A COMPARATIVE STUDY OF REFORMIST AND TRADITIONALIST CONCEPTIONS OF THE OBJECTIVES OF SHARĪʿA

by

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(Under the Direction of Alan Godlas)

ABSTRACT

A comparison of the ideas of the reformist Muslim thinkers Khaled Abou El Fadl and Tariq Ramadan with those of the more traditionalist scholar Yusuf al-Qaradawi illustrates that, in contrast to what is generally assumed, there is substantial common ground between these reformist and traditionalist positions in four areas; human rights and democracy, women's rights, jihād and peace, and dialogue and collaboration. This consensus among these Muslim intellectuals on these important issues has arisen because they share a theory of interpretation that necessitates the utilization of and reliance upon "objectives of Sharīʿa" (maqāṣid al-sharīʿa) to adjudicate between conflicting points of view. Since these thinkers espouse this methodology of jurisprudence and do not differ substantially concerning their views of the foundational principles of Islam, it becomes possible for them to propound similar ideas regarding the four areas mentioned above.

INDEX WORDS: Khaled Abou El Fadl, Tariq Ramadan, Yusuf al-Qaradawi, Objectives of Sharīʿa, Human Rights, Women Rights, Interfaith Dialogue, Democracy, Jihad

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DEDICATION

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Chapter 1

Introduction: the Significance of Studying "Objectives of Sharī'a"

The idea that Islam has to be reformed in order to rid itself of negative traits and serve as a positive moral force in the world is often invoked by Western scholars and Muslim intellectuals in discussions about the compatibility of Islam and modernity. According to Charles Kurzman and Michaelle Browers, who recently edited a book on this theme, this discourse became visible at the beginning of the twentieth century and since then has become part of the vocabulary of many discussions about Islam's position vis-à-vis Western values.

Kurzman and Browers elucidate the way this discourse was employed by Muslim intellectuals. Such Muslim revivalists as Jamal al-Din Afghani (1838-1897), Sayyid Ahmad Khan (1817-1898), Musa Jarullah Bigi (1875-1949) appealed to the notion of reformation to explain the "progress" of the West vis-à-vis the "underdevelopment" of Muslim societies. They deemed religious values to be the major impetus behind social progress and saw Martin Luther's reformation as the major social force responsible for breaking the intellectual monopoly as well as power of the Catholic Church and thereby paving the way to the socio-economic development of the modern West. Based upon the connection they established between religious beliefs and human development, Muslim revivalists likened the Islam of their times to the Catholicism of the Middle Ages and held Islam to be the major culprit behind the "backwardness" of the Muslim world. They all called for a Muslim Martin Luther who would extirpate all traces of unislamic thoughts and practices within the Muslim world and lead the Muslim world to the prestigious status that it enjoyed in the Golden Age of Islam.

Jarullah Bigi wrote the following in this respect: "Through reformers like Martin Luther, the Christian world entered on the path of progress; meanwhile, through religious scholars and leaders such as Ibn Kemal and Abu Al-Saud, the Muslim world went into decline. That is, while the civilized world progressed through the freedom of reason, through the captivity of reason the Muslim world declined." Sayyid Ahmad Khan articulated the same point when he said, "the fact is that Islam needs not merely a Steele or Addison, but also, and primarily, a Luther." Or Afghani saw "the religious movement raised and spread by Luther" as "the sole cause of Western civilizational progress."[1]

Similarly, Western intellectuals also extensively resort to the notions of reformation in their discussions of compatibility of Islamic and Western values. Due to certain reasons, Islam has a very negative image in the West and it is often associated with harsh punishments, oppression of women, and zealot jihadists. Charles Kurzman in his introduction to his edited volume, *Liberal Islam: A Sourcebook,* contends that classical notions of fanaticism, oriental despotism, backwardness and primitiveness also continue to impact Western societies' perception of Islam to the extent that the term "liberal Islam" sounds as an oxymoron to many.[2] The September 11, 2001 terrorist attacks more powerfully than any other event in the last century brought to the fore notions of "Islamic threat" and reinforced negative images that had already been circulating within Western culture about Islam. In this highly strained emotional atmosphere between Islam and the West, Western academics often hail any Muslim scholar or movement as the Martin Luther of Islam if they deem his ideas to be capable of being an alternative to the prevalent beliefs and practices in the Muslim world. So far, Western

[1] Charles Kurzman and Michaelle Browers, "Introduction: Comparing Reformations," in *An Islamic Reformation?*, eds. Charles Kurzman Michaelle Browers (Lanham: Lexington Books, 2004), 4-5.
[2] Charles Kurzman, "Introduction: Liberal Islam and Its Islamic Context," in *Liberal Islam: A Sourcebook*, ed. Charles Kurzman (New York; Oxford: Oxford University Press, 2004), 3.

academics and journalists evaluated Syrian author Muhammad Shahrour (born 1938), European intellectual Tariq Ramadan (born 1962), Iranian thinker Abdulkarim Soroush (born 1945), and Turkey's Justice and Development Party as the Martin Luthers of Islam; and Westerners have believed that—similar to the Martin Luther—these people are reforming their religion and offering ideas that are capable of leading Muslim societies from their ill-fated situation.[3]

In this thesis, I primarily am aiming to contribute to this debate (about whether Islam needs a reformation or not in order to reclaim its humanistic dimensions) through a close analysis of the views of two reformist thinkers (Khaled Abou El Fadl and Tariq Ramadan) and one traditionalist thinker (Yusuf al-Qaradawi) on human rights, democracy, *jihād*, and interfaith dialogue. In my analysis of the thoughts of these thinkers, I challenge the dichotomy established between "ossified tradition" and its "reformist saviors" by pointing out both traditionalist roots of reformist thinkers and the progressive opinions of traditionalist scholars. In my thesis, I argue that a consensus between reformist and traditionalist Muslim scholars is emerging within Muslim societies with regard to four areas mentioned above due to the adaptation of the Islamic tradition's doctrine of the "objectives of Sharīʿa" (*maqāṣid al-sharīʿa*) by Muslim scholars as an epistemological yardstick to adjudicate between competing points of view. In this thesis I argue that only because Fadl, Ramadan, and Qaradawi espouse the "objectives of Sharīʿa" as the most significant indicator of an authentic and faithful jurisprudence does it become possible for them to concur in these four areas. In the following chapters of my thesis, I substantiate this argument and first show how they use "objectives of Sharīʿa" to substantiate a universal human rights discourse and envision a democratic state

[3] Charles Kurzman and Michaelle Browers, "Introduction: Comparing Reformations," 6.

that does not discriminate against anyone on the basis of his/her religious affiliations. Second, I explain how their strict adherence to "objectives of Sharīʿa"-based reasoning enables them to denounce the seclusion of women in some Islamic countries and argue for the necessity of creating opportunities for women to pursue their own interests and to contribute to the Islamic causes. Third, I explain how their assessment of peace as an "objective of Sharīʿa" leads all these scholars to reject offensive conceptions of *jihād* and put forward peace as the ideal state of international relations. Fourth and finally I show the intrinsic link between their "objectives of Sharīʿa"-informed epistemology and their belief in the permissibility of dialogue and collaboration between Muslims and non-Muslims.

By demonstrating these commonalities between reformists and traditionalists, I argue for revising the oft-repeated arguments that stipulate reformation of Islamic tradition as the *sine qua non* of Islam's ability to offer a humanistic discourse to the world. In this thesis, however, I restrict my argument to those four areas and do not make the argument that the Islamic tradition's conception of good society agrees completely with standards of human rights that are enshrined in international law. It is a well-known fact that traditional Islamic law differs from international law in terms of its assessment of family law, criminal punishment, and some other issues; and scholars of comparative law have addressed these issues in their books.[4] What I underscore in this thesis, however, is that these differences should not blind us to the progressive opinions that traditionalist scholars offer without

[4] For a comparative study of different perspectives of international law and Islamic law on women rights and rights of religious minorities and freedom of religion see: Ann Elizabeth Mayer, *Islam and Human Rights: Tradition and Politics* (Boulder: Westview Press, 2007). For a comparative study of international law's and Islamic law's assesments of civil, political, economic, cultural and social rights see: Mashood A. Baderin, *International Human Rights and Islamic Law* (Oxford; New York: Oxford University Press, 2003). For a comparative study of Islamic family laws and international human rights standards see: Javaid Rehman, "The Shariah, Islamic Family Laws and International Human Rights Law: Examining the Theory and Practice of Polygamy and Talaq," *International Journal of Law, Policy and the Family* 21, no.1 (2007): 108-127.

compromising the traditional methodology of Islamic law. In addition, I maintain that the four areas mentioned above (human rights, democracy, *jihād*, and interfaith dialogue) are among the issues in which these progressive opinions are particularly evident.

The major argument that I make in this thesis –that traditionalist Muslim scholars can substantiate progressive ideas on aforementioned four areas without compromising traditional methodology of Islamic law- also has important implications with regard to advancing human rights in Muslim societies. Since many Muslims still follow teachings of classical schools of law, if the doctrine of human rights is explained within the parameters of the traditional Islamic framework (rather than simply from the perspective of liberal humanism), it will be more likely to convince traditionalist Muslim masses to become effective exemplifiers and protectors of humanitarian values (values that the Islamic tradition has upheld). As evidence for this, I argue that Yusuf al-Qaradawi justifies human rights issues with arguments that adherents of traditional Islam also would accept.

