrated by the Sunni-dominated Bahraini regime become more violent and brutal, one of Iran’s leading ‘ulamā’ Muhammad ‘Ali al-Taskhiri (b.1944) would call on al-Qaradawi to come out in support of the Bahraini uprising, as he had done in the cases of Egypt and Libya. Originally from Najaf before being exiled to Iran, al-Taskhiri and al-Qaradawi are well-known to each other. Al-Taskhiri was the most prominent Shi`a member of the IUMS (see Chapter 1) and, like al-Qaradawi, has been active in seeking greater reconciliation between the Sunnis and the Shi`a. The militaries of the Gulf Cooperation Council (GCC) intervened against the demonstrators on 18 March 2011, and as the Bahraini regime continued to emphasise that the demonstrations against them were sectarian in nature, and emanating solely from the country’s Shi`a community, al-Taskhiri used his position as General Secretary of The World Forum for Rapprochement between the Islamic Legal Schools (al-Majma‘ al-Ālamī li’l-Taqrīb bayn al-Madhāhib al-Islāmiyya) to send an open letter to al-Qaradawi asking him to give the demonstrators his backing. Ultimately al-Qaradawi refused. His response can be characterized by a sermon that he delivered on Friday 19 March 2011, just a day after the GCC’s intervention. In his sermon, al-Qaradawi recalled the “great and deep friendship” that had existed between himself and the current Emir’s late father ‘Isa Bin Salman Al Khalifa (d.1999), and then proceeded to not only echo the Bahraini regime’s arguments that the uprising was sectarian, but also support

594 Admittedly the relative size of Bahrain’s primarily Twelver Shi`i majority and Syria’s mostly ‘Alawite minority are very different. Bahrain and Syria’s Shi‘a populations are considered to respectively make up approximately 60 per cent and 15 per cent of each population. While purporting to analyse al-Qaradawi’s response to the Bahraini and then Syrian uprisings together on these grounds is partially reductive, the comparison will be seen to be primarily for heuristic purposes. For a discussion of the links between the Syrian ‘Alawite community and the larger Twelver Shi‘i is denomination see for example Thomas Pierret, “Karbala in the Umayyad Mosque: Sunnite Panic at the ‘Shiitization’ of Syria in the 2000s,” in The Dynamics of Sunni-Shia Relationships: Doctrine, Transnationalism, Intellectuals and the Media, ed. Brigitte Maréchal and Sami Zemni (London: Hurst, 2013), 99–116; idem, Religion and State in Syria: The Sunni Ulama from Coup to Revolution (Cambridge: Cambridge University Press, 2013).

their narrative that the demonstrators were armed: “Truly the Bahraini revolution, it’s not a revolution, rather it’s a sectarian uprising […] that’s the problem with it, it’s Shi’a against Sunni, I’m not against the Shi’a, I’m against fanaticism (ta’assub) […] they aren’t peaceful, they’re using weapons.”\textsuperscript{596} In a later interview with Gilles Kepel, al-Qaradawi also affirmed the regime’s narrative that an Iranian conspiracy was behind the demonstrations, “This is not a revolution at all and I am in favour of a Saudi – whatever you call it – an expedition into Bahrain, because Bahrain is an Arab country and it should not be Iran’s stepping stone.”\textsuperscript{597}

al-Qaradawi, the Syrian Civil War, and the Legacy of Ibn Taymiyya

Al-Qaradawi’s echoing of the Bahraini regime’s narrative that the demonstrations were sectarian and violent, and his supporting of the GCC’s intervention in the country, harmed his credentials as an independent supporter of all the region’s demonstrators equally. It was as the Syrian uprising descended toward a brutal civil war that al-Qaradawi’s highly publicized interventions potentially inflaming the conflict’s sectarian nature, would be seen as not only extremely controversial in many quarters, but highly embarrassing for his Qatari backers. As the conflict in Syria deepened and become increasingly violent throughout the remainder of 2011 and into 2012 al-Qaradawi continued his strong criticism of the Syrian regime’s response. He did not, however, contribute to its seemingly increasingly sectarian undertones. As he had done over Libya, on 7 February 2012 al-Qaradawi joined more than one hundred of his peers in the

\textsuperscript{596} Yūsuf al-Qarāḍāwī, “al-Shaykh al-Qarāḍāwī wa-Muẓāharāt al-Baḥra’in,” \textit{YouTube}, March 19, 2011, http://www.youtube.com/watch?v=3tGJvhR0hYg. During more general conversations with some of al-Qaradawi’s students and colleagues throughout the first of the author’s fieldwork visits to Qatar in January and February 2012, some of the discussants described al-Qaradawi’s decision to support the Bahraini regime as one that had come after much deliberation and debate among the scholars of the IUMS. During those conversations it was suggested that al-Qaradawi had been influenced by leading scholars among IUMS’s Sunni Iraqi contingent, who feared a repeat of the violence that occurred in Iraq after Saddam Hussein’s own Sunni-minority regime was toppled. Al-Qaradawi’s support for the Bahraini regime remains controversial and, when the author attempted to ask al-Qaradawi more directly to elaborate on his own reasoning for supporting the regime during an interview in a later period of fieldwork on 6 February 2013, that line of questioning was quickly cut short by one of al-Qaradawi’s secretaries. The secretary had been videotaping the interview, and the conversation was quickly shifted to a less controversial topic: al-Qarāḍāwī, interview, February 6, 2013.

IUMS in issuing a fatwa calling on the Syrian military to disobey orders or desert. The fatwa also called for popular committees to be formed throughout the Muslim world in order to “support the revolutionaries in Syria with all that they might need, both materially and morally.”

As was the case in Libya, the interests of al-Qaradawi and Qatar’s own foreign policy appeared to intersect. Qatar has played a key role in arming Syria’s rebel groups, though not solely those groups affiliated with the Brotherhood.

Al-Qaradawi’s position on the Syrian civil war, at least publically, would appear to change dramatically on 31 May 2013. Al-Qaradawi delivered his sermon at his usual ʿUmar Ibn al-Khattab mosque in Doha, where it was broadcast, also as usual, on al-Jazeera to millions of viewers across the region. This was during what may in hindsight appear a potentially key phase in the conflict. The regime’s army and affiliated militias had just launched their assault on the key town of Qusayr near the Lebanese border, part of their strategy to isolate the rebels in the Damascus locale from their supply routes in Lebanon. Significantly, it was also the time when the Lebanese-Shi’a resistance movement Hezbollah first began to actively intervene and fight alongside the regime. At the time, this appeared to be tipping the balance in the regime’s favour.

With that context in mind, in al-Qaradawi’s sermon that Friday he called on all who were able (al-qādirūn) to travel to Syria and join the fight against the regime. “Everyone who is able, who knows how to fight, who knows how to use weapons, who knows how to use the sword or the gun […] everyone who is able, must go to Syria to aid their brothers.”

Specifically, however, it was the men of the Sunni community that al-Qaradawi was calling upon. As al-Qaradawi’s distress at the conflict’s toll visibly increased throughout the sermon, he directed his anger primarily toward Hezbollah. His tone appeared strikingly sectarian:

---

598 “Aftā Akthar Mā’īyat ʿĀlim wa-Mufakkir min Mukhtalif al-Tayyārāt al-Islāmiyya wa’l-Siyāsiyya fī Bayyān bi-Sha’ān Sūriyya,” Iumsonline.net, February 7, 2012, http://www.iumsonline.net/ar/print.asp?contentID=3766. The signatories’ nationalities are listed alongside their names, and what is also worthy of note about this fatwa is that while the majority of the signatories are listed as representing Saudi Arabia or Egypt, al-Qaradawi is listed as representing Qatar.


You know these men from Lebanon? They’re called the Party of God! The Party of God! [al-Qaradawi laughs at the apparent irony] They’re the Party of the Devil [al-tāghūt]! The Party of the Satan [al-shayṭān]! […] They’re killing the people of Quṣayr! They’re killing the men, the old men, the women, the children! […] Tens of thousands of these men have come from Iran! From Iraq! From Lebanon! From so many countries, from all the countries of the Shi’a! They’re coming from all over the place to fight the Sunnis, and all those who stand with them, the Christians, the Kurds.\footnote{Ibid.; Yūsuf al-Qaraḍāwī, ‘‘They’re the Party of Satan!’’ Quotes from al-Qaradawi’s 31/5/13 Sermon,’’ trans. David H. Warren, YouTube, April 10, 2014, https://www.youtube.com/watch?v=Hotk-eSg0uE.}

The higher echelons of Syrian regime are commonly drawn from the country’s small ṬʿAlawite minority from which the Syrian President Bashar al-Asad also hails and draws significant support. As al-Qaradawi begins to speak about the community’s role in the conflict, he uses a form of words that appears highly unusual. Using their historical (but now pejorative) name “Nusayris,” al-Qaradawi described the ṬʿAlawites as “more unbelieving than Christians or Jews” (akfar min al-masīḥīyyīn wa’l-yahūd). In a globalised media context where a public figure has little to no control over the meaning and contexts attributed to their words, this short statement proved extremely controversial. It was quickly separated from the remainder of the sermon and its original context, and broadcast in the media around the world.\footnote{Richard Spencer, “Muslim Brotherhood Cleric Calls for Sunni Jihad in Syria,” The Telegraph, June 2, 2013, http://www.telegraph.co.uk/news/worldnews/middleeast/syria/10094590/Muslim-Brotherhood-cleric-calls-for-Sunni-jihad-in-Syria.html; “al-Qaraḍāwī: al-Nuṣayriyyūn Akfar min al-Yahūd,” CNN Arabic, June 2, 2013, http://archive.arabic.cnn.com/2013/middle_east/5/31/qardawi.syria-speech/.}

In the highbrow \textit{Foreign Policy} journal in the United States, for example, \textit{akfar} would be translated as meaning “worse infidels” to solicit greater interest.\footnote{Marc Lynch, “Welcome to the Syrian Jihad: The Arab World’s Most Popular Theologian Stokes the Flames of a Sunni-Shia War,’’ \textit{Foreign Policy}, June 6, 2013, http://www.foreignpolicy.com/articles/2013/06/06/qaradawi_syria_jihad_civil_war; Aaron Y. Zelin and Philip Smyth, “The Vocabulary of Sectarianism,” \textit{Foreign Policy}, January 29, 2014, http://mideastafrique.foreignpolicy.com/posts/2014/01/29/the_vocabulary_of_sectarianism.} For large segments of both the Arabic and English-speaking publics al-Qaradawi’s words confirmed, not only that the Syrian civil war was just another phase of a Sunni-Shi’a conflict that had begun with Muhammad’s death, but that “religious” leaders’ only contribution was to inflame the conflict. Sunni leaders such as al-Qaradawi not only hated the Shi’a, but also clearly despised Christians and Jews as well. There is much more to be said about al-
Qaradawi’s sermon however. First, it is worth looking at the segment where this quote appears in its entirety:

I’m not talking about all the Nusayris, there are some among the Nusayris who are standing with the people, but the majority of the Nusayris, this group whom the Shaykh al-Islam Ibn Taymiyya said were “more unbelieving (akfar) than Christians or Jews,” we have seen them start to kill the people.604

As can be seen, in using the term akfar al-Qaradawi is in fact paraphrasing a fatwa issued by Taqi al-Din b. Taymiyya (d.1328). Ibn Taymiyya is often by al-Qaradawi as an authority, and it is worth including the context behind his own original words. Ibn Taymiyya was born in Harran in what is now South Eastern Turkey, and in 1296 was forced to flee repeated Mongol incursions and settled near Damascus. He is most well-known today for the three fatwas he issued to mobilize support against the Mongol invaders. At the time many in Syria were anxious about the permissibility of fighting the Mongols, who were converts to Islam. The Ilkhanid Mongol ruler Ghazan (d.1304) who had occupied Damascus for three months in the winter of 1299-1300 was a convert to Sunni Islam. His successor Uljaytu (d.1317), who invaded Syria with less success in 1312, had by contrast converted to Shi’ism. In his three fatwas Ibn Taymiyya argued these Mongols’ conversion was insincere and they should be fought because they were not real Muslims at all. In recent decades his words have resurfaced in the work of those who attempt to use his words to draw parallels between Ibn Taymiyya’s own justification for fighting fellow Muslim Mongols, and their own violent resistance against authoritarian Arab dictators.

Less well known is that, during that same period, Ibn Taymiyya also issued three fatwas against the Nusayri-ʿAlawite community, the first and longest of them containing the words al-Qaradawi cited above. This small community, who had its roots in the Shiʿi mysticism of Iraq, had flourished in the mountainous and strategic border areas of northern Syrian, which had been the route of choice for the Mongol invaders. Persecuted at varying times by both Sunni and Shiʿi rulers, Ibn Taymiyya was very suspicious of the loyalty of small minority groups, including the Nusayri-ʿAlawites. He

---

604 al-Qaraḍāwī, “Khuṭbat al-Jumʿa.”
would accuse them of collaboration with the 1260 Mongol invasion.\textsuperscript{605} In so doing, he issued a fatwa calling them “more unbelieving” than Christians and Jews.

Yaron Friedman has argued that Ibn Taymiyya’s defining of the Nusayri’/Alawites and other sects as apostate (\textit{murtadd}), of greater concern and “more unbelieving” than Christians, Jews and also polytheists stemmed from an anxiety to preserve the integrity of the Muslim community against external threats.\textsuperscript{606} Similarly, looking to the context of both Ibn Taymiyya and al-Qaradawi’s entire oeuvres, neither interpret references in the Qur’an and or Hadith to “\textit{kāfir}” (pl., \textit{kufār}) as a simplistic, blanket reference to all “unbelievers,” regardless of time, place and context. Rather, in other less controversial situations, al-Qaradawi often prefers to cite Ibn Taymiyya and his student Ibn Qayyim al-Jawziyya as interpreting the word \textit{kāfir} to mean those who were actively fighting against the Muslim community at that particular time. They preferred the more qualified term “\textit{al-kāfir al-ḥarbī},” an unbeliever who is fighting against the Muslims.\textsuperscript{607}

To many observers it appeared that al-Qaradawi’s use of language represented a dangerous inflammation of the Syrian civil war’s sectarian underpinnings. The point


\textsuperscript{607} See, for example, al-Qaradawi’s writing on \textit{fiqh al-aqālīyyāt}. When discussing the issue of the permissibility that a Muslim might inherit from a non-Muslim, he cites a well-known hadith that states “the Muslim does not inherit from the unbeliever” (\textit{là yarīthu al-muslimu al-kāfīra}). In relation to \textit{fiqh al-aqālīyyāt} this is generally taken to mean that Muslim converts may not inherit from their non-Muslim relatives. Al-Qaradawi however cites the position of Ibn Qayyim al-Jawziyya, Ibn Taymiyya’s most famous student, who argued that the term \textit{kāfir} in that hadith was understood by the Muslim community at its origins to be referring to non-Muslims who were waging war against the Muslim community. Al-Qaradawi uses the term \textit{al-kāfir al-ḥarbī} to make this clarification. al-Qaraḍāwī, \textit{Fi Fiqh al-Aqālīyyāt al-Muslima}, 58.
made for the purposes of this chapter, and throughout this thesis, is that al-Qaradawi’s discourse uses a framework of the fiqh tradition. This tradition’s collective “discourses” promote or impede certain kinds of communication and modes of reasoning. In approaching the Syrian conflict through this framework, al-Qaradawi incorporates Ibn Taymiyya’s language and reasoning into his own sermon. Al-Qaradawi’s words were transmitted around the world in minutes and while many of his audience would have understood his discourse as he intended - an effort to mobilise support for the rebels against al-Asad regime and its militias - many if not most of his global audience did not. This point will be seen again in the following section relating to al-Qaradawi’s response to the Egyptian coup.

**al-Qaradawi, Sectarianism and the Gulf Context**

It has been argued at several points in this thesis that throughout al-Qaradawi’s oeuvre there has been an underlying theme. This was the perceived need to preserve Muslim unity against the community’s both military and cultural threats. This originated with the creation of Israel in 1948 and his days as a young man helping to organize and rally volunteers from al-Azhar to fight against Britain and France’s occupation of the Suez Canal in 1956. Ecumenism (taqrīb) between Sunnis and Shi’a has also been a part of this effort. In his studies of al-Qaradawi’s efforts in this regard, Sagi Polka has argued that his earlier moves to promote Sunni-Shi’a reconciliation were motivated by a desire to preserve unity against the American and Israeli occupations of Iraq and Palestine respectively. In 2006 during Israel’s war against Hezbollah, for example, while al-Qaradawi’s colleagues in Saudi Arabia issued fatwas forbidding the extension of Sunni support for Hezbollah, al-Qaradawi was the most prominent of the Sunni ʿulamāʾ to come out in support of the Shi’a movement:

[T]here is nothing wrong with the Lebanese resistance being Shi’i, so long as they are the ones who take up arms and shoulder the burden of

---

purging Muslim lands from Israeli filth. They were victorious in the past and liberated [Southern Lebanon] from the Jews […] I can see no difference between Sunni and Shiʿa.\footnote{Sagi Polka, “Taqrib al-Madhaib – Qaradawi’s Declaration of Principles Regarding Sunni–Shiʿi Ecumenism,” \textit{Middle Eastern Studies} 49, no. 3 (2013): 414–29 (10).} Polka’s conclusions describe al-Qaradawi’s ecumenicist efforts as “political” in nature. On the basis of the secular underpinnings in much of Western academic discourse, for a religious leader to act politically is to act insincerely and pragmatically. Polka contrasts these political efforts with the “theological” reconciliation he considers to be actually required.\footnote{It was in a September 2009 interview with \textit{al-Maṣrī al-Yawm} that al-Qaradawi’s discourse began to change. While confirming that he still considered the Shiʿa to be Muslims, he also described them as “innovators” and said that they posed a danger to Sunni society. As far as Egypt was concerned, his points included a certain tone of conspiracy. He suggested there was Iranian backing for Shiʿa proselytising. \textit{Ibid.}, 10–12. For a discussion of the sectarian discourses of the ‘\textit{ulamā}’ in Saudi Arabia see Raihan Ismail, “The Saudi Ulema and the Shi’a of Saudi Arabia,” \textit{Journal of Shi’a Islamic Studies} 5, no. 4 (2012): 403–22. For a history of pan-Islamic ecumenism see Rainer Brunner, \textit{Annäherung und Distanz. Schia, Azhar und die islamische Ökumene}, (Berlin: Klaus Schwarz, 1996).} Looking to the Gulf context more generally, the fomenting of sectarian tensions in the region was an active strategy in order to legitimate further repression. This occurred with regard to Bahrain and Saudi Arabia’s Shiʿa communities most notably. These regimes’ efforts were supported by their respective Sunni ‘\textit{ulamā}’ establishments.\footnote{Toby Matthiesen, \textit{Sectarian Gulf: Bahrain, Saudi Arabia, and the Arab Spring That Wasn’t} (Stanford, CA: Stanford University Press, 2013); Madawi al-Rasheed, “Sectarianism as Counter-Revolution: Saudi Responses to the Arab Spring,” \textit{Studies in Ethnicity and Nationalism} 11, no. 3 (2013): 513–26; Guido Steinberg, “Kein Frühling in Bahrain: Politischer Stillstand ist die Ursache für anhaltende Unruhen,” \textit{Stiftung Wissenschaft und Politik}, March 2011, \url{http://www.swp-berlin.org/fileadmin/contents/products/aktuell/2013A23_sbg.pdf}.} Following his 31 May 2013 sermon, al-Qaradawi publically “admitted” to his counterparts in Saudi Arabia (with whom it was argued in Chapter 2 that was very close) that he had been wrong to support Hezbollah in 2006. They were, in fact, allies of Iran and could not be trusted.\footnote{“Top Cleric Qaradawi Calls for Jihad against Hezbollah, Assad in Syria,” \textit{Al-Arabiyya}, June 2, 2013, \url{http://english.alarabiya.net/en/News/middle-east/2013/06/02/Top-cleric-Qaradawi-calls-for-Jihad-against-Hezbollah-Assad-in-Syria.html}.} The point being made here relates to foreign policy and the “macropolitics” underpinning al-Qaradawi’s recognition as an authoritative scholar, and at this point Qatar, Saudi Arabia, and the other Gulf countries and their respective Sunni ‘\textit{ulamā}’ establishments were unified over the need to back the Sunni Syrian rebels against the regime. Following his sermon, al-Qaradawi would also go out of his way to praise “the State of Qatar, its Emir, government and people for their
supporting of the Arab revolutions, and the Syrian revolution specifically.”

He had publically thanked Qatar in a similar manner for their support to armed groups in Libya.

The uproar in the wake of al-Qaradawi’s sermon proved hugely damaging to his image internationally. It even caused concern among al-Qaradawi’s staff, who were also all too aware that his call for Sunni men outside Syria to travel to the country to fight might contribute to a dramatic increase in violence not only in Syria, but across the entire Sunni-Shi’i divide. As part of its foreign policy, Qatar is particularly attentive to its international brand. The fallout from al-Qaradawi’s sermon was therefore also hugely damaging to Qatar’s image as a important power playing a positive role in mediating the region’s conflict. As John Petersen puts it, “Branding has emerged as a state asset to rival geopolitics and traditional considerations of power. Assertive branding is necessary for states as well as companies to stand out in the crowd, since they often offer similar products: territory, infrastructure, educated people, and for example in the Gulf, almost identical systems of governance.”