In the following chapters, I will discuss in detail Fadl's, Ramadan's and Qaradawi's thought. I will first explain their concerns, goals, and ambitions to provide background for understanding their ideas. Then, I will show how they each use the doctrine of "objectives of Sharī'a" to substantiate their opinions, in particular, in the four areas mentioned above: human rights, democracy, *jihād*, and interfaith dialogue.

Chapter 2

Khaled Abou El Fadl's Counter-*Jihād* against Puritanism

Khaled Abou El Fadl is a contemporary Muslim thinker[5] who is known for his efforts to formulate a moderate Islamic perspective and to counter the tide of extremism that has grown in the soils of Islam over the recent decades. Fadl devotes all of his writings to refuting extremists' justifications of an exclusivist and intolerant conception of Islam. He thinks that developing and promoting a moderate Islamic vision is an urgent task because puritans[6] have significantly damaged almost beyond repair the image of Islam in the world; and unless moderates take a stance against this exclusivist understanding of Islam, the cause for Islam will be lost once and for all.

In this first chapter of my thesis, I will first explain Fadl's account and criticisms of the puritans' mindset, puritans' practice of Islamic jurisprudence, and then the manner in which Fadl uses objectives of Sharīʿa to challenge puritans' interpretations of Islam and offer alternative perspectives on women rights, jihād, interfaith dialogue, democracy, and the rights of non-Muslims.

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[5] The recent book edited by John Esposito and Ibrahim Kalin chose Fadl as one of the 500 most influential Muslims in the world. The book introduces him in the following way: "Abou El Fadl is a leading authority on Islamic law and Omar and Azmeralda Alfi Professor at UCLA law. He often acts as an expert witness in international litigations involving Middle Eastern law and was appointed by President George W. Bush to the US Commission on International Religious Freedom. His work is widely read by American Muslim youth." See *500 Hundred Most Influential Muslims*, ed. John Esposito and Ibrahim Kalin, http://www.rissc.jo/docs/muslim500-1M-lowres3.pdf (accessed December 24, 2009), 101.

[6] Fadl prefers using the term "puritans" instead of the terms fundamentalists, militants, radicals, fanatics, Islamists to describe the extremist movements in Islam. He says that the distinctive features of these groups are "the absolutist and uncompromising nature of their beliefs" and their "intolerance of competing points of view." For a discussion of the explanatory power of all these terms to make sense of extremism in Islam see: Khaled Abou El Fadl, *The Great Theft Wrestling Islam from the Extremists* (New York: HarperSanFrancisco, 2005), 18-21.

Fadl's Contentions about the Puritanical Mindset

One of Fadl's original contentions about puritanical movements is that these movements espouse what he calls the "theology of power" as a response to Western colonization. In order to provide an effective response to the defeat of Muslims by western powers and the radical humiliation of Muslim honor over the last century, puritans engage in "symbolic displays of power."[7] According to Fadl, 9/11, the destruction of the Buddha statues by Taliban, and even the confinement of women to the private sphere in the Saudi Arabia are manifestations of puritans' ambition to demonstrate the magnitude of the Muslims' power to the world. These groups' fundamental goal is to restore Islam's power in the world, and they do not hesitate to resort to immoral means for the sake of attaining this aim. They legitimize their actions by appealing to the notions of emergency and necessity. According to puritans, given the present unequal power distribution between the West and the Muslim world, the only way to fight the West is through a non-conventional war.[8]

Fadl strongly condemns the theology of power in his writings. He argues that in Islam the ends do not justify the means. Suspending the severe restrictions Islam puts on warfare for the sake of attaining power is illegitimate from an Islamic point of view. Islam does not prescribe to its followers one set of behaviors when they are victims and another one when they are powerful: being a Muslim requires integrity and consistency. This puritan logic of necessity has opened Pandora's box and divested Islam of its moral core. Fadl emphatically

[7] Khaled Abou El Fadl, "The Orphans of Modernity and the Clash of Civilizations", *Global Dialogue*, 4, no. 2 (2002): 10-11.
[8] Khaled Abou El Fadl, *The Great Theft*, 246-247.

calls puritans to denounce their theology of power and to espouse a political methodology that is not divorced from the moral principles of Islam.

Puritans and Islamic Jurisprudence

Apart from the logic of necessity and the theology of power they adhere to, puritans also refer to the Quranic verses and hadiths that justify their perspectives on espousing an exclusivist and intolerant conception of Islam. Fadl sees many problems with the puritanical approach to Islamic jurisprudence as well.

First, according to Fadl, the puritanic approach to Islamic law is unsystematic and opportunistic. There is a not a general hermeneutical principle that is used consistently by puritans to extract rulings from the Qur'an, *Sunnah*, and Islamic tradition.[9] Borrowing a phrase from renowned Egyptian jurist Muḥammad al-Ghazālī, Fadl defines the puritan practice of Islamic law as one of "hurling hadiths." Puritans search for a saying of Muhammad that will support their own view and hurl that saying at their opponent. This is the beginning and end of their whole process of Islamic jurisprudence.[10]

When puritans come across a verse in the Qur'an or a saying of Muhammad that contradicts what they say, they resort to the theory of abrogation (*naskh*) in Islamic law, saying that the verses they rely on have abrogated the other verses or hadiths. Fadl claims that the usage of the doctrine of abrogation by puritans is sheer arbitrariness. According to Fadl, one cannot simply dismiss numerous verses by appealing to the theory of abrogation.

For example, according to the Fadl, puritans refer to the verse in the Qur'an that says, "For, if one goes in search of a religion other than self-surrender unto God, it will never be

[9] Khaled Abou El Fadl, *Speaking in God's Name Islamic Law, Authority and Women*, (Oxford: Oneworld, 2005), 175.
[10] Fadl, *The Great Theft*, 88-94.

accepted from him, and in the life to come he shall be among the lost" (Qur'an 3:85) to justify an offensive war and to argue that Muslims should wage war against other people until the whole world accepts the sovereignty of Muslim powers. At the same time, puritans are also aware that there are some verses in the Qur'an that command Muslims to seek peace, minimize violence and wage war as a last resort. Puritans dismiss all these verses by saying that they were abrogated by this one verse. This is hardly a convincing argument according to Fadl.[11]

According to Fadl, what puritans actually do is to read their "frustrations and aspirations" into the text.[12] Instead of trying to understand the overall message of the text, in a manner similar to "hadith hurling," they look for a verse that they think can support their opinion and ignore other verses that contradict their beliefs. Fadl finds the puritans' claim of going back to the main sources of Islam hypocritical given the fact that they abuse the authority of the text to legitimize their objectionable beliefs.

In addition to failing to see the overall message of the text, Puritans also present their own interpretations as if they are the word of God and look down upon any other interpretation. Fadl finds problems with this authoritarian tendency in puritanical scholars and affirms what he describes as the anti-authoritarian and open-ended character of classical Islamic law.[13] According to Fadl, interpretive authoritarianism of the puritanical conception of Islamic law stands in stark contrast to classical Islamic jurisprudence, which is authoritative but not authoritarian. Fadl asserts that classical Muslim jurists laid down the qualifications for making legal judgments, namely for being qualified to speak authoritatively in the name of

[11] Fadl, *The Great Theft*, 240-241.
[12] Khaled Abou El Fadl, "Islam and the Theology of Power," *Middle East Report*, no.221 (2001): 33.
[13] Fadl, *Speaking in God's Name*, 170.

God; and in this way, they ruled out whimsical and idiosyncratic ways of reading the Qur'an and hadith. In addition, they refrained from equating their judgments with Divine Will and at the end of a diligent search for God's law; they said, "God knows best."[14]

According to Fadl, many jurists in the classical age of Islam underscored the *process* of searching for Divine law rather than the *results* of that search. Human beings are obliged to search for Divine law, but they are not expected to find the truth. Scholars are considered correct in their opinion as long as they have diligently searched the divine law. Different opinions on the same issue were regarded as correct and were respected as long as they fulfilled the requirements of extracting rules from Islam's primary texts. [15]

This was the reasoning behind the commonly quoted statement of Islamic Jurisprudence: "every *mujtahid* (one who practices *ijtihād* [independent judgment])[16] is correct."[17] Every *mujtahid*'s being correct does not mean that there are multiple truths. Muslims believed there is just one truth in the Divine Mind, but for the most part human beings are not capable of reaching that truth. As al-Juwaynī said, "The most a *mujtahid* would claim is a preponderance of belief and the balancing of evidence. However, certainty was never claimed by any of the early jurists... If we were charged with finding the truth we would not have been forgiven for failing to find it." So, for Juwayni and many others, all God expects from human beings is to diligently search. God's law is what scholars would approach at the end of their search.[18]

[14] Ibid., 32-40.
[15] Ibid. 32-34.

[17] Ibid. 33.
[18] Ibid. 149.

Building on the classical notions of truth and authority, Fadl develops his theory of authoritativeness and discusses when authoritative turns into authoritarian. Fadl puts forward five conditions necessary to speak in the name of God. According to Fadl, one can be considered to have fulfilled his duty before God if he or she fulfills the following conditions: honesty, diligence, comprehensiveness, reasonableness and self-restraint. Honesty refers to a scholar's honest and faithful representation of God's instructions. This means that a scholar should not distort or conceal the instructions in the texts nor should he replace the instructions with another set of instructions.[19] Second, being diligent requires a scholar to expend whatever energy is necessary to discover and to understand the evidences in the texts, to the point that he or she is able to defend his/her efforts before God in the hereafter. Fadl adds that the duty of diligence increases in direct proportion to the extent that the law affects the rights of others. The more the rights of others are affected, the harder the scholar should strive to discover the truth.[20] The third condition of comprehensiveness requires that a scholar search for all instructions related to a particular problem and not to dismiss or neglect some evidences.[21] Fourth, reasonableness requires a scholar to analyze and to interpret the instructions of God in a way that will show respect towards established communities of meaning and towards the integrity of the text itself. Using a concept developed by Umberto Eco, Fadl states that one should not "overinterpret" the text by extracting from it an instruction that is not supported by the overall message of the text.[22] The last condition, self-restraint, requires a scholar to admit that no matter what effort he or she expends on a particular problem, it is not possible fully to encompass Divine law. There may always be

[19] Ibid., 54.
[20] Ibid. 54-55.
[21] Ibid. 55.
[22] Ibid. 55-56.

different perspectives on an issue. At the end of his/her research, a scholar should express the Islamic phrase, "God knows best."[23]

According to Fadl, these requirements constitute the basis of authority in Islam. Common people can trust those scholars who have fulfilled these conditions, and any violation of these conditions undermines a scholar's authority and right to speak in the name of God. Interpretive authoritarianism emerges whenever a scholar violates one of these conditions. Fadl believes that understanding the Divine will is beyond our capacity as human beings, and because of this, all attempts to articulate a final word about any particular Islamic problem is an authoritarian enterprise. Human beings do not have a right to close the text. [24]

In order to prove his claims about the authoritarian understanding of Islamic law by puritans, Fadl analyzes some of the juristic responses written by some Saudi Arabian jurists about the proper relationship between men and women. In his detailed discussion of these responses, Fadl illustrates how the authoritarian dynamic functions in practice. In all of their responses about the role of women in family and society, Saudi Arabian jurists perpetuate patriarchal notions and confine women to the home. By selectively approaching the evidence in the texts of Islam and overlooking much evidence that may undermine their opinions, these scholars violate the conditions of honesty, diligence, and comprehensiveness. For instance, Saudi Arabian jurists prohibit women visiting graves, basing their argument on a particular hadith. Fadl contends that the prohibition of visiting graves is only a minority opinion in the history of Islamic law. According to Fadl, the majority of the scholars allowed visiting graves. But the Saudi jurists whom Fadl discussed do not refer to the any of these counter-arguments, presenting their opinion as if it is the only perspective about this issue in history of Islamic

[23] Ibid., 56.
[24] Ibid. 146-47.

law. Another example that Fadl gives is the prohibition against driving for women. Some Saudi Arabian jurists on the basis of the principle of "blocking the means" (*sadd al-dharīʿah*) do not allow women to drive cars. They argue that if women are allowed to drive, then this might give rise to *ikhtilāṭ* (mixing of unmarried men and women) and *khalwah* (illicit privacy between man and woman) which are forbidden in Islam. Therefore, according to these jurists it is better for women to stay at home than go out by driving car. Fadl states that these jurists in this situation juxtapose two competing interests and expect women to sacrifice their individual interests for collective interests. Consequently, in order to prevent *fitna* (societal disorder), they deprive women of one of their fundamental rights, mobility. Fadl opposes this kind of argumentation that Saudi Arabian jurists extensively use. Basically, he says that he cannot understand why women are always asked to pay the price in order to avoid situations that might cause temptation for both sexes. According to Fadl, puritan jurists also do not disclose the fact that they themselves are the ones who are juxtaposing different interests. Instead, they talk about their judgments as if they are God's commands. Therefore, asserts Fadl, they in fact violate the conditions of honesty and self-restraint, conditions that, as I have noted, are among the five qualities that Fadl asserts are essential to legitimately having an authoritative viewpoint.[25]

Puritans justify most of their judgments about women with reference to some hadiths.[26] Fadl finds these hadiths demeaning to women[27] and he says that they require a "conscientious

[25] Ibid., 180-183, 188-192.

[26] Ibid. 209-263.
Some of the hadiths that puritans quote are the following:
"The passage of a woman, donkey, and black dog in front of a man, invalidates his prayer." *Translation of Sahih Muslim*, Book 004, Number 1034,
http://www.msawest.net/islam/fundamentals/hadithsunnah/muslim/004.smt.html.

pause" and "faith based protest" by anyone who hears them. Fadl reminds puritans of the objectives of Islamic law like equality and justice and criticizes them for basing their judgments on these solitary pieces of evidence. He also questions the authenticity of these hadiths. Referring to the distinction between hadiths of singular transmission and hadiths of multiple transmissions, Fadl claims that the *Sunnah* (which in many cases was transmitted by hadiths that have only a single chain of transmission) has a lower level of authenticity than does the Qur'an (which was transmitted by multiple transmissions).

Fadl develops what he calls the proportionality principle as a way of limiting the influence of hadiths of singular transmission. He says that those hadiths that have a greater

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"Take good care of women, for they have been created from a crooked rib, and the most crooked part of a rib is its upper part. If you try to straighten out a rib, you will break it and if you leave it will remain crooked. So, take good care of women," See *Translation of Sahih Bukhari*, Volume 4, Book 55, Number 548 http://www.msawest.net/islam/fundamentals/hadithsunnah/bukhari/055.sbt.html Volume 7, Book 62, Numbers 113 and 114 http://www.msawest.net/islam/fundamentals/hadithsunnah/bukhari/062.sbt.html and *Translation of Sahih Muslim*, Book 008 Numbers 3466 and 3467, http://www.msawest.net/islam/fundamentals/hadithsunnah/muslim/008.smt.html.

Fadl also finds demeaning those hadiths that assert that majority of the inhabitants of the Hell are women. For these hadiths, see *Translation of Sahih Bukhari*, Volume 7, Book 62, Number 125 and 126, http://www.msawest.net/islam/fundamentals/hadithsunnah/bukhari/062.sbt.html.

Fadl also problematizes those hadiths that appear to stipulate women's obedience to their husbands as a precondition of their salvation: "Any woman who dies while her husband is pleased with her enters Heaven," Fadl, *Speaking in God's Name*, 219.

"If a woman prays five times a day, fasts Ramadan, obeys her husband, and guards her chastity, she will enter Heaven," Fadl, *Speaking in God's Name*, 219.

Fadl also problematizes those hadiths that command women to obey their husbands and that underline the rights of husbands over their wives:

"If a man calls his woman to bed, and she refuses to come, the angels will continue to curse her until the morning," *Translation of Sahih Bukhari*, Volume 7, Book 62, Number 121, http://www.msawest.net/islam/fundamentals/hadithsunnah/bukhari/062.sbt.html.

"It is not lawful for anyone to prostrate to anyone. But if I would have ordered any person to prostrate to another, I would have commanded wives to prostrate to their husbands because of the enormity of the rights of husbands over their wives," *Translation of Sunan Abu-Dawud*, Book 11, Number 2135, http://www.msawest.net/islam/fundamentals/hadithsunnah/abudawud/011.sat.html.

[27] Fadl, *Speaking in God's Name*, 209.

impact on the ideas and practices of Muslims should have a high degree of authenticity.[28] Fadl states that Muslims cannot base such an important issue as the relationship between genders on hadiths of singular transmission.

Actually, for Fadl, whether these hadiths are deemed authentic or not by the scholars of hadith even does not matter. He rejects these hadiths based on what he calls his "faith-based assumptions." According to Fadl, the God and His messenger that he believes in cannot command something that requires a "conscientious pause." God and his Messenger represent beauty, and, therefore, the law they revealed cannot be ugly. He affirms that the content of all those hadiths are irreconcilable both with Muhammad's family life as we know it as well as the ethical objectives of the Qur'an. He questions the reliability of those hadiths with his conviction concerning the message of the Prophet and the Qur'an. According to Fadl, the Qur'an and Muhammad challenged conservative and oppressive power structures; and because of this, those hadiths that might be used to justify the domination of women by men should not be taken as the authentic words of Muhammad.[29]

Based upon these considerations, according to Fadl, even if classical hadith scholars deemed some of these hadiths authentic, it is incumbent upon the modern Muslim community to reinvestigate the history of the canonization of these controversial hadiths so that we can learn how and why these hadiths survived despite the fact that they contradict Islamic message.

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[28] Fadl, *Speaking in God's Name*, 217.

[29] Concerning some reports that state that the Prophet permitted the men to beat women, Fadl makes a similar point and states "The reports must be of impeccable and resounding authenticity in order for me to accept them, and thus, I do not accept them. My sister, these are chauvinistic traditions injected into Islam by people who lacked understanding. *I don't care what the pharmacists of Islam (the scholars of hadith) say about their authenticity, I will apply a more demanding and probing standard because these reports are not consistent with what I know about the Prophet's character, or the circumstances of his marriage to Sawdah, or the treatment of his wives, or the nature of his mercy and compassion*" (emphasis mine). See Khaled Abou El Fadl, *The Search for Beauty in Islam: A Conference of the Books* (Lanham: Rowman & Littlefield Publishers, 2006), 121.