This is significant, as it relates to the macropolitics underpinning the recognition of al-Qaradawi’s authority. As will be seen in the following section, al-Qaradawi’s position of safety in Qatar and enjoyment of the royal family’s support is therefore not as unconditional as it might seem.

---


615 This supposition is made on the basis of e-mail exchanges between the author and a member of al-Qaradawi’s staff after his 31 May 2013 sermon. In one of the emails, the member of staff illustrated that at the time the question of sectarianism and foreign Muslims’ participation in the Syrian conflict was “the source of continuing discussion in the Shaykh’s office.” When it was pointed out that among the public there was the growing perception that al-Qaradawi was not independent and was instead following Qatari directives, the staff member replied: “The Shaykh does not act on the basis of calculations as to how his popularity might rise or fall, the ‘ulamā’ are different from other celebrities [mashāhīr] […] The scholar must publicly declare what he believes to be true, without taking into account the calculations of the rulers […] the most dangerous scholars of all are those who follow the whims of the public. The Shaykh is bound by these shackles of obligation that are proscribed for him in [times of both] war and peace. As for me personally, I am of the opinion that each country is first and foremost for its own people, and so it is up to the Syrians living abroad to return to save their country and, God Willing, they will be enough.” Member of al-Qaraḍāwī’s Staff to David H. Warren, Personal E-Mail Communication, June 9, 2013.

Back to Egypt, for the Coup

This chapter’s last section will return to the Egyptian context, and the 3 July 2013 coup, to make its final arguments. Muhammad Morsi had been the Brotherhood’s candidate in Egypt’s Presidential elections, which he won on 24 June 2012. Toward the end of 2012 and throughout the first months of 2013 however, public opposition to the new government had begun to grow. The government’s response was uncompromising, viewing the growing demonstrations as part of a counter-revolutionary conspiracy. One government spokesman, for example, stated that “the opposition is an evil force [that] seeks to sabotage the revolution and exclude the [Brotherhood].”617 Al-Qaradawi echoed these views in the media, referring to anti-Brotherhood demonstrators as nothing but “thugs” (baṭṭagiyya) from the old regime.618 The Brotherhood’s history in Egypt and throughout the region is one marked by lengthy periods of repression, leading to the emergence of what is known as the ordeal (miḥna) narrative.619 It was noted in Chapter 1 that al-Qaradawi had also been imprisoned by various Egyptian regimes a total of five times, and these experiences had left a lasting impression.

It was noted during the author’s fieldwork visits to al-Qaradawi’s home in Doha that his personal staff was also made up entirely of Egyptians who were affiliated with the Brotherhood. Al-Qaradawi has often been seen to emphasise the importance of an ʿālim having a deep and true understanding of the social reality (fiqh al-wāqiʿ) in which they would purport to intervene. Understandings of reality are social constructions, and al-Qaradawi’s understanding of the reality in Egypt at that time was partially constructed through dialogue with his staff. It was observed by the author that each day after the midday zuhr prayer, al-Qaradawi and his young staff gather to discuss current events (see Figure 4.). He asks them what topics are important to the Arab youth today

619 Khalil al-Anani defines this ordeal narrative as, “the sense of tribulation and victimization that prevails among the rank-and-file in the [Brotherhood] and enables them to confront or tolerate external pressure [...] It is incessantly constructed and reproduced by the [Brotherhood] leaders in order to maintain members’ solidarity and commitment.” Khalil al-Anani, “Does Anti-Ikwanism Really Matter?,” Foreign Policy, April 26, 2013, http://mideast.foreignpolicy.com/posts/2013/04/26/does_anti_ikhwanism_really_matter; idem, “Islamist Parties Post-Arab Spring,” Mediterranean Politics 17, no. 3 (2012): 466–72 (2).
and which topics they would like him to consider engaging with in his sermons. As such, it is argued here that al-Qaradawi and his Doha-based Egyptian staff’s shared experience of repression at the hands of former Egyptian regimes, often being attacked by hired thugs for example, actively contributed to the construction of their shared understanding of popular opposition to the Brotherhood being an extension of the same experience. It should be recalled that discourses limit the meanings available to be given to experiences. Though al-Qaradawi and his staff’s shared experience of oppression might not be included under the collective discourses of the *fiqh* tradition as such, it nevertheless constricts al-Qaradawi’s response to events in a similar manner to his referrals to Ibn Taymiyya in the previous section.\footnote{In the wake of the 3 July 2013 coup the Secretary General of the RTQ, Akram Kassab, was imprisoned for example.}

\footnote{In his analysis of Islamic preaching in Egypt Patrick Gaffney argues that preachers construct their authority not only through their referrals to the texts, but also through reference to people’s daily challenges, struggles, and concerns. Patrick D. Gaffney, *The Prophet’s Pulpit: Islamic Preaching in Contemporary Egypt* (Berkeley, CA: University of California Press, 1994).}
The course that events took through June and July 2013 are well known. A movement calling itself *tamarrud* (rebellion, revolt) came into existence. While its origins remain the subject of much debate, it is generally understood that this was a popular movement expressing deep dissatisfaction with the Brotherhood government’s leadership, but it also received substantial financial and logistical support from the Egyptian army and the old regime. Huge demonstrations were scheduled through social media to take place on 30 June 2013. As the date drew closer al-Qaradawi travelled back to Cairo. On 30 June he aired a broadcast on al-Jazeera’s channel that was directed specifically at the Egyptian public (*al-Jazeera Mubashir Misr*). Al-Qaradawi’s message not only expressed his backing for Morsi but a far more amenable response to the demonstrators. In contrast to his hope and confidence in Tahrir Square on 18 February 2011 al-Qaradawi now revealed his despair at the path Egypt’s revolution appeared to be taking:

[In 2011] everyone loved his brother as he loved his own self; even preferred his brother to himself. We saw individuals who tired themselves so that their brothers would be comfortable, stayed up at night so that their brothers could sleep […] What is wrong with the Egyptians? […] Have not we participated in the revolution [together]? Have not all of us been victims of a tyrannical, oppressive regime that stole our wealth, violated our rights, and threw people in jails? Now as God has relieved us of that [regime], why should not all of us become united again? […] Now we have an elected President with whom we disagree in some matters. Well, all issues can be solved. The President is not infallible […] If Mohamed Morsi makes mistakes, then it is our right to correct him, to sit with him and question him […] This is Islam. There is no one above questioning.

The huge protests gathered around Tahrir Square continued for several days. Eventually, the Egyptian army intervened by launching a coup on 3 July deposing Morsi and his government. Leaders, as well as rank-and-file members, of the Brotherhood and the FJP were quickly arrested. Al-Qaradawi responded within a framework of the *fiqh*

tradition with a fatwa that engendered a vociferous response from a large section of Egypt’s media and those portions of the public who supported the coup. Al-Qaradawi’s fatwa deals with the legitimacy of the ruler, that is, Morsi. He argued that the coup’s supporters were “mistaken with respect to a constitutional perspective and legitimacy (šar’iyya).” His mode of reasoning therefore draws on the two major tenets of the fiqh tradition’s own discussions of a ruler’s right to rule. There must be a social contract (‘aqd) between the ruler and ruled, and the ruler must be just (‘adīl).

As such, al-Qaradawi argues that the results of Egypt’s democratic elections represented an oath of loyalty (bay’a) to Morsi taken by the Egyptian people, as well as General al-Sisi who led the coup. Al-Qaradawi also argued that the election represented the community’s coming to an authoritative consensus (ijmāʿ).623 These points represented the social contract (‘aqd) that had been formed between Morsi and the electorate. As such, Morsi had the right to rule: from a “constitutional perspective, the President was elected democratically, there can be no argument or doubting of that, he must continue for the length of his appointed term, that is, four years.” Al-Qaradawi then elaborated on his understanding of legitimacy, informed by the fiqh tradition’s collective discourses on the justness of the ruler:

As far as the perspective of legitimacy is concerned, truly the Sharia (al-sharʿ al-islāmī), which is desired by the people of Egypt as an authoritative reference in a civil state (al-dawla al-madaniyya), not a religious theocratic state, makes it a duty for all those who believe in it and refer to it to be obedient to the legitimately-elected President, implement his commands, and respond positively to his directives in relation to all matters of public life. This is on the basis of two conditions. First: That the people not be commanded to do something that is disobedient (maʿṣiyya) to God, this is indisputable for Muslims. This is confirmed by abundant Prophetic Hadith which were related by al-Bukhari, Muslim and others besides them […] Second: To not order the people to do something that would put them outside their religion and into outright blasphemy (al-kufr al-buwāḥ) […] This is what has come down in the hadith of ʿUbayda [b. al-Samit], may God be pleased with

623 Though al-Qaradawi does not elaborate, on the basis that he recognizes Morsi only won fifty-one per cent of the vote in the Presidential election, it can be presumed that this ijmāʿ is what he has termed elsewhere as an “ijmāʿ of the majority.” In his Min Fiqh al-Dawla fiʿl-Islām al-Qaradawi also argued that he considered voting a duty (fard) that was obligatory for everyone. He reasoned that it was commensurate with testifying in court as to a ruler’s suitability. al-Qaradāwī, Min Fiqh al-Dawla fiʿl-Islām, 138.
him, “We pledged to the Messenger of God to listen and obey during [times of both] hardship and ease, to endure when being discriminated against and not to dispute about the rule of those in power, except in cases of evident deviation from that for which there is a [clear] proof from God.”

For al-Qaradawi Morsi would remain a just, and therefore legitimate, ruler until he either publicly declared his apostasy from Islam, or ordered the public to do something that would put them outside Islam. If he did either of those things, he would become a cause of fitna and lose his legitimacy. Until either such event occurred, however, the public must be patient until the end of Morsi’s term rather than risk social discord and the chaos of an uprising. While al-Qaradawi acknowledged that there had been failures on behalf of Morsi’s government, he asked “how could people who waited over thirty years under the dictatorship of Mubarak not wait even one year under Morsi?”

The aftermath of the coup not only divided Egyptian society, it would also divide his family. Al-Qaradawi’s autobiographical works and memoirs often contain allusions and references to his pride at the achievements of his children in their various professions and fields. Al-Qaradawi appears to be particularly proud of his third son ʿAbd al-Rahman Yusuf al-Qaradawi. Like his father, ʿAbd al-Rahman is a poet of some distinction in Cairo and in 25th January, A People’s Revolution, al-Qaradawi appears to take great pleasure in describing his son as a “revolutionary poet” who had been “among the first to participate in the revolution from its very beginning.” In the wake of al-Qaradawi’s fatwa in support of Morsi, however, his son’s own rejoinder came quickly and took issue with al-Qaradawi’s appeals for patience:

My dear and beloved father, I am your student before I am your son, but it appears to me and many of your supporters and students that this moment, with its new complications and difficulties, is completely different from the experience of your generation […] Sir, it was not our generation that persevered under dictatorship for thirty years, it was your

625 Abou El Fadl, Rebellion.
626 “al-Qaraḍāwī Ḫufī bi-Wujūb Taʿyīd al-Raʾīs.”
627 al-Qaraḍāwī, 25 Yunāyir Thawrat Shaʿb, 11.
generation that did that in the name of “perseverance” (ṣabr). As for our generation, we have learned not to permit authoritarianism to take root.  

The Politics of Recognition, Qatari Support in the Aftermath of the Coup

While the prominence accorded to al-Qaradawi’s support for Morsi in July 2013, taken alongside the fallout from his Syrian intervention in May, provide evidence that large segments of the Arab public recognized him as an authoritative ʿālim of global standing, the controversy surrounding al-Qaradawi’s interventions began to affect the macropolitics underpinning his recognition. Specifically, this relates to his detrimental impact upon Qatar’s international brand and the Qatari’s subsequent need to re-evaluate their support for him and the Brotherhood among their foreign policy priorities. Al-Qaradawi had travelled back to Cairo on 29 June, soon after Qatar’s previous Emir, Hamad b. Khalifa Al Thani, had decided to abdicate the throne. His fourth son Tamim became the new Emir on 25 June. This change prompted significant conjecture over the future course of Qatari foreign policy, especially with regard to the conflict in Syria and Qatari support for the Brotherhood in Egypt. Significantly, during the new Emir’s inaugural address he made direct reference to Qatar’s, “rejection of divisions in Arab societies on sectarian lines.” This was understood as referring specifically to al-Qaradawi’s sermon of 31 May 2013. In the days leading up to the coup, al-Qaradawi was highly visible in the media every day. After Tamim’s speech he suddenly fell completely silent (he would not be heard from for a period of six days until his 30 June broadcast in Cairo in support of Morsi). Al-Qaradawi’s sudden silence and departure for Cairo led to reports emerging in the media that his Qatari citizenship had been revoked and he been ordered to leave the country. While al-Qaradawi would return to

---


629 Hamad Al Thani himself came to power in a coup in 1996 while his father was abroad in Geneva seeking medical treatment.


632 al-Nahār, “Qaradawi Expulsé du Qatar.”
Doha shortly after the coup the statement on his website, *Qaradawi.net*, that he had travelled to Egypt simply for “his summer holiday” (ijāzatihi al-ṣayfiyya) seemed somewhat odd to say the least.633

In the wake of the coup, demonstrators in support of the Brotherhood and Morsí’s presidency began to establish two protest-camps in Cairo’s Nasr City, near al-Nahda Square and the Rabí’a al-ʿAdawiyya mosque. As the violence against the protesters in these camps began to escalate, al-Qaradawi broadcast a new statement on al-Jazeera. His broadcast was an appeal to organisations such as the UN and Muslims across the region to travel to Egypt “so that they might be witnesses” (li-yakūnū shuhadāʾ) to what was happening.634 Again, in a world of globalised media, his usage of the word *shuhadāʾ* became highly significant on the basis that in contemporary Arabic parlance the word *shuhadāʾ* commonly means “martyrs,” not witnesses. As such, it was quickly broadcast not only in Egypt but around the world that al-Qaradawi was declaring a jihad and calling Muslims to martyrdom in Egypt. As was the case with his Syrian sermon, this neatly conformed to many audiences’ expectations both in Egypt and abroad that al-Qaradawi and Muslim religious leaders in general were prone to violent extremism.

As pointed out in Chapter 1, it was from the Qur’an’s verse 2:143 that al-Qaradawi takes his understanding of wasaṭiyya, as well the word *shuhadāʾ* in this instance: “So we have appointed you a nation of the middle way, so that you may be witnesses (li-takūnū shuhadāʾ) against mankind.” As with his Syrian sermon, the response to al-Qaradawi’s broadcast was a mixture of outrage and derision. Al-Qaradawi’s rivals at al-Azhar quickly took the opportunity to issue a counter-fatwa

633 “al-Qaraḍāwī fī Ijāzatihi al-Ṣayfiyya wa-Yaʿūd al-Dawḥa Maṭlaʿ Sibtimbir,” *Qaradawi.net*, June 30, 2013, http://www.qaradawi.net/news/6734-2013-06-30-05-24-14.html. Such a move would not have been without precedent and was well within the Emir’s power. Under a law dating from 1961 citizenship can indeed be withdrawn, with a citizen even becoming “bi-dīn” or “without” citizenship if they commit a “serious crime.” This occurred most dramatically in 1996 when 6000 members of the al-Ghafran clan from the al-Murrah tribe had their citizenship revoked *en masse* for their involvement in an apparent counter-coup against Hamad Al Thani in 1996, reportedly supported by Saudi Arabia. Fromherz, *Qatar*, 92–3.

against this supposed “call to jihad.” This was again highly damaging, and al-Qaradawi was lampooned in the Egyptian media (see Figure 5). His personal staff were then forced to publish a somewhat embarrassing clarification that a jihad had of course never been declared.

Figure 5: A cartoon published in the Egyptian daily al-Shurūq 9 September 2013. The caption reads, “Hello, Shaykh al-Qaradawi?! In accordance with your fatwa we just set off explosions in Rafah [in the Sinai Peninsula on the border with Gaza] killing six Egyptian soldiers too. Are you happy with us now?” Reproduced with the permission of the artist.

There are two main points to be made about this incident. The first relates to Muhammad Qasim Zaman’s argument that “it is precisely their [the ‘ulamā’] claims to authoritatively represent an ‘authentic’ Islamic tradition in its richness, depth and continuity that may have become the most significant basis of their new prominence in the public sphere.”

It should also be borne in mind that Jürgen Habermas’s theory of

---

637 Zaman, The Ulama in Contemporary Islam, 180.
the public sphere emphasises the importance of shared means of communication in order to facilitate mutual debating over issues of the public good.\textsuperscript{638} This is also relevant for Asad’s point that for a discourse to be understood authoritatively it must be a “collaborative achievement between narrator and audience [where] the former cannot speak in total freedom: there are conceptual and institutional conditions that must be attended to if discourses are to be persuasive.”\textsuperscript{639} Asad’s argument can be rephrased by a sociologist as referring to the micropolitics of recognition, but the macropolitics of recognition are significant as well. This relates not only to Qatari support and foreign policies, but also to the structural transformations of Egyptian and Arab societies that are being wrought by global capitalism and its uneven distributions. New discourses, modes of reasoning, and communication are very much present. The misinterpretations of al-Qaradawi’s usage of words such as “\textit{shuhadā’}” and “\textit{akfar}” are evidence that his arguments and justifications are misunderstood entirely by large segments of the Arab public.

Al-Qaradawi and the ‘\textit{ulamā’} of al-Azhar certainly did have a shared means of communication however, and the violent clearing of the camps near al-Nahda Square and the Rabiʿa al-ʿAdawiyya mosque on 14 August 2014 caused relations between them to plummet to new lows.\textsuperscript{640} Following news of the massacres al-Qaradawi made a


\textsuperscript{639} Asad, \textit{Genealogies of Religion}, 210.

\textsuperscript{640} Prior to the Arab Spring, al-Qaradawi would often attack al-Azhar for its lack of independence. As expected this put his relationship with the institution under strain. There are several well-known examples of earlier rows between al-Qaradawi and the then Shaykh al-Azhar Sayyid Tantawi. Tantawi had been a figure of ridicule for the Brotherhood-sympathetic press since his issuance in 1989 of a fatwa permitting interest-bearing savings certificates. Al-Qaradawi and Tantawi rowed over the latter’s refusal to accept that Palestinian suicide bombers were martyrs, as well as the so-called “affair of the veil” in France. In that latter instance al-Qaradawi had written an open letter to President Chirac condemning the ban on French schoolgirls wearing the hijab in class, while Tantawi argued it was a French internal matter. Chibli Mallat, “Tantawi on Banking Operations in Egypt,” in \textit{Islamic Legal Interpretation: Muftis and Their Fatwas}, ed. Muhammad Khalid Masud, Brinkley Messick, and David Powers (Cambridge, MA: Harvard University Press, 1996), 286–96; Skovgaard-Petersen, \textit{Defining Islam}; idem, “Yūsuf al-Qaradāwī and al-Azhar,” 18; Zaman, \textit{Modern Islamic Thought}, 318–9. For further discussion of the Muslim Brotherhood’s own attitude toward al-Azhar see Rachel Scott, “Managing Religion and Renegotiating the Secular: The Muslim Brotherhood and Defining the Religious Sphere,” \textit{Politics and Religion} 7, no. 1
broadcast again on al-Jazeera. He appeared visibly shaken, and called again on the Egyptian public to “Take to the streets! […] It is an obligation (fard 'ayn) on all Egyptians who are able, who believe in God and his message, to go out from their homes” and protest. It was argued above that al-Qaradawi’s fiqh discourse went unrecognized by large portions of the public. The very public row and mutual criticisms that broke out between al-Qaradawi and Jum’a following this broadcast is also significant for the micropolitics of recognition. Following al-Qaradawi, on 23 August 2013 Jum’a was invited for an interview with the Egyptian Channel CBC. In the interview Jum’a re-affirmed his own backing for the coup, and the new military-appointed government’s own legitimacy. Significantly, and speaking of Morsi’s supporters, he said “those who opposed [the anti-Morsi demonstrations of] 30 June” are “khawārij.” What Jum’a meant by this term was understood by his audience, for it has been used often in Egyptian public discourse by various regimes to demonize opponents who have “religious” motivations, and are therefore mindless extremists without reasonable goals.