It can be inferred from Fadl's writings that in order to not repeat the mistakes of the puritans' jurisprudence, in addition to fulfilling the five conditions - honesty, diligence, comprehensiveness, reasonableness and self-restraint-, the scholars should also master the doctrine of "the objectives of Sharī'a" *(Maqāṣid al-Sharī'ah)* so that their judgments can be more harmonious with the overall message of the Qur'an.[30] Even though Fadl does not make this point in his discussion of the condition of reasonableness, according to my reading, Fadl uses objectives of Sharī'a to evaluate the degree of reasonableness and legitimacy of any interpretation of Islamic sources.

Fadl's Conception of the Objectives of Sharī'a

Fadl, in his writings, uses objectives of Sharī'a in three different ways. First, he refers to classical Islamic law's theory of protected interests / benefits *(maṣlaḥa)*, and in this regard discusses Islamic conception of human rights; second, he puts forward objectives that Muslim societies should take into account in regulating human interactions; and third, he explains those religious and moral objectives that a believer should strive to attain.

First, with regard to the issue of human rights, Fadl states that Islamic law aims to promote and protect the following five or six fundamental interests of human beings. These are religion, life, intellect, lineage, honor and property.[31] Fadl adds that even though Muslim jurists historically did not use the term "rights," what they said about protecting the welfare of humans more or less corresponds to the modern western notion of rights. Fadl, in his writings, does not give an exhaustive list of rights that an Islamic society is supposed to secure.

[30] For an account of the development of the doctrine of the "Objectives of Sharia" in classical Islamic law see Felicitas Opwis, "Islamic Law and Legal Change: The Concept of Maslaha in Classical and Contemporary Islamic Legal Theory," in *Shari'a Islamic Law in the Contemporary Context*, ed. Abbas Amanat and Frank Griffel, 62-82, (Stanford: Stanford University Press, 2007).

[31] Fadl, *The Great Theft*, 187, Khaled Abou El Fadl, "Constitutionalism and the Islamic Sunni Legacy*", UCLA Journal of Islamic and Near Eastern Law*, 67 (2001): 88-89.

Nevertheless, he says that six protected interests are a good starting point for thinking about human rights, and he urges Muslim community to complement the six interests by developing a "coherent set of human rights for the modern age" based upon the Islamic principles.[32]

Second, in terms of regulating the interactions of human beings, Fadl asserts that the Islamic tradition upheld the principles of equality and justice as ideals that Muslim societies should strive to achieve. In this sense, achieving equality, equity and justice in any society is also one of the objectives of Sharīʿa. [33]

Third, in terms of individual piety or morality, Fadl develops the notion of Godliness and says that Islam aims to inculcate the attributes of God such as mercy, justice, goodness, compassion and beauty in individuals. According to Fadl, the ultimate purpose of life for a believer is to acquire the attributes of God and to spread these attributes to other people by practicing the Islamic commandment to "enjoin good and forbid evil." This is the opposite of "corrupting the earth" which was condemned by the Qur'an as one of the gravest sins.[34]

In Fadl's jurisprudential theory "Objectives of Sharīʿa" become the ultimate standard and criterion against which every ruling in the Qur'an, hadith, and the schools of law should be judged. Any interpretation that reads into the Qur'an and hadith, inequality, injustice, oppression, misogynism is "overinterpreting" the text, and, therefore, it should be rejected. Only those teachings in the Islamic tradition that pass the standards embodied in the "objectives of sharīʿa" should be perpetuated in the modern world. As Fadl affirms, justice,

[32] Khaled Abou El Fadl, *The Great Theft Wrestling Islam from the Extremists*, 190.
[33] Ibid., 156-157, 186-187.
[34] Ibid. 129-130.

equity, and mercy should define Islamic law rather than Islamic law attempting to define these principles.[35]

With regard to the question of who will determine what justice, equity or mercy is in any particular situation, Fadl seems to argue that human intellect, conscience and humans' sense of beauty and ugliness, and one's faith based assumptions are sufficient to lead humans *toward* making the right decision in any problem. As mentioned above, Fadl rejected those hadiths based upon his assertion that they go against his understanding of mercy, justice, equality, goodness, compassion, and beauty. Fadl also argues for the necessity of reinterpreting some rulings explicitly mentioned in the Qur'an that according to him no longer serve the objectives of justice and equality.

Examples of "Objectives-based Reasoning" in Fadl's Thought: His views on Women Rights, *Jihād*, Interfaith Dialogue, Democracy and the Rights of Non-Muslims

Fadl argues that rulings in the Qur'an should be seen as the application of ideals of justice and equality in the unique context of seventh century Mecca. Muslims can continue to practice them as long as they promote and protect the objectives for the sake of which they were revealed. And when we deem that they do not protect those objectives, there is no need to continue practicing them. Each generation of Muslims should figure out new means to achieve those goals. Since societies always evolve, sticking to the historical models might betray the objectives of the law.[36]

For instance, according to Fadl, the law of inheritance in Islam should be rethought in line with modern developments in the participation of women to the labor force. Since, in modern societies, women have begun to carry a financial responsibility as much as men, the

[35] Ibid. 156-159.
[36] Fadl, *The Great Theft*, 155-161, 263-264.

principles of justice and equality necessitate that men and women should receive the same amount from the inheritance.[37] Apart from inheritance law, Fadl also states that the epistemological position he adopted would not tolerate the following practices that—according to him—puritans advocate: "testimony of women counts as half that of men in court; the rights of women upon divorce are extremely limited; men at their absolute discretion may take up to four wives with or without cause; shockingly criminal penalties can be applied unjustly and without justification."[38]

Again based on his objectives-informed mindset, Fadl denounces the seclusion of women in some Muslim countries. Fadl rejects the puritans' justifications for the seclusion of women and affirms that God did not create women to serve men, be they husbands, fathers, or brothers. The Qur'an does not attribute superiority or inferiority to the category of gender. Men and women will be rewarded or punished according to their deeds, and both of them have access to God's grace and beneficence. God expects both men and women to internalize the Islamic virtues (Godliness), to enjoin the good and forbid evil, and to contribute to the well being of their societies. In this sense, when Muslim men confine women to the home and deprive them of opportunities for religious and secular education, they violate the objectives of Sharīʿa.[39]

Another teaching of Islamic tradition that Fadl rejects by relying on the concept of the "objectives of Sharīʿa" is the division of the world into two abodes by Muslim jurists: the abode of war and the abode of Islam. According to Fadl, this division presumed that Muslims and non-Muslims are in a perpetual state of war and that Muslims must either defeat non-Muslims'

[37] Ibid. 264.
[38] Ibid., 159.
[39] Ibid. 257-262.

armies or they will be defeated and subjugated by non-Muslims. So, unless otherwise proven, every non-Muslim poses a threat to Muslims. Fadl states that this division of world into two abodes had a tremendous impact on the emergence of the puritan mentality. Puritans generally justify offensive understandings of *jihād* with reference to this doctrine of two abodes. According to Fadl, this division had to do with the historical circumstances that the jurists lived in rather than being a logical consequence of Qur'anic teachings. Fadl asserts that Muslims historically fought non-Muslims not because of their unbelief but because of the physical threat they posed to Muslims. Qur'an allowed Muslims to fight against polytheists because of the fact that polytheists attacked them first. If polytheists or non-Muslims in general do not fight against Muslims, there is no reason for fighting against them.[40] According to Fadl's reading, Qur'an idealizes peace and sees war as a deviation from ideal social conditions and a primary contributor to corruption of the beauty of God's creation. According to Fadl, if all the verses in the Qur'an related to warfare/conflict are closely studied, it can be inferred that Qur'an always prioritizes non-violent means of solving human conflicts.[41] The Qur'an allows people to resort to war only after exhausting all other non-violent means of conflict resolution. Based on this reasoning Fadl asserts that the *de facto* state of international relations between Muslim and non-Muslim states need not be war.

According to Fadl, based on many verses in the Qur'an, an argument can even be made for interfaith dialogue within Islamic tradition. The Qur'an agrees that religious diversity is

[40] Khaled Abou El Fadl, "Peaceful Jihad", in *Taking Back Islam: American Muslims Reclaim Their Faith*, ed. Michael Wolfe and the producers of Beliefnet, 38 (USA: Royale, 2004).

[41] Fadl quotes following verses to substantiate his argument: "And fight in God's cause against those who wage war against you, but do not commit aggression-for, verily, God does not love aggressors." (2:190), "The good deed and the evil deed are not alike. Repel the evil deed with one which is better" (41:34), "if they incline to peace, incline thou to it as well, and place thy trust in God: verily, He alone is all-hearing, all-knowing!" (8:61).

inevitable;[42] and it forbids Muslims to attempt to change this diversity by using force. But this does not mean that Muslims should remain indifferent to their non-Muslim neighbors. The Qur'an calls Muslims to invite people to recognize one God and to reject domination of one group of people by another.[43] Even if non-Muslims do not recognize the message of Islam, Muslims should still engage in dialogue and seek ways of collaboration with them on the basis of other values that are common to different religious traditions. Such moral virtues as justice, mercy, compassion, and beauty embodied in the term "Godliness" are part and parcel of the different religious traditions; and these commonalities can be the ground for collaboration. According to Fadl, this approach is better for Muslims than puritans' suggestion to cut off all of one's connections from the surrounding non-Islamic culture. This approach has also Qur'anic justifications according to Fadl. According to one verse in *Sūrat al-Mā'ida*, if God had willed he would have made all people "one single community", but he did not. Therefore, for the time being, instead of imposing their beliefs on others, people should "vie with one another in doing good works!" (Qur'an 5:48). God will show them the truth of the matters in which they disagree.