The word khawārij literally means “those who go out,” but it is commonly understood as referring to “seditionists” or “rebels”. It is a term that originates with the battle of Siffin (657 CE). This battle represented a significant moment in the first intra-Muslim conflict (or the first fitna). That conflict had begun following the murder of the third caliph ʿUthman (d.656). After the killing ʿAli was elected caliph, while the then governor of Syria, Muʿawiya, refused to assent to this before those who had murdered ʿUthman (his cousin) were punished. ʿAli was not able to accede to this, and their dispute led to a clash at Siffin. During the battle, Muʿawiya’s Syrian forces fixed Qur’ans on their lances, understood as a call for peaceful arbitration, with the Qur’an itself acting as the arbiter. ʿAli agreed. The resulting agreement did not include recognition of ʿAli as “commander of the believers” (amīr al-muʾminīn) and, on becoming aware of this, a group of ʿAli’s own soldiers withdrew their support and

demanded ʿAli continue fighting. After ʿAli refused, this group turned on him. They took as their motto “There is no judgment but God's (la hukm illa li-llāh)” and later became known as the khawārij. They now rejected both ʿAli and Muʿawiya and would attack any Muslim who opposed them with such ferocity that ʿAli ultimately attacked them himself in 658. Following ʿAli’s death Muʿawiya, who would found the Umayyad dynasty, would also fight several khawārij rebellions.643 With these points in mind Jeffrey Kenney highlights:

It is important to remember that the label “Kharijite” was itself intended as an explanation of the cause of militant Islamism. In simplest terms, which is how it was commonly deployed by religious and political commentators, the image of the Kharijites posited a medieval paradigm of illegitimate rebellion to account for modern cases of religiously justified violence.644

As Jumʿa elaborates on his reasoning he argues that the number protesters supporting the tamarrud movement, when combined with the army who followed their wishes by implementing the coup, was numerically the equivalent of an authoritative consensus (ijmāʿ) on behalf of all Egyptians. “What happened in the revolution of 30 June [2013] is that people came out [in protest] and the army consequently joined us.” He explains that this consensus was opposed to one man, Morsi. Jumʿa then refers to a hadith that reads, “He who comes to you when you are united and wants to disunite your community, kill him.”645 While at this early point in the almost two-hour long programme Jumʿa pointedly defines his support of the army’s violent crackdowns on Brotherhood supporters because it is a response to “armed sedition against the ruler” (khurūj musallah ‘alā al-ḥākim), that is to say, the new military-backed government. Later in the interview, however, Jumʿa becomes more outspoken and states, “[If] one bullet is fired from any crowd! Then the Egyptian army and police can deal with it.” He elaborated that in saying this he meant he considered it legitimate for the military to beat

644 Kenny, Muslim Rebels, 146.
or kill any Brotherhood supporter in such demonstrations, even if they were themselves unarmed.\textsuperscript{646}

Al-Qaradawi’s own response to Jum’a was issued on \textit{Sharia and Life}, the programme from which at the height of its popularity he could use to address up to thirty five million viewers, just two days later. In this instance both Jum’a and al-Qaradawi share a mode of reasoning based on the \textit{fiqhi} tradition and, as such, al-Qaradawi’s rejoinder argues that it is the Egyptian army and their supporters who represent the real \textit{khawārīj}. Responding to Jum’a’s justification for the coup on the basis that the size of the tamarrud movement signified an authoritative consensus of the Egyptian people al-Qaradawi reasoned, “What is important is that a person cannot become the legitimate ruler except through a constitution […] constitutions regulate people, people [cannot] act on the basis of their whims.” Al-Qaradawi then cites the same hadith quoted above by Jum’a in support of his own position and says, “Whosoever wants to come out against the legitimate ruler [that is, Morsi] we apply this hadith to them. We didn’t come out in rebellion, we want our legitimate ruler. Who cancelled the constitution?”

Al-Qaradawi’s colleague Muhammad ‘Amara also took part in the discussion. His contribution presupposes the prevalence of secular conceptions of religion and politics in the Egyptian public sphere and among the programme’s viewers. ‘Amara interjects, “I want to say that the problem Egypt is facing is a political dispute and a political conflict, not a conflict of religious doctrines […] on this program we’re using the term \textit{khawārīj} with the meaning of armed rebellion, with tanks, planes, heavy and light weapons against the legitimate elected ruler.”\textsuperscript{647}

‘Amara is emphasising that the conflict between the Brotherhood and their supporters and those who support the coup is “political,” and therefore one that can be managed and solved through negotiations and concessions. He is recognizing, then, if the dispute were understood by the audience as a “conflict of religious doctrines” that would imply to them that it was a conflict that could not be solved, because it is

\textsuperscript{646} CBC Egypt, “al-Ḥiwr al-Kāmil.”

impossible to make concessions over “religious” matters. Like al-Qaradawi, 'Amara is also pre-supposing the existence of religious and political realms that are distinguishable. For al-Qaradawi himself, it is the supporters of the Brotherhood and demonstrators against the coup who are the ones representing a unanimity of the Egyptians. He refers to them simply as “the people” (al-sha‘b). In answer to Jum’a’s allegation that the pro-Brotherhood demonstrators were carrying weapons he says:

All that has been carried out by the Egyptian people has been peaceful resistance, as was declared by the General Guide of the Brotherhood [Muhammad Badi'] standing at Rabi‘a al-‘Adawiyya [mosque]. I heard him saying our revolution is a peaceful revolution and it will remain peaceful and our peacefulness is stronger than the bullet. If others use bullets then we are not with them: no bullets, swords, knives, sticks, stones or bricks.

As the interview comes to a close the presenter, 'Uthman 'Uthman, clearly aware of the earlier controversies surrounding some of al-Qaradawi’s previous broadcasts, presses al-Qaradawi for a final clarification:

UU: Forgive me mawlanā, a final word, is what [you have said in the interview.] Is it a call to violence or peace?

YQ: Whatever is done to us there is no possibility that we will use violence, violence is finished on behalf of either the Islamists or the Brotherhood, violence is finished, no violence from us God Willing, we come to everyone in peace.

The dispute between Jum’a and al-Qaradawi would rumble on, becoming more and more vociferous. Jum’a derided al-Qaradawi as a senile old man who was clearly suffering from Alzheimer’s disease, and therefore no longer fit to be an ‘ālim who plays

---

648 Ibid.
649 Ibid.
a public role.\textsuperscript{651} Al-Qaradawi criticised Jum’a’s own suitability to speak for the ‘ulamā’, criticising his qualifications and credibility (see Figure 6.).\textsuperscript{652}

Figure 6: The front cover of the work al-Qaradawi published following his debate with Jum’a, titled “a Learned Critique of the Shaykh of al-Azhar and the Military’s Mufti.” What is most notable about the cover is not so much the striking picture of a hand with four fingers raised (a symbol that commemorates the massacre at Rabi’a al-’Adawiyya and now signifies support for the Brotherhood against the coup). Instead, what is more noteworthy is that a need was felt to include a list of al-Qaradawi’s credentials on the cover directly underneath his name. This has never been seen before on any of his works. Yūsuf al-Qaraḍāwī, \textit{al-Radd al-‘Ilmī ʿalā Shaykh al-Azhar wa-Muftī al-ʿAskar} (Amman: Dār ʿAmmār, 2013).

\textsuperscript{651} CBC Egypt, “al-Ḥiwār al-Kāmil.”

This debate demonstrates several things, not least the extent to which both parties where invested in the unfolding events. Both Jumʿa and al-Qaradawi share a common means of communication in the public sphere; they speak as representatives of the *fiqh* tradition and channel its collective discourses. Zaman argued that this was the very basis of the ‘*ulamā*’s new-found prominence. However, the uproar and criticisms of both parties that ensued in the wake of this debate stemmed in no small degree from their usage of the term *khawārij* to describe each side (as well as al-Qaradawi’s usage of the words *shuhadāʾ* and *akfar*). As ‘Amara’s interjection highlighted, all parties presuppose the prevalence of secular conceptions of religion and politics in the public sphere. This means that being seen to use “religious” concepts to further “political” goals is unacceptable, because religion is understood by large segments of the public as entailing unequivocal irrationality, and not being open to negotiation. Politics by contrast is a realm of the rational and the reasonable. This presupposition is also shared by many observers outside the country and region, though goes unacknowledged.

Comparing the Jumʿa and al-Qaradawi’s arguments, they appear to be drawing upon the same concepts and discourses in order to argue for opposite positions. Both of them cite the existence of an *ijmāʿ* providing legitimacy to either the coupists or Morsi’s supporters. Both of them cite the other’s party as *khawārij* and both of them make nebulous referrals to a hadith that reads, “He who comes to you when you are united and wants to disunite your community, kill him.” This might imply that the *fiqh* tradition does not act as a constraint on the ‘*ulamā*’ in any way. An ‘ālim can twist the *fiqh* tradition to say whatever he wants it to say, and manipulate the public. This not the case, and the *fiqh* tradition does constrain, but in a different way. The *fiqh* tradition is a set of collective discourses. Discourses either promote or impede certain kinds of modes of reasoning, communicative actions, or meanings available to be attributed to one’s experiences. It is a framework for reasoning and a set of resources to be used in making sense of events and experiences.653 Put more simply, the *fiqh* tradition does not

---

653 With that point in mind, the Introduction’s discussion of the relationship between discourse and power should also be recalled. The ‘*ulamā*’s agency is constrained by their place in a web of power relationships; discourses are not manipulated *per se* but rather they are channelled. “Discourses are not representations of a more or less distorted reality. Rather discourses should be understood as ‘economies’ (with their own intrinsic technology, tactics, effects of power, which in turn they transmit). In other words power is inscribed within discourses, not outside them.” Trevor Purvis and Alan Hunt, “Discourse,
constrain what the ‘ulamāʾ say, but how they say it. All in all, for the debate’s audience what was most likely the most memorable aspect was the protagonists’ resorting to the media to attack each other’s credentials and credibility. It was noted earlier in this chapter that being perceived as independent of establishment or regime interests was the foundation of this credibility. As such, al-Qaradawi derides Jum’a as the “Military’s Mufti” (Muftī al-‘Askar) tied to the old regime. Jum’a takes aim at al-Qaradawi’s links to Qatar, which had been supporting Morsi’s government throughout. Those attacks were again echoed by Egypt’s cartoonists (see Figure 7).

Figure 7: A cartoon published in al-Shurūq on 18 August 2013. The caption reads, “I have a brand new toy that I got just yesterday. It works with Qatari riyals... You put a riyal in here, and an anti-Egyptian army fatwa comes out the other side!!” Somewhat ironically, the box al-Qaradawi is depicted as springing from has “Made in USA” on the side. This is in criticism of the United States’s perceived support for the ousted Brotherhood government in the wake of the 3 July coup. Reproduced with the permission of the artist.

It is somewhat ironic, then, that it was Qatar which would seemingly have the final word in this debate. As has been seen, al-Qaradawi had been using his media
platform and his sermons to continuously make strident attacks on Egypt’s new military-backed government, as well as that government’s allies in the Arabian Peninsula notably Saudi Arabia and the UAE.654 This was beginning to become problematic and embarrassing for the Qatari royal family, which was again attempting to assert its usefulness to the United States through its “soft power” to mediate a resolution to the crisis. In August 2013 both the Qatari and Emirati foreign ministers were involved in an effort by US Senators John McCain and Lindsey Graham to lead negotiations between the Brotherhood and the Egyptian army.655 This came as part of Qatar’s own more cautious, multi-lateralist foreign policy, which began to emerge in the wake of growing criticisms of Qatar’s close involvement in its neighbours’ internal affairs. The new Emir, Tamim’s, somewhat belated note of congratulations to the Egyptian army’s newly-appointed interim President Adli Mansour did not mention the ousting of Morsi. Instead Tamim made a point of praising the army’s “defending Egypt and its national interests.”656 Al-Qaradawi’s broadcast on 25 August 2013 was his last appearance on Sharia and Life to date (August 2014). The programme was subsequently taken off air. Al-Qaradawi’s Friday sermons also quietly ceased at a later date, and were only permitted again in April 2014.

This clearly demonstrates that, for al-Qaradawi’s apparent prestige it is the macropolitics of recognition, the backing of a powerful state like Qatar, that are essential for an ʿālim wishing to intervene authoritatively in the public sphere in the name of maslaha. The effectiveness of this Qatari support is dependent upon the public only recognizing that support’s final effects – al-Qaradawi’s appearing as an authoritative, independent ʿālim with a global voice – and therefore “misrecognizing” that this presentation is, in fact, produced discursively. A lengthy interview between al-

---

Qaradawi and the editor of the Qatari daily *al-Waṭan*, Ahmad ‘Ali, on 23 December 2013, demonstrates this point. In the interview, while al-Qaradawi emphasises that “Qatar stands with truth and justice” he also takes great pains to emphasise that “my opinions are completely separate from Qatari politics. I’m just a part-time professor in a university. I have never held a political post in the state all my life, and the Union [IUMS] that I’m the head of is a popular union (*ittiḥād ahlī shaʿbī*) that absolutely does not follow any state.” This last point makes it appear that al-Qaradawi himself is aware of his conundrum. For the ‘*ulamāʾ*’ to be able to be heard authoritatively in the public sphere they must not only be recognized as speaking for the *fiqh* tradition (as Zaman argued). Rather, this engagement is simultaneously, and paradoxically, dependent on both powerful backing from a state, while being perceived as independent from any state’s interests.657

**Conclusion**

This final chapter has taken up the question of the ‘*ulamāʾ*’ and al-Qaradawi’s voices in the public sphere, and the means by which they intervene in that sphere in the name of the renewed *fiqh* tradition. It used al-Qaradawi’s attempts to navigate the dramatic events of the Arab Spring and its aftermath to make its arguments and Bourdieu’s original concept of “recognition” was used as part of the conceptual framework. Recognition as a concept has been criticised, however, with greater emphasis being placed on “thinking subjects’” own arguments and modes of reasoning, alongside structural processes that might promote the ‘*ulamāʾ*’. As such the structural “macropolitics of recognition,” which in al-Qaradawi’s case took the form of Qatari state support, was emphasised. Supplementing this structure were his own efforts and those of his supportive networks to justify and facilitate the projection of his voice authoritatively into the public sphere. This was the “micropolitics of recognition.”

Al-Qaradawi’s relationship with the *fiqh* tradition that he purports to renew was also discussed. Secular concepts have been synthesised into both academic discourses

and those in the region itself. In varying ways, then, “religious” concepts become
distinguishable from a “political” realm. This affects the extent to which al-Qaradawi’s
channelling, not manipulating, of the fiqh tradition’s collective discourses is recognized
authoritatively by the Arab public. This was seen by both the uproar, and complete
misunderstanding, that greeted several of his major interventions through the media.
Examples of this were seen in al-Qaradawi’s paraphrasing of Ibn Taymiyya to describe
Syria’s ‘Alawite community as “more unbelieving” (akfar) than Christians and Jews, his
appeal for Muslims to come to Egypt and be “witnesses” (shuhadā’), not martyrs, to the
army’s massacres, or both his and Jum’a’s description of each other’s supporters as
khawārij, calling to his audience’s mind the earliest example of Muslim radicalism.

In the earlier examples of al-Qaradawi’s triumphal return to Cairo to deliver his
Tahrir Square sermon on 18 February 2011, or his fatwa calling for the Libyan dictator
Gaddafi’s killing three days later, such concern was nowhere near as apparent. Rather
than being seen as a religious leader stoking violence, al-Qaradawi was greeted as a
figure who reasoned through the fiqh tradition in support of the Egyptian and Libyan
people’s democratic aspirations. It is argued here that a key reason al-Qaradawi’s
interventions were received so differently, in comparison to his interventions over Syria
and following the July coup, is recognition. The interests of al-Qaradawi and his own
bases of support, Qatar and its foreign policy as well as the Brotherhood network, were
aligned with global discourses in the region as well as in the United States and Europe
that recognized and supported these revolutions. In the case of Bahrain, Syria and
Egypt’s 2013 coup the issue was apparently not so clear, or rather, all these diverse
interests and bases of support were misaligned. This meant that al-Qaradawi and his
voice was no longer “misrecognized” as being authoritative to the same extent.

This chapter has brought the thesis to its final arguments. The following
Conclusion will bring together all the points and suppositions made throughout all five
chapters as they relate to al-Qaradawi’s role in the debating of tajdid al-fiqh with his
interlocutors, and his articulation, transmission and reconstruction of the fiqh tradition
in the Qatar context first and foremost.
Conclusion

On the first page of their edited volume, *Global Mufti: The Phenomenon of Yusuf al-Qaradawi*, Bettina Gräf and Jakob Skovgaard-Petersen introduce him as:

An authoritative religious scholar, an important Islamic activist and the prominent guest of al-Jazeera’s religious programme *Sharia and Life*, Yusuf al-Qaradawi (born 1926) is easily one of the most admired and best-known representatives of Sunni Islam today. Indeed, it is difficult to identify any other Muslim scholar or activist who could be said to rival his status and authority, at least in the Arab-speaking world.\(^{658}\)

*Global Mufti* is, as yet, the only English monograph to be published specifically about al-Qaradawi, though its eight essays all have different authors, subjects, and approaches. It is part of a small, but growing, field concerned with what might be termed “Qaradawi studies,” part of a renewed interest in the contemporary ʿulamāʾ that came as a result of Muhammad Qasim Zaman’s 2002 study, *The Ulama in Contemporary Islam: Custodians of Change*. Gräf and Skovgaard-Petersen’s description of al-Qaradawi quoted above is one that is generally shared across the academic study of the contemporary Middle East and Islam. As such, al-Qaradawi’s work and output is also frequently discussed in more wide-ranging studies across several disciplines. These include: sociological studies of the contemporary ʿulamāʾ and their relationship to the post-colonial nation state; political scientists concerned with “Islamism,” the Muslim Brotherhood and al-Qaradawi’s views on democracy and governance; gender studies interested in his positions on women and sexuality, as well as security studies dealing with his understanding of legitimate violence and Jihad.

The Importance of the Qatar-Context

While al-Qaradawi was born in Egypt, he has lived in Qatar continuously since 1961. Despite this many, if not most, of these studies assume that he is writing from Cairo, rather than Doha. Because he has so written so prolifically, it is easy to read his views on democracy as those of the Egyptian Brotherhood, or his views on women as informed solely by gender debates in Egyptian society. Al-Qaradawi is certainly widely

---

\(^{658}\) Gräf and Skovgaard-Petersen, “Introduction,” 1.
read in Egypt, but this thesis has paid particular attention to his local context of Qatar and the broader Arabian Peninsula where possible. As a means of bridging the domestic/international contextual divide, Qatar has been understood as his “translocal” context. Al-Qaradawi functions beyond, but not without, his local Qatari frames, conditions and structures.

Gräf has also noted that a key factor underpinning al-Qaradawi’s rise to prominence was that he was “one of the first scholars to realise that the cooperation with journalists, editors, and producers of new media institutions would help to restore the influence of Muslim scholars in Muslim societies and worldwide.” This thesis has consciously taken this insight further, beyond al-Qaradawi’s utilization of the media, toward an examination of the supportive roles his supportive networks play. This support was argued to have been particularly notable in relation to facilitating al-Qaradawi’s ability to stay in touch with contemporary debates surrounding the question of *tajdīd al-fiqh*.

**Reviewing the Conceptual Framework**

This thesis has been interested in al-Qaradawi as the most prominent of the contemporary ‘ulamā’ advocating *tajdīd al-fiqh*, the renewal of the *fiqh* tradition. As such, this thesis has located al-Qaradawi’s contributions as a continuation of the ideas and trends begun by Muhammad ‘Abduh and Rashid Rida in the late nineteenth and early twentieth centuries. It considers itself a contribution, using contemporary sources, to the broader rethinking of, not only how traditions become “modern,” but “tradition” itself as a category of analysis from a primarily anthropological perspective. As such, it has been argued here that al-Qaradawi’s renewal of the *fiqh* tradition’s discourses is a framework to be modern in the same way that the liberal tradition is also modern. In order to contextualise this thesis’s final conclusions, then, it is first worth briefly reviewing the conceptual framework as it was detailed in the Introduction.

The rethinking of tradition as a category was begun most famously in 1986 with Talal Asad’s *The Idea of an Anthropology of Islam* and his later, landmark study *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam*,

---

published in 1993. In conceptualizing Islam as a “discursive tradition” Asad was attempting to synthesise the approaches of both Alasdair MacIntyre and Michel Foucault. This synthesis was not without its tensions, particularly as far as Asad’s use of the term “orthodoxy” was concerned. Foucault’s understanding of power simply would not have allowed for there to be a genuine orthodoxy within a tradition, what MacIntyre referred to as traditions’ “foundational arguments.” For Foucault, any orthodoxies or foundational arguments would have been discursive constructions with hidden agendas.

Based on Ovamir Anjum and M. Brett Wilson’s reading of Asad, it was seen that Asad was actually trying to speak about orthodoxy in a new way. This understanding of orthodoxy aimed to be attentive to power structures and interests that promote certain ways of thinking about Islam at the expense of others, but also take seriously the claims that advocates for a tradition make that there are indeed certain arguments and modes of reasoning that are foundational. Following Wilson, it was concluded that the concept of orthodoxy was so over-laden with contested meanings that it was no longer heuristically useful. Above all it was Asad’s shifting of focus toward the “thinking subject,” taking their own justifications, arguments and modes of reasoning seriously, and more than just the result of their local material conditions and structures that has been the most important insight for this thesis.

This thesis has clearly aimed to follow Asad’s approach, and follow Samira Haj’s own emphasis on Asad and MacIntyre’s concept of tradition in her study of ‘Abduh and Muhammad b. ‘Abd al-Wahhab in Reconfiguring Islamic Tradition: Reform, Rationality, and Modernity. At the same time, significant space in the Introduction was devoted to highlighting this thesis’s attentiveness to both Foucault and Pierre Bourdieu’s insights, bearing in mind more recent critiques and developments in their theories. Foucault’s understandings of power and discourse alongside Bourdieu’s conceptual substitution of “ideology” for “recognition” allowed this thesis to take a more nuanced approach to al-Qaradawi’s authority and prestige, how they developed, and how they function.

These emphases on Asad, and his drawing on Foucault and MacIntyre, illuminate this study of al-Qaradawi and his interlocutors in a number of ways. It allows
al-Qaradawi to be seen as a figure inhabiting a tradition whose reasoning and argumentation should be taken seriously, and whose efforts cannot solely be reduced to a Marxist idiom that would otherwise view him as the representative of a dominant social group attempting to legitimize and bolster an unequal status quo in society.