Fadl also makes use of *maqāṣid* (objectives) in providing a justification for democracy. First of all, Fadl states that Qur'an does not stipulate the establishment of any particular political system. It rather commands Muslims to pay attention to some general principles in ruling societies. Muslims should evaluate the legitimacy and desirability of any political system according to its capacity to promote and protect the objectives of Sharī'a. Fadl asserts that an

[42] Fadl quotes the following Qur'anic verse in relation to this idea: "Unto every one of you have We appointed a [different] law and way of life. And if God had so willed, He could surely have made you all one single community: but [He willed it otherwise] in order to test you by means of what He has vouchsafed unto, you." (5:48)

[43] "Say: "O People of the Book! come to common terms as between us and you: That we worship none but Allah; that we associate no partners with him; that we erect not, from among ourselves, Lords and patrons other than Allah" (Qur'an 3:64).

argument for democracy can be made within Islamic tradition because constitutional democracies compared to other alternative political regimes can better guarantee Islamic ideals of equality and justice.

First, the constitutional character of democracies ensures that individuals' rights are protected by the state and protection of these rights is not left to the discretion of individuals. Constitutionalism parallels Islamic law's condemnation of despotism and whimsical and autocratic governance.[44] Second, democracies are based upon the principle of accountability and thereby they offer the mechanisms for redressing unjust policies that are implemented in the societies.[45] Third, democratic decision-making allows the representation of different views in the political arena and therefore tolerates dissent. This is also closer to the Islamic principle of 'consultation" (*shūrā*), which mandates taking into account the concerns of different people.[46]

For these three reasons, democracy is preferable to non-democratic systems, which cannot be held accountable for their violation and abuse of human rights. Fadl also points out the close relationship between justice and his notion of Godliness. According to Fadl, the absence of justice makes pursuit of Godliness almost impossible. Those societies that discriminate against their citizens spread negative traits among people and produce individuals who start resorting to illegitimate means in order to survive and achieve their interests. Without the establishment of a just political system that protects the dignity and

[44] Khaled Abou El Fadl, "Islam and the Challenge of Democracy", in *Islam and the Challenge of Democracy*, ed. Joshua Cohen and Deborah Chasman, 6, 17 (New Jersey: Princeton University Press: 2004).
[45] Ibid. 6-7.
[46] Ibid. 18.

rights of each individual, individuals cannot be expected to pursue the religious path and achieve spiritual perfection.[47]

In order to achieve the objective of equality, Fadl also suggests abolishing the poll tax that was demanded from non-Muslims (*ahl al-dhimma*) in classical Muslim societies. He says that poll tax is not a Quranic commandment but rather a "functional solution that was adopted in response to a specific set of historical circumstances." It was a tax paid by non-Muslims in return for the protection of Muslim state that they received. There are examples in Islamic history that show that when Muslims could not protect the non-Muslims living under their authority, they did not ask them to pay the tax. In any case, it never meant to subordinate and degrade non-Muslims, as puritans think.[48] With the rise of modern state, this tax become obsolete because Muslims and non-Muslims are all considered citizens who have the same rights and obligations. An Islamic state should also conform to this model. Also, non-Muslims should be granted the right to build new churches, and they should not be asked to wear distinctive insignia in contemporary Islamic states. Doing the opposite would be demeaning to non-Muslims and would thereby violate the Islamic objective of protecting the dignity of every individual.[49]

Conclusion

Fadl's writings illustrate the significance of using the concept of "objectives of Sharī'a" for providing an Islamic justification for universal human rights discourse, democracy, interfaith dialogue, and world peace. By making use of the fundamental principles of Islam embodied in the concept of objectives of Sharī'a, Fadl challenges puritans' exclusivist and

[47] Fadl, *The Great Theft*, 186.
[48] Khaled Abou El Fadl, "The Place of Tolerance in Islam", in *The Place of Tolerance in Islam*, ed. Joshua Cohen and Ian Lague, 21-22 (Boston: Beacon Press, 2002).
[49] Khaled Abou El Fadl, *The Great Theft*, 214.

intolerant conception of Islam and lays out the theoretical foundation for reforming Muslims' way of thinking with regard to aforementioned areas.

Chapter 3

Tariq Ramadan and Islam's Universal Vision

In the second chapter of my thesis, I will examine the views of prominent Muslim thinker Tariq Ramadan,[50] his criticisms against the conservative and reformist groups in Muslim societies, his call to Westerners to recognize the value of Islam, his ideas about the necessity of reforming the methodology of Islamic law and finally how he uses the doctrine of the objectives of Sharīʿa to substantiate a humanitarian Islamic perspective and urge Muslims to be more effective actors in social, economic and political life of the countries where they live.

Ramadan's Intellectual Concerns

Similar to Fadl, Tariq Ramadan offers a theoretical rebuttal of the arguments of extremist movements within Islamic world. But for Ramadan the malaise of the Islamic world cannot be attributed solely to the extremist groups. Whether moderate or extremist, Ramadan in general finds substantial problems in majority of the Muslims' engagement with modernity.

Ramadan contends that there are two prevailing attitudes towards West within Muslim societies. First, according to Ramadan, many Muslims in the Europe and majority-Muslim societies see no common ground between Islam and the West. They conceptualize Islam's relationship to modernity through the difference, otherness, and confrontation. This rejectionist attitude translates to the politics of self-preservation for Muslim communities

[50] Esposito and Kalin introduces Ramadan with the following statements: "Tariq Ramadan is a leading European intellectual who is influential as a reformist Muslim academic and a prolific writer on Islam. He is an outspoken proponent for the development of a 'European Islam' and a distinct religious identity for the Muslims living in Europe." See See *500 Hundred Most Influential Muslims*, eds. John Esposito and Ibrahim Kalin http://www.rissc.jo/docs/muslim500-1M-lowres3.pdf (accessed April 4, 2009), 85.

living in Europe.[51] Similarly, many Muslims living in majority-Muslim countries reject everything that comes from the West and try to offer their Islamic alternatives. Ramadan identifies six major schools of thought in contemporary Islam and says that three of them—namely scholastic traditionalism, salafi literalism and political literalist salafism—perpetuate this rejectionist attitude.[52] On the other hand, according to Ramadan there are also many Westerners who espouse the same attitude and understand Islam and the West as monolithic and mutually exclusive categories. Ramadan does not find this perspective an accurate description of historical Islam West relations; and he dedicates his writings to refuting these essentialist conceptions of civilizations.

Ramadan reminds his Western readers of the intensive interaction that took place between Muslim thinkers and Western societies in the Middle Ages and calls them to acknowledge the substantial contribution of Muslim thinkers to the making of modernity.[53] Furthermore, Ramadan contends that over the last decades, a new hybrid culture emerged in Western countries that necessitate reconsideration of the received wisdom about the inevitable clash between Islam and the West. The children of the Muslim immigrants absorbed the cultural aspects of Western societies while maintaining their adherence to Islamic faith and seeing, no contradiction between their Western and Islamic identities. Ramadan states that in those countries where Muslims have been living for two to three generations, the stage of cultural integration has been completed. The children of the immigrants feel at home in America, Europe, and other Western countries; and they want to pursue their future goals within these countries. According to Ramadan, if one puts aside the distortions of the media

[51] Tariq Ramadan, *Western Muslims and the Future of Islam* (New York: Oxford University Press, 2004), 107.
[52] Ibid. 23-28, Tariq Ramadan, *To be a European Muslim*, (Leicester: the Islamic Foundation, 1999), 239-244.
[53] Tariq Ramadan, *What I Believe* (New York: Oxford University Press, 2010), 80-84.

and some politicians, the objective social scientific studies show that majority of the Muslims living in Western societies are law-abiding, they speak the official language of the country and actively participate into the intellectual, social, political, cultural affairs of their society.[54] Based on his contentions about the impact of Islamic science on modern West and the emergence of Western Islamic culture in the recent decades, Ramadan aims to convince his Western readers to the possibility of dialogue and collaboration between these two civilizations.

In order to persuade the scholastic traditionalists, salafi literalists and political literalist salafism to the necessity of dialogue and engagement with the West, Ramadan puts forward three ideas. First, by living in their ghettos, Muslims compromise the universalism of Islam and do not fulfill their duties as vicegerents of God.[55] Ramadan states that the West should be seen as an "area of testimony or responsibility" where Muslims have to exemplify by their beliefs and practices the "objectives of Sharīʿa." Only after carrying out this fundamental duty, will they have lived up to the Quranic commandment to be "witnesses before mankind" (Qur'an 2:143) to the content of the Islamic revelation.[56]

Second, Ramadan affirms that the universality of Islam requires that Muslims should take the principle of integration as their method for engaging with other cultures. What such integration entails is that everything in any culture should be considered Islamic unless it explicitly goes against Islamic principles. Muslims historically followed this principle and did

[54] Ibid., 42-44, 92-93.

[55] Ramadan explains vicegerency in the following way: "This is the first meaning of the vicegerency in Islam: "It is He who has made you His vicegerents (khalifa) on earth" (Qur'an 6:165). It is the role of humankind to manage the world on the basis of an ethic of respect for creation not only because people do not own it but, more deeply and spiritually, because it is in itself an eternal and continual praise addressed to the Most High," Ramadan, *Western Muslims and the Future of Islam,* 18.