Asad also makes us realize that agency in both thought and praxis is not unrestricted, but constrained. As a would-be renewer of the fiqh tradition al-Qaradawi is therefore embedded in a web of power-relations. In some of these, such as in relationship to hegemonic Western thought and Liberal values, he occupies a subservient position. This causes him to attempt to close down debates that he considers unacceptable because they are foreign and secularist, as was seen with regard to Muhammad Arkoun’s thought in Chapter 3. In others, al-Qaradawi is the hegemon, a scholar who enjoys prestige, Qatari state support, and holds the credentials necessary to engage in a professionalized fiqh discourse. This gives him the capacity to alter the tradition’s methods and established norms on areas in a way that is not open to non-ʿulamāʾ, women, or other marginalized groups.

Similarly, an attention to Power makes it possible to realize that the academic study of Middle East and Islam is “a field of knowledge embedded in Euro-American power structures.” Among the results of this awareness was the incorporation of Timothy Fitzgerald’s building on Asad’s insights that analytical categories as they are commonly used in the academy (“religion” most notably, but also “polities,” “secularism,” “tradition,” etc.), all have a specific history in relation to Europe’s construction of its own modernity. This modernity involves imagining Europe as progressing away from traditional religion toward secularism for example. As such, a simple statement that “Islam is a religion,” for example, carries a number of presuppositions. These presuppositions are especially apparent in academic studies of the ʿulamāʾ. Many such studies view the ʿulamāʾ as the rough equivalent of a clergy trying to construct an orthodoxy that preserves their position of power, as Jacob Høigilt was quoted to be doing in Chapter 3. Other assumptions made include that the “religious” and the “political” are self-evidently distinct realms, with a religious figure’s

661 Fitzgerald, “Encompassing Religion.”; idem, Discourse on Civility and Barbarity; idem, The Ideology of Religious Studies.
acting a political way (or vice versa) automatically being perceived as manipulating a religion’s true, non-political essence. These discourses have been synthesised and appropriated in the Middle East context. The slogan, “No politics in religion, no religion in politics” is a popular one among Arab-secularists. Similarly, a speech by the former-General, but now Egyptian President, al-Sisi in January 2014 in which he stated that “the reform of religious discourse is our great struggle” was hailed in the United States for its boldness.662

However, citing Asad at the start of an academic study, and stating “Islam is a discursive tradition” has now become a standard practice. The concept of discursive tradition has been circulating in the academy for over twenty years, and it has become so popular and established that, often, the concept is used with little reflection, and therefore loses much of its original use. It seemingly allows authors that to state what Islam “is” without being open to accusations of essentialism, giving an author carte blanche to then do exactly that. If it is cited in such a way, it loses its entire nuance, and is no more useful than stating “Islam is a religion.” This was one of Samuli Schielke’s major points. In his own study he argued instead that there are in fact multiple discursive traditions cutting across Islam and its diverse regions, practitioners, and contexts.663 It has been argued here that fiqh was one of these discursive traditions.

Modernity as the Imagining of Progress and the Synthesis of Concepts

Schielke also proposed that the manner in which Islamic discursive traditions change is not simply by appropriating European concepts and giving them Islamic names, as Malcom H. Kerr, Albert Hourani, and Bernard Lewis effectively accused ʿAbduh and Rida of doing. Instead, a far more complex synthesis takes place between European concepts and the framework from the fiqh tradition that al-Qaradawi and others use to make sense of them. This was what Shalini Randeria referred to as the modern “entanglement” between traditions that are all becoming modern unevenly. This

663 Schielke, “Hegemonic Encounters.”
argument was made in this thesis thematically and chronologically across five chapters. In making its arguments, each chapter sought to overturn what were perceived as prevailing misconceptions about al-Qaradawi and his renewal of the *fiqh* tradition, as well the contemporary ‘ulamā’ more broadly.

Chapter 1 began by introducing the “modern project” for the renewal of the *fiqh* tradition begun by ‘Abduh and Rida. In its conventional usages tradition is seen as either the reactionary antonym to modernity, or a something that is continuously “invented” by religious leaders to legitimate a status quo that suits them. It was argued that the *fiqh* tradition was instead a set of “collective discourses” extended through time. Modernity does not refer to a new set of unprecedented conditions, but rather the imagining of binary distinctions that allow for the possibility of progress from one to the other. For example, the progress from superstition to rationality; blind imitation to independent reasoning; oppression to freedom; inequality to equality; ossification to renewal; and stagnation to reform. A detailed introduction to al-Qaradawi and his oeuvre was also included, as well as description of al-Qaradawi’s early life, journey to Qatar and subsequent emergence “easily one of the most admired and best-known representatives of Sunni Islam today.” To theorise the development of al-Qaradawi’s stature to the point that it is “difficult to identify any other Muslim scholar or activist who could be said to rival his status and authority,”664 the concepts of recognition and social construction were introduced. On that basis, it was then argued that al-Qaradawi’s position on *Sharia and Life* and the support of the Qatari royal family were a crucial part of the “macropolitics” underpinning his recognition as a *Global Mufti*.

Schielke had also noted that, under the terms of a “modern project,” new issues come to be imagined and seen to be at stake in ways they were not before. The place of the Hadith in the *fiqh* tradition is one such issue, and Chapter 2 used al-Qaradawi’s debating of this question in order to argue that the emphasis of his wasaṭiyā motif was the preservation of the unity of a Muslim *umma* that he perceived as embattled, and under both cultural and military attack. It was argued that he was, and still is, particularly concerned over the possibility of a rapprochement between his own wasaṭī School and the Salafists who followed Nasir al-Din al-Albani. This meant that al-

Qaradawi was particularly attentive to the modes of reasoning and styles of argumentation used by the Salafists in critiquing his own approach to the Hadith. Al-Qaradawi’s response was to emphasise the importance of critiquing both a hadith’s text (matn) and chain of transmission (isnād) as well as his respect for the fiqh tradition’s concept of authoritative consensus (ijmāʿ).

Moreover, al-Qaradawi emphasised the importance of reconciling (tawfīq) between hadith that contradicted each other, this was in stark contrast to the more unstructured and outspoken approach of his own shaykh and mentor, Muhammad al-Ghazali. It was in fact argued that al-Qaradawi went as far as to reconstruct aspects of al-Ghazali’s own style of argumentation after his death into something that more closely resembled his own. Al-Qaradawi’s framework was therefore far more attentive to preserving the structure and concepts of the fiqh tradition than al-Ghazali.

Chapter 3 recalled the Introduction’s emphasis that power is a web that acts upon and constrains the ‘ulamāʾ from above and below. There are global discourses on the question of Islam and its (in)compatibility with universal Human Rights norms. Due to the unequal distributions of global capital, the ‘ulamāʾ occupy a subordinate position in these discussions in relation to these emanating from the West or enjoying Western support. Just as new issues come to be seen as at stake in ways they were not before in a modern project, so too do other issues come to take on a far greater importance. In debates concerning the “higher intentions and purposes of the Sharia” (maqāṣid al-sharīʿa) it was argued that for al-Qaradawi the hermeneutical rules for reading the source texts, based on the rules of the Arabic language (the Arabicate hermeneutic), took on a paramount importance. It was a concern over the alternative hermeneutics of the so-called “secularists, liberals, and Marxists” that led al-Qaradawi to try and delegitimise, rather than engage with, any alternative approaches that came outside his framework of reference. As in Chapter 2, he was also seen to (re)construct the caliph ʿUmar’s reasoning for suspending the punishment of amputation for theft during a time of famine.

Al-Qaradawi’s approach was perceived by scholars such as Høigilt, Gudrun Krämer, Dima Dabbous-Sensenig and David L. Johnston as al-Qaradawi’s “taking on the role of inquisitor” and acting as a papal-esque arbitrator of what was orthodox and
heterodox. By contrast, this chapter drew upon Charles Hirschkind’s reading of the Abu Zayd controversy, and highlighted MacIntyre’s argument that the liberal tradition and the Islamic *fiqh* tradition have different rationalities. As Hirschkind argued:

In the eyes of his liberal defenders, comments that questioned Abu Zayd's moral commitment were entirely irrelevant to the scholarly assessment of Abu Zayd's works and simply represented unscrupulous attempts to discredit him personally. However, the attribution of unscholarly intentions to Abu Zayd should not distract us from taking the argument itself seriously: namely, that the practice of reason occurs within a social context and, thus, presupposes and requires commitment to the principles which sustain that context.665

That point led Chapter 3 to discuss two scholars’ engagement with al-Qaradawi in the Qatar context, Jasser Auda and Tariq Ramadan. It was argued that, despite al-Qaradawi’s denunciations of alternative approaches to reading the texts other than according to the Arabicate hermeneutic, there was in fact significant space for negotiation. This introduced Zaman’s concept of the “internal critic,” a critic who positions themselves in agreement with some of a tradition’s foundational arguments, but not all. As such, al-Qaradawi was seen to be particularly receptive to Auda’s own work on the *maqāṣid al-sharīʿa* and the broader project founded by Auda and Ramadan in their Research Center for Islamic Legislation and Ethics. It was also argued that both these scholars perceived al-Qaradawi’s authority in a manner similar to Bourdieu’s concept of symbolic capital. Through the structures and processes of recognition highlighted in the preceding chapters, al-Qaradawi can be perceived as possessing a symbolic capital that can be drawn upon to support and legitimate his colleagues’ own projects. As such, both Auda and Ramadan were seen to be introducing their own alternative hermeneutical approaches to al-Qaradawi in a form that he would be receptive to. This represented their own recognition of the role the ‘ulamāʾ will play in shifting the *fiqh* tradition’s discourses in what they consider to be a more progressive direction.

As noted above with reference to Schielke, in any study of how a tradition becomes modern it is the processes by which concepts travel and are transmitted that are

---
665 Hirschkind, “Heresy or Hermeneutics.”
among the most prominent subjects of discussion. Chapter 4 began by highlighting that, under the terms of current global discourses, the issue of minorities’ “religious freedom” has become paramount. It emerged as an issue that was intertwined with the establishment of nation states and their sovereignty. Protecting minorities’ religious freedom was therefore a means for Britain, France, and later the United States to intervene in newly-established states in the Middle East region. The issue of religious freedom therefore came to be of concern to al-Qaradawi and his colleagues, who now understood that the fiqh tradition’s previous arrangement for managing social difference (the dhimma contract) needed to be changed.

Through a close reading of al-Qaradawi’s 2010 work *The Homeland and Citizenship* (*al-Waṭan waʾl-Muwāṭana*), it was seen that his efforts to synthesise concepts of citizenship, nationalism, and public order through his framework from the fiqh tradition led to the emergence of several tensions and inconsistencies. It was argued that al-Qaradawi attempted to reconcile these tensions through a re-reading of the Prophetic Compact of Medina (*Ṣaḥīfat al-Madīna*) by attributing four distinct meanings to the term *umma*: a believing community, a community based on politics, a community bounded by geographical and a community sharing social solidarity. This allowed al-Qaradawi to conceptualise an Islamic state (or rather, a civil state with an Islamic reference) that allowed for citizens’ overlapping identities and loyalties.