[56] Tariq Ramadan, *To be a European Muslim*, 145-150, Tariq Ramadan, *Western Muslims and the Future of Islam*, 73-77.

not expect Africans and Asians to give up their culture when they converted to Islam.[57] It can also be inferred from Ramadan's writings that Islam's inclusivism towards other cultures facilitated the conversion of people coming from different backgrounds. Based upon this argument, Ramadan states that there should not be any reason why Muslims cannot deal with the Western culture again on the basis of the principle of integration.

Third, according to Ramadan there is a substantial common ground between Western discourse of human rights and the objectives of Sharīʿa that makes possible dialogue and collaboration. Many people in the West resist and struggle against the destructive effects of Western civilization and advocate the rights and dignity of people regardless of ethnic and religious background. Also, Western social sciences have produced a tremendous literature about social justice issues, environmentalism, human rights, without which one cannot examine and understand contemporary discourse. According to Ramadan, since the "objectives of Sharīʿa" also require Muslims to strive in the best way possible against all sorts of injustice, it is incumbent upon Muslims to benefit from the knowledge of the West on these issues and to collaborate with Western people on progressive causes. It should be noted that there are also many points about which Ramadan criticizes the West; and on those points he agrees with the aforementioned Muslims groups—namely scholastic traditionalism, salafi literalism and political literalist salafism— who have qualms about modern society. But overall, Ramadan seems to be less triumphalist than the majority of the Muslims concerning Islam's relation to West. Ramadan emphatically asserts that Muslims are not living up to the ideals of Islam and that they have not been able to establish well-functioning social political economic systems. Muslims should be appreciative of the achievements of Western civilization and

[57] Tariq Ramadan, *Western Muslims and the Future of Islam*, 51-55, Tariq Ramadan, *What I Believe*, 42.

understand that collaboration with the West is necessary for achieving the objectives of Sharī'a.[58]

Ramadan also discusses in his writings the ideas of reformist Muslims who are willing to engage with the modern society; also, he affirms his own perspective concerning the type of reforms Muslims should pursue. Ramadan contends that a hundred years of Islamic reform projects that call for the renewal of *ijtihād* failed to achieve what they intended to do, and they ended up being "adaptation reforms." What he means by this expression is that—appealing to the notions of necessity, exemptions and public good in Islamic law—contemporary Muslim scholars justify many non-Islamic principles and in that sense adapt to the prevailing system. Or sometimes they are satisfied with creating Islamic institutions in a limited space without questioning the unjust system as a whole. Ramadan agrees that notions of "necessity" (*ḍarūrah*) have a legitimate place in Islamic law; but he ultimately evaluates such an approach as an ineffective response to the problems Muslims face.[59]

In order to remedy the shortcomings of "adaptation reform," Ramadan advocates what he calls "transformation reform." In contrast to "adaptation reform," which accepts the prevailing system as given, "transformation reform" questions and offers alternatives to the problematic aspects of modern societies in the name of the "objectives of Sharī'a."[60]

Ramadan argues that in order to offer realistic and viable alternatives to the deficiencies of the existing economic, social, political systems and to initiate a successful transformation reform, it is incumbent upon the Muslim community to restructure the

[58] Tariq Ramadan, *What I Believe*, 20-23.
[59] Tariq Ramadan, *Radical Reform*, 30-33. For negative consequences of adaptation reform see, Tariq Ramadan, *Western Muslims and the Future of Islam*, 160-161.
[60] Tariq Ramadan, *Radical Reform*, 33-38.

methodology of Islamic law. Ramadan basically puts forward two interrelated suggestions in order to invigorate contemporary *ijtihād*.

First, he states that sources of Islamic law should be redefined. Ramadan asserts that context (*al-Wāqi'*) should be taken as a source of law in addition to the Qur'an, *Sunnah*, consensus and other sources of Islamic law. Context, in Ramadan's thought, refers to the findings of experimental (chemistry, physics, biology, neuroscience, medicine) and social sciences (sociology, political science, economy) about universe, human body, social, economic, and political structures. Second, as a necessary corollary of the preceding statement, Ramadan argues that scholars of context (*'ulamā' al-wāqi'*) who study experimental and social sciences should also be seen as legitimate authority figures in Muslim societies alongside the scholars of text (*'ulamā' an-nusūs*) who specialize in the study of Qur'an, hadith, and other textual sources of Islamic law. Ramadan argues that textually-focused scholars have a superficial knowledge of the context (natural and social sciences) and this is why their proposals for enhancing the quality of human life in this earth fall short of offering a realistic solution to the contemporary social, economic, political problems that people face.[61] According to Ramadan, whether one is discussing the legitimacy of abortion, euthanasia, cloning, organ donation or the principles of an Islamic economy, one has to consult contemporary scholarship that is produced in that particular field in order to offer a viable solution to the problem at hand. In that sense, contextually-aware scholars can show to the textually-focused scholars whether the

[61] Ramadan reiterates this point in different sections of his book. For instance, with regard to the debates about democratization, Ramadan points out inadequacy of textually-focused scholars in advancing viable proposals and he states "We have text scholars who speak and legislate about the need for a legal reference framework or ethical norms *but who are completely out of touch with reality and its requirements*" (emphasis mine) and "One cannot be content with repeating the ideality of "Islamic values" *outside and beyond the world's complexity*" (emphasis mine), Ramadan, *Radical Reform*, 281, and 284-285.

implementation of a particular ruling betrays or achieves one of the objectives of Sharī'a under particular social circumstances.[62]

Based on Ramadan's writings, it can be inferred that there is one more way that context scholars can contribute to the *ijtihād*. Based upon their extensive studies in their own field, context scholars can identify the objectives of their particular discipline, which in turn can be utilized for propounding an Islamic applied ethics. In this point, Ramadan reasserts what classical Muslim jurists said about the methodology for the identification of worldly benefits *(maṣlaḥah)*. Scholars like 'Izz al-Dīn Ibn 'Abd al-Salām (d. 660/1262) said that in contrast to otherworldly benefits that could only be known through divine revelation, benefits related to human life can be known through human experience, reason, and customs.[63] Ramadan makes the same point and points out to the necessity of consulting the expertise of contextually-aware scholars for the identification and realization of the objectives of Sharī'a pertaining to "this world."[64]

Ramadan's Conception of the Objectives of Sharī'a: the Theoretical Foundation of the Transformation Reform

A strong emphasis on the necessity of using the objectives of Sharī'a for the invigoration of *ijtihād* can be found in all of the writings of Tariq Ramadan.[65] But only with the

[62] Tariq Ramadan, *Radical Reform*, 101-112, 119-125.
[63] Gamal Eldin Attia, *Towards Realization of the Higher Intents of Islamic Law Maqāṣid al-Shari'ah: A Functional Approach* (London; Washington: The International Institute of Islamic Thought, 2007), 3-6.
[64] Tariq Ramadan, *Radical Reform*, 122-125, 140-141.
[65] See Tariq Ramadan, *Islam, the West and the Challenges of Modernity* (Leicester: The Islamic Foundation, 2008), 13, Ramadan, *Western Muslims and the Future of Islam*, 35-36, 46-47, Ramadan, *To be a European Muslim*, 86-87, 93, 101.

publication of his book *Radical Reform: Islamic Ethics and Liberation*[66] did Ramadan explain in detail his understanding of the "Objectives of Sharīʿa" *(maqāṣid al-sharīʿa)*.

In this book, Ramadan first outlines the historical development of *maqāṣid* doctrine in Islamic law and draws special attention to the work of Abū Isḥāq al-Shāṭibī (d. 790/1388/CE). According to Ramadan, Shāṭibī made three substantial contributions to the study of "objectives of sharīʿa" that are still relevant to the contemporary practice of Islamic law. First, Shāṭibī more than any other previous theorist of Islamic law emphasized the universal character of *maqāṣid*. That is to say, he emphasized that the six objectives of classical Islamic law are upheld by all religions and cultures.[67] Even though Ramadan does not make this point about the universal character of *maqāṣid* in that section of the book, I think the universality of the *maqāṣid* relates to the Ramadan's overall emphasis on the commonalities between Islamic and western conceptions of good society. By referring to Shāṭibī and other Muslim scholars' view on the universality of the *maqāṣid*, I think Ramadan tries to break the negative attitude towards West within Muslim societies.[68]

The second original contribution of Shāṭibī that Ramadan mentions approvingly has to do with the historicity of the Islamic law. According to Ramadan's reading, Shāṭibī stated that God revealed in the Meccan verses universal objectives of sharīʿa; and in the Madina He revealed specific rulings that are meant to promote and protect those objectives. And Shāṭibī

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[66] Tariq Ramadan, *Radical Reform Islamic Ethics and Liberation* (New York: Oxford University Press, 2009).

[67] Ramadan makes a similar point in his discussion of Prophet's participation in the "Pact of the Virtuous", an organization that was established to protect the rights of oppressed people before the advent of Islam. Based upon Prophet's positive assesment of this pact after the beginning of divine revelation, Ramadan concludes that "from the very start, the Prophet did not conceive the content of his message as the expression of pure otherness versus what the Arabs or the other societies of his time were producing. ...The last message brings nothing new to the affirmation of the principles of human dignity, justice, and equality: it merely recalls and confirms them." See Tariq Ramadan, *In the Footsteps of the Prophet: Lessons from the Life of Muhammad* (New York: Oxford University Press, 2007), 20-22.

[68] Tariq Ramadan, *Radical Reform*, 70-71.

asserted that only the universal objectives that are commanded in the Mecca are binding for the later generations. Muslims do not have to follow the specific applications of those universals in later times. According to Ramadan, this approach to the study of Islamic law "liberated the Qur'an from the specific contextual interpretation offered by the Medina period;" and Shāṭibī through his theory of *maqāṣid* taught us not to "close off the Qur'an and the divine Lawgiver's higher, universal objectives into a particular, historically dated, and quite specific implementation."[69]

The Shāṭibīan distinction between immutable and timeless principles and changing, historical models pervades all the writings of the Ramadan. For Ramadan, in the area of *'aqīda* (creed), *'ibāda* (worship, i.e., five pillars of Islam) and objectives of Sharī'a, there is no room for change in Islam. But in branch of Islamic law dealing with *mu'āmala* (social affairs), everything is allowed unless there is an explicit prohibition in the Qur'an and *Sunnah*. With the consideration of the common good of people *(maṣlaḥa)*, Muslims are expected to be innovative and creative in the area of social affairs.

For example, Ramadan gives the example of dress and states that Muslims do not have to dress exactly as the Prophet did in order to fulfill their obligation to follow his *Sunnah*. They should, rather, pick up the principle of modesty, decency, cleanliness, simplicity, and aesthetics that underlie Prophet's choice of clothes and try to implement these principles by taking into account the prevailing customs of their societies.[70] Ramadan makes a similar point about the political system that the Prophet established in Madina. Against the Salafis, who want to reproduce the form of early Islamic state through establishing a caliphate, Ramadan affirms that what matters is not the form but rather the principles such as rule of law, equality,

[69] Ibid., 72-73.
[70] Tariq Ramadan, *Western Muslims and the Future of Islam*, 36.

freedom of conscience and worship that formed the foundation of early Islamic state.[71] Through this distinction Ramadan aims to counter Salafi groups who reduce faithfulness to the replication of historical models.

The third major contribution of Shāṭibī to the study of objectives of law, according to Ramadan, is his integration of "thorough understanding of the objectives" to the articulation of *ijtihād*. Ramadan contends that this condition is highly crucial because according to him most of the time Muslims do not take into account the spirit of the law in implementing rulings of Islamic law. By just implementing the letter of the law Muslims think that they are fulfilling their religious obligations. Hence, Ramadan sees the literalistic orientation of many Muslims as the greatest epistemological obstacle to a progressive vision of Islam. He states that literalism is especially powerful among Salafi groups; it has destructive effects on the life of women;[72] and it stifles the Islamic political thought. Ramadan contends that before applying any ruling related to social affairs, Muslims first should look at whether the application of the ruling in a specific context will bring the intended benefit or not. Ramadan gives the example of Caliph Umar who decided to suspend the implementation of punishments for poor thieves in times of famine. According to Ramadan, Umar took into account the objective of justice in making this decision because if he had applied the punishment during famine, "poor thieves would have been twice victimized." Ramadan contends that the "objectives of Sharī'a" should determine when and how Muslims are going to implement any specific ruling of Islamic law.[73]

As an example of this methodological position, Ramadan's views on Islamic criminal law can be given. In 2005, Ramadan called Muslim states to suspend the application of the

[71] Ibid., 35-36.
[72] Tariq Ramadan, *What I Believe*, 62.
[73] Tariq Ramadan, *Radical Reform*, 74-76.

death penalty, corporal punishment, and specifically stoning in the Muslim world and urged all Muslims to discuss the conditions under which these and other so-called *hudud* penalties can be applied. According to Ramadan, those societies who apply these penalties do not punish the wealthy, the powerful, and the oppressors with these penalties. They rather only punish women, poor people and political opponents. Also, all the victims of these penalties are not given a chance to defend themselves against the accusations or to seek legal counsel. According to Ramadan, applying penalties under this condition is pure injustice. Ramadan seems to suggest that the politicians take advantage of the severity of these punishments and use them to intimidate citizens and create docile subjects. In his call, Ramadan also criticized the reduction of faithfulness to the message of Islam to the application of these penalties. Ramadan contended that these penalties are only a small part of the Sharīʿa and that the real faithfulness to the message can be achieved only when Muslims establish societies that promote social justice and protect human dignity and rights.[74]

Ramadan, in his theory of objectives, goes beyond the classical five or six objectives and affirms many new objectives with a different categorization and formulation. He contends that five classical objectives of Sharīʿa do not suffice to answer the needs of contemporary Muslims. Ramadan follows the contemporary trend in the "objectives of Sharīʿa " literature with regard to determining objectives related to societies; and therefore he also puts forward the ideal characteristics of a society in addition to an individual as being important objectives.

Ramadan considers two objectives of Sharīʿa as being the most significant sources for contemporary Islamic ethics—protecting and promoting al-dīn (religion) and *al-maṣlaḥah* (the common good)— followed by the foundational pillars of ethical elaboration, and then,

[74] Tariq Ramadan, *Radical Reform*, 274-277, Tariq Ramadan, "An International Call for Moratorium on corporal punishment, stoning and the death penalty in the Islamic world", Tariq Ramadan official website, http://www.tariqramadan.com/spip.php?article264&lang=en (March 22, 2010).

subsequently, thirteen other objectives related to humankind's individual and collective being and action. First and foremost, Ramadan defines protecting and promoting *al-dīn* (religion) and *al-maṣlaḥah* (common good and interest of humankind and of the universe) as being "essential perspectives of ethical elaboration as a whole." These two objectives should be taken into account in any discussion about human life. Second, Ramadan considers respecting and protecting Life, Nature and Peace to be the "founding pillars of ethical elaboration". He contends that there are numerous verses and hadiths that can be quoted to justify this choice, but for reasons of space, he only refers to some of them. Life is sacred because the Qur'an associates killing one man to killing all mankind. Protecting nature is one of the foundational pillars of ethical elaboration because the Quran enjoined Muslims not to corrupt God's creation and the Prophet commanded to respect nature. Peace is a fundamental value in Islam, as the very name of the religion attests. According to Ramadan, Islam means "entering God's peace." Seen in this light, the purpose of *jihād* also should be the reduction of tension, conflict, and war and establishing peace.[75]

Third, after explaining these essential perspectives and foundational pillars, Ramadan goes on to elucidate the objectives pertaining to the "humankind's being and action, both as an individual and as a member of society." On this level, Ramadan enumerates thirteen objectives: promoting and protecting dignity (of humankind, living species, and Nature), welfare, knowledge, creativity, autonomy, development, equality, freedom, justice, fraternity, love, solidarity, and diversity. Ramadan contends that these objectives are mentioned more or less clearly in the texts; but it has only been in the context of the problems people have faced throughout history that we have come to understand their significance. First of all, dignity is

[75] Tariq Ramadan, *Radical Reform*, 137-139.

an objective because Quran said, “We have indeed honored human beings” (Qur'an 17:70). Guaranteeing the welfare of the people is also an objective because “He (God) has not imposed any hardship on people in religion” (Qur'an 22:78). Prophet in this regard also said “Make (things) easy, do not make them difficult.” In order to ensure welfare of the people, one should promote knowledge, creativity and autonomy of each individual. As the Qur’anic verse “no bearer of burdens can bear the burden of another” (Qur'an 17:15) points out, each individual will account for his actions in the day of judgment by himself/herself, therefore cultivating autonomous individuals who are capable of making decisions for his/her life is important. Societies should be based upon the principles of equality and justice and should respect diversity. Going beyond a reward/punishment system of law, societies should also instill the ideals of love, solidarity and fraternity in people so that they can care for each other.[76] Justice, love and solidarity are objectives because “God enjoins justice, doing of good and generosity towards one’s fellow men” (Qur'an 16:90). To justify why he chose diversity as an objective of Sharīʿa, Ramadan quotes the verse that sees the balance of power as a precondition of peace: “And had God not checked one set of people by means of another, the earth would indeed be full of mischief” (Qur'an 2:251). Ramadan also quotes the verse that according to him establishes the inviolability of other religions’ houses of worship: “If God did not enable some men to keep back others, hermitages, synagogues, chapels, and mosques where the name of God is often called upon would have been demolished” (Qur'an 22:40).

After mentioning these general principles, Ramadan goes into detail and identifies objectives pertaining to the “inner being,” “the individual” and “groups and societies.” Ramadan states that education of the heart and mind, conscience (of being and responsibility),

[76] Ibid., 139-140.

sincerity, contemplation, balance (intimate and personal stability) and humility are the objectives of Sharia regarding the Inner Being. Ramadan refers to the "ethics of the heart" literature in Islamic tradition and contends that cultivation of inner being's sincerity is the most important goal for a Muslim because in the absence of sincerity all of our efforts would be futile. [77]

With regard to the Individual, Ramadan asserts that promoting and protecting physical integrity, health, subsistence, intelligence, progeny, work, belongings, contracts, neighborhoods of individuals should be taken by Muslims as the objectives of Sharīʿa. Ramadan develops some of these objectives based on the "contemporary knowledge, realities and challenges."[78] This is consistent with Ramadan's overall perspective that contextually-focused scholars are best suited for determining objectives related to their own field.