Significantly, it was seen that the bases of this new reading came through a dialogue between al-Qaradawi and a former member of his Association of Students, Muhammad al-Mukhtar al-Shingiti. Like Auda, al-Shingiti recognizes al-Qaradawi’s authority as being useful to legitimate his own project and make al-Qaradawi’s substantial readership more receptive. This point was theorized by referring to Foucault’s concept of “author-function.” There is therefore a conceptual difference between the physical al-Qaradawi who writes a book, and the author-function of “al-Qaradawi.” This latter function is more than simply an honorific, the difference between a play written by “Shakespeare” and any other sixteenth century plays for example. Instead, it was argued that under the terms of the fiqh tradition’s collective discourses, the ʿulamāʾ’s author-function is constructed in such a way that it is recognized as carrying an added authority, legitimacy, and authenticity.
Authority is not univocal, however, and those who recognize it do not do so in the same way. Authority is something that is continually (re)produced by particular structures and discourses. It was noted in the introduction to Chapter 5 that al-Qaradawi’s authority and prestige is derived from particular bases of support. His closeness to the Muslim Brotherhood, his author-function as an ʿālim, the support of his network and, significantly the backing of the Qatari royal family. Chapter 5 examined how al-Qaradawi has tried to articulate a new fiqh al-thawra and negotiate the divergent interests of his horizontal bases of support throughout the events of the “Arab Spring” and their aftermath. Qatar’s support was seen to be particularly contingent and based on its own foreign policy goals and the preservation of its international brand. As al-Qaradawi attempted to navigate the changing states of affairs in Egypt, Libya, Bahrain, and Syria most notably, the extent to which his authority was recognized was seen to be increasingly called into question. It was argued that the interests of his bases of support, notably Qatari interests, were no longer “misrecognized” to the extent they had been. This meant that al-Qaradawi was no longer perceived as being independent, a crucial factor that differentiated his own apparent prestige in contrast to other rival ʿulamāʾ more obviously compromised in their ties to authoritarian regimes.

On this basis, it was argued that Zaman’s key point that “it is precisely their [the ʿulamāʾ’]s] claims to authoritatively represent an ‘authentic’ Islamic tradition in its richness, depth and continuity that may have become the most significant basis of their new prominence in the public sphere” was in need of refinement.666 The ʿulamāʾ’’s claims to speak, and be heard, authoritatively are also dependent upon the micropolitics of recognition attempted by themselves and their supporters, alongside a structural macropolitics of recognition. Increasingly, it was seen that al-Qaradawi’s condemnation of the Syrian ‘Alawite minority as “more unbelieving” than Christians and Jews, or his appeal for foreign Muslims to come and be “witnesses” (shuhadāʾ) to the massacres perpetrated by the Egyptian army in the wake of the coup were not recognized as authoritative by increasing segments of the Arab public. This was in marked contrast to the reception that greeted him on his return to Cairo for his Tahrir Square sermon on 18 February 2011. Furthermore, al-Qaradawi’s usage of these terms and concepts were

---

666 Zaman, The Ulama in Contemporary Islam, 180.
instead recognized by both foreign observers and large segments of the Arab public as the usage of “religion” for the purposes of “politics.” This was particularly apparent in the wake of the uproar following al-Qaradawi and Jum'a’s condemnation of each other’s affiliates as khawārij.

Final Arguments
After describing a tradition’s experience of an “epistemic crisis,” which often emerged through the questioning of a tradition’s foundational arguments, MacIntyre argued that for a progress to be achieved and the crisis to be resolved, “[T]he claims to truth made within that tradition will always be in some specifiable way less vulnerable to dialectical questioning and objection than were their predecessors.” On the one hand, this thesis could conclude that the efforts of al-Qaradawi and his supporters have been partially successful in achieving progress, al-Qaradawi’s arguments over the Hadith in Chapter 2 were more acceptable to the Salafists than al-Ghazali’s had been, for example. At the same time however, this thesis has emphasised that these debates take place under the terms of global discourses in which the ‘ʿulamāʾ’s arguments occupy a subordinate position. This means that any output of theirs is measured, less against the arguments and rationality of the fīqh tradition whose framework they use, but rather against the arguments, benchmarks and rationality of the progress that the liberal tradition has managed to achieve on its own terms up to that particular point. As such, his appeals to the Compact of Medina in Chapter 4 as means to secure minorities’ religious freedom in a system with an Islamic public order, however satisfying it might be to his supportive readership, will by default be found unsatisfying according to the terms of the liberal tradition against which it is measured by the liberal policy-makers, intellectuals and activists who occupy a dominant position in global terms.

The broader arguments made in this thesis, then, are that the ‘ʿulamāʾ are making arguments in accordance with their tradition and supporters’ expectations and hopes. These bases of support will be satisfied by different arguments and justifications. Those scholars writing about al-Qaradawi, “Islamism,” or the Muslim Brotherhood from the perspective from the perspective of political science, international relations, security

---

studies should recognize this. Also to be recognized are that the seemingly self-evident categories of “religion,” politics,” “tradition,” “secularism” etc., all have particularly histories and narratives, which are deeply implicated in maintaining current global imbalances of power and capital.

It should therefore be understood that these unequal power relations and discourses affect the agency and discourse of the ‘ulamā’, as it does for their Western observers. These unequal relationships either permit or impede certain communicative actions, or limit the meanings available to be given to experiences by rendering other possibilities unthinkable or inconceivable. Power works as a web, it is not exercised by the ‘ulamā’ over the public in the way that secular history has come to understand institutions like the Vatican. The ‘ulamā’’s self-perception as guardians of a tradition and guides to the public are genuine, but they do also negotiate and protect their privileged position within the institutions and power-networks of post-colonial nation states. As Foucault argued:

Let us not look for the headquarters that presides over its [power’s] rationality; neither the caste which governs, nor the groups which control the state apparatus nor those who make the most important economic decisions direct the entire network of power that functions in a society […] it is often the case that no one is there to have invented them, and few who can be said to have formulated them: an implicit characteristic of the great anonymous, almost unspoken strategies which coordinate the loquacious tactics whose “inventors” or decisionmakers are often without hypocrisy.

It appears possible, then, that this thesis could be read in two ways. It can be read as an apology for al-Qaradawi and his colleagues, it has focused less on those aspects of al-Qaradawi’s thought that others would find distasteful. This was done in the awareness that many other detailed activist-studies by scholars such as Scott Kugle or Barbara

---


Stowasser, as well as less useful pseudo-studies have focused on those points in depth. A simple google search or reading of al-Qaradawi’s Wikipedia page would demonstrate this point. The thesis can also be read in an opposite way however. Using a conceptual framework that incorporates concepts that can ultimately be traced to Marxism (power, recognition, discourse etc.) into a study of contemporary Islam could also be read as simply another study “revealing” the contemporary ‘ulamā’’s manipulation of Islam’s essence.

Rather, this study has attempted to read al-Qaradawi’s work and those of his colleagues on their own terms. It has taken seriously his affirmation of the freedom, equality, tolerance and justice his vision of a renewed fiqh tradition seeks seriously, alongside his explicit disavowal of any authority for himself. At the same time, however, it is has been argued that, while he is not simply a client of the Qatari regime, its influence has been instrumental in propelling him to his current stature. He does not manipulate the public, nor is he authoritarian, but he does close down debates and delegitimise debaters whose perspectives he sees as coming outside the bounds of acceptability, in contrast to liberal expectations of freedom of speech. Al-Qaradawi considers homosexuality a sin that should be punished with death, certain forms of female circumcision permissible, and the killing of Israeli civilians a necessary tool of the Palestinian resistance, but also argues that the beliefs and practices of Jews must be respected as fellow ahl al-kitāb. Arabs should be supported in peacefully overthrowing their brutal dictators, but the Bahraini uprising was an Iranian-backed, sectarian exception, and every Sunni Muslim who is able should travel to Syria to fight the Shi’a/’Alawite-dominated regime.

At the time of writing al-Qaradawi is eighty-eight years old, and the last time the author spoke with him in February 2014 appeared to be in failing health. It is unlikely that there will be an intersection of circumstances that would lead an ‘ālim to such a height of popularity as he appeared to enjoy in the wake of the 2011 Egyptian revolution. In highlighting the detail and contexts surrounding al-Qaradawi and his colleagues’ genuine attempts to renew the fiqh tradition, I wonder if a more nuanced and

---

broad-minded reading of the 'ulamā’i’s work by policy-makers, activists, and intellectuals who would be less than receptive might be helpful. Those who perceive themselves as opponents of the 'ulamā’ and what they stand for, both in the region and beyond, might benefit from seeing them not as obstacles, but as partners who share their concerns for a better world, but approach that desire for a very different perspective.
Bibliography


Ahmad, Najah. Interview by David H. Warren, November 12, 2013.


—. *al-Islām waʾl-ʿAlmāniyya Wajhan li-Wajhin: Radd ʿĪlmī ʿalā D. Fuʿād 229*


———. Approaching the Sunna: Comprehension and Controversy. Translated by Jamil


———. Interview by David H. Warren, January 24, 2013.


al-Nahâr. “Qaradawi Expulsé du Qatar… Tamîm Yasḥab al-Jinsiyya al-Qaṭâriyya min


———. “How We Know Early Ḥadīth Critics Did Matn Criticism and Why It’s So Hard to Find.” *Islamic Law and Society* 15, no. 2 (2008): 143–84.


247


——. “Introduction.” In *The Making of the Arab Intellectual: Empire, Public Sphere


———. “The Arab Uprisings: How Were They Different and Why It Matters.”


———. *Homosexuality in Islam: Critical Reflection of Gay, Lesbian, and Transgender*


———. “Establishing a Tradition of Practical Rationality.” In The MacIntyre Reader, edited by Kelvin Knight, 103–52. Notre Dame, IN: University of Notre Dame


94.


Member of al-Qaraḍāwī’s Staff. Letter to David H. Warren. “Personal E-Mail
Communication,” June 9, 2013.


Naguib, Shuruq. “Aisha ‘Abd al-Rahman (Bint al-Shati’) (d.1998) and her approach to tafsir: the journey of an Egyptian exegete from hermeneutics to humanity.” Lancaster University, 2013.


———. *To Be a European Muslim: A Study of Islamic Sources in the European*


Skovgaard-Peterson, Jakob. Defining Islam for the Egyptian State: Muftis and Fatwas of


Steinberg, Guido. “Katar und der Arabische Frühling: Unterstützung für Islamisten und


Wiktorowicz, Quintan. *The Management of Islamic Activism: Salafis, the Muslim


Zebiri, Kate. “Muslim Anti-Secularist Discourse in the Context of Muslim-Christian