Concerning societies and groups, Ramadan contends that promoting and protecting rule of law, independence, deliberation, pluralism, evolution, cultures, religions and memories (heritage) in any society should be the objectives of Sharīʿa. For determining these objectives Ramadan does not refer to any verse or hadith. In harmony with his theoretical framework, he contends that he deduced these objectives from the contemporary social scientific literature that points out to the problems people face in these areas. Ramadan asserts that his comprehensive theory of objectives provides a firm foundation for "producing a global vision of contemporary Islamic ethics integrating the whole range of knowledge, both about the texts and about the Universe."[79]

[77] Ibid., 141. Also for Ramadan's indepth explanation of Islamic spirituality see, Ramadan, *Western Muslims and the Future of Islam*, 117-125.
[78] Tariq Ramadan, *Radical Reform*, 142.
[79] Ibid. 142-144.

After elucidating the theoretical foundation of the transformation reform, Ramadan, in Radical Reform, tackles such diverse topics as protection of the environment, neoliberal economic order, women rights, the rights of non-Muslims, democracy, culture, arts, medicine and evaluates one by one the achievements and failures of Muslims in protecting and promoting aforementioned objectives of Sharīʿa in each of those fields. The overall assessment of Ramadan on all those issues is rather grim. Apart from some positive developments in the area of medical sciences where textually and contextually-focused scholars have been collaborating for a long time, Ramadan does not see any area in which Muslims have exerted satisfactory efforts to remain faithful to the requirements of the objectives of Sharīʿa. Ramadan contends that there is neither a viable model of Islamic economy nor a model of Islamic politics.[80] Muslims have not in any way reach the theoretical sophistication necessary for addressing interrelated problems such as economic development, poverty, destruction of natural resources, human rights, and democratization.[81] Ramadan, likewise, does not offer his own full-fledged solutions to those problems at hand. But offering full-fledged solutions is not his major focus. As he says at the end of his book, his intention was to raise questions and start a debate within the Muslim community regarding faithfulness to the texts and also to demonstrate the significance of establishing institutions and training centers where textually

[80] Ibid., 353.

[81] In this regard, Ramadan states "What is highly surprising is the silence of *ulama* (scholars) and *fuqaha* (jurists) on such issues. So many books critical of the West denounce "Western" models of excessive consumption and self-abandon, but *one can find no Islamic reflection, from within, about those fundamental issues*. It is repeated again and again that Islam advocates respect for nature and animals, calls for respecting people's dignity, and promotes human solidarity and brotherhood*, but one can find but very few critical studies which, in the name of higher ethical goals, question the growth and development models forced on both industrialized or poorer developing countries*" (emphasis mine), Ibid. 240. In another place, Ramadan makes a similar point about the inadequacy of Muslim scholars in addressing problems concerning contemporary economic order. He says "Numerous philosophers and economists, in alterglobalization circles, and well beyond, have denounced the global economic order in fundamental, radical terms... Without actually proposing a model, they have developed thorough criticism of the capitalist economy in the name of ethics and humanist goals. This criticism remains legitimate, relevant, and necessary to any real reform in the future. *What is most surprising and shocking today is the absence of any Muslim contribution to those reflections"* (emphasis mine), Ibid. 246.

and contextually-focused scholars can gather and reflect on ways of achieving "objectives of Sharīʿa" in the challenging conditions of late modernity. Throughout his writings Ramadan emphatically asserts that if Muslims do not make the necessary structural adjustments required for radical transformation and reformation and if they do not revise their way of thinking concerning faithfulness to the message of God, it will not be long before they become ground up and swallowed by the destructive forces of modernity.

By pointing out to the inadequacies of Muslims in protecting and promoting the "objectives of Sharīʿa," Ramadan challenges the ideas of some group of Muslims who evaluate a society's faithfulness to Islam based on some ostentatious marks of an Islamic identity (e.g., application of criminal punishment or *halal* (licit) consumption). By affirming his broader concept of Sharīʿa as the only criterion of an authentic and faithful religiosity, Ramadan aims to remind Muslims that unless they contribute to the establishment of just and egalitarian societies where the dignity of humans and nature are thoroughly protected, symbolic acts of Islamization are nothing more than self-deception.

Examples of "Objectives-based Reasoning" in Ramadan's Thought: His Views on Human Rights and Democracy, Women Rights and Interfaith Dialogue

A-) Human Rights and Democracy

Building upon the objectives of classical Islamic law,[82] Tariq Ramadan propounds his conception of basic human rights. Ramadan asserts that at the minimum level societies should grant the following seven rights to its citizens; and they should develop policies that would ensure that citizens thoroughly benefit from the privileges that are granted by these rights.

[82] Concerning the significance of the objectives of classical Islamic law Ramadan says, "All religious obligations and prohibitions derive from a strict observance of these fundamental principles. In fact, the legislation of the different domains of human activity should seek to preserve this basic orientation; i.e. it should act as the point of reference, as a kind of memorandum of finalities, that believers cannot afford to neglect". See Tariq Ramadan, *Islam the West and the Challenges of Modernity*, 31.

These rights are the right to life and to minimum amount of food necessary for living, the right to family, the right to housing, the right to education, the right to work, the right for justice, and the right to solidarity. To guarantee the right to life, societies should provide its members necessary provisions whereby they can meet their fundamental needs. This right should not be neglected because material resources are indispensable conditions of a dignified existence. With regard to the right of the family, each society has to offer its citizens resources that will psychologically prepare them for marriage and also support mechanisms that will help families to cope with the family problems. The right to housing, the right to work and the right to education follow as necessary complements of the concern for the right to family. A society should provide each of its members a private, spacious house. Providing opportunities for education to citizens should also be an essential priority of any society. In addition to pointing out to the worldly benefits of education, based upon Qur'an and *hadith*s, Ramadan also links education to piety and God-consciousness. According to Ramadan, only those people who have received a well-rounded education can reflect on the signs of God and attain a more sound knowledge about God. Concerning the right to work, societies should combat unemployment and do their best to ensure that every individual enjoys this fundamental, inalienable right.[83]

Justice should be the fundamental principle that regulates human interactions. The Qur'an commands Muslims to "stand out firmly for justice"(Qur'an 4:135) even if this action goes against the interest of themselves, their parents, and their relatives. Eight verses of *Sūrat al-Nisā'* were revealed to exonerate a Jew, even though these verses attributed the responsibility for the crime to a Muslim. Therefore, justice is a fundamental value in Islam, and

[83] Tariq Ramadan, *Western Muslims and the Future of Islam*, 149-151.

Muslims societies; and it should guarantee that everybody must enjoy this right. There are primarily two major components of the right to justice. First, the governments of Muslim societies should not discriminate against any person based on ethnicity, gender, social class, and religious affiliation. Second, all the aforementioned rights should be granted to each individual.[84]

Solidarity is also an important value that is upheld by Islamic tradition. Ramadan contends that every Islamic ritual, in one way or another, has a social dimension, to the effect that, according to Ramadan, "to be before God is to be in solidarity." In order to realize the right to solidarity, Muslims should ponder ways of establishing an economic system in which the rights of the poor and needy are protected and respected.[85]

Ramadan asserts that the objectives of Sharīʿa should also be taken as the yardstick for assessing the relative strengths and weakness of political systems. In this respect, Ramadan argues that commonalities that exist between Islamic objectives pertaining to society and the fundamental principles of democracies make democracy preferable for Muslims. Similar to democratic systems, Islamic tradition also requires rule of law, equal citizenship, universal suffrage, accountability, and separation of powers.[86]

Despite his idealization of fundamental aspects of democratic models, Ramadan also warns people against "dogmatic liberal thought" that puts democracy on a pedestal and attacks any criticism of democracy. Ramadan argues that democracy is not a value in itself. It is also a historical model; and it is valuable as long as it promotes and protects the Islamic ideals of peace, human rights, dignity, and freedom. According to Ramadan, historical and

[84] Ibid., 151.
[85] Ibid. 151-152.
[86] Tariq Ramadan, *Radical Reform*, 273, 280.

contemporary examples show that being a democracy is not enough to respect human rights. He argues that neither the Athenian democracy nor the twentieth century American democracy has always protected human rights. Ramadan contends that multinational corporations' ambition to control the decision making processes in politics, media's aim to shape the citizens' views according to its own interests, media's close ties with the arms industry, and citizen's lack of knowledge and interest in political structures all undermine the quality of democracy and betray the democratic ideal of "government by the people." Based upon these considerations, Ramadan urges Muslims to go beyond the paradigm of compatibility and engage in critical thought in order to ameliorate the shortcomings of democracies in the name of the "objectives of Sharīʿa."[87]

B-) Women Rights

Ramadan asserts that Islamic discourses have to undergo a paradigm shift in the way they deal with the women rights. Instead of always attempting to determine the duties of women as daughters, sisters, wives, or mothers towards their husbands, children or society, Muslim scholars should take woman as an autonomous agent and ponder answering the needs, concerns, and aspirations of women. Muslim scholars should stop reminding women of their responsibilities towards men and understand that such objectives as individual's dignity, integrity, autonomy, development, education, intelligence, welfare, health and inner balance concern women as much as men.

For achieving all these goals in the lives of women, Ramadan suggests first and foremost establishing institutions for educating women. He finds the current levels of illiteracy among women in Muslim-majority societies "appalling;" and he contends that

[87] Ibid., 280-285.

Islamic movements should take the issue of education of women as one of their primary priorities. Without receiving education, women neither fulfill their religious obligations nor contribute in any way to their societies. Muslim societies cannot afford to deprive half of their population of this fundamental right and necessity. With regard to marriage, Ramadan again calls for a new conceptualization of husband-wife relations. Instead of reminding women of their duties as wives or selectively approaching rulings in Islamic law to justify unconditional obedience of women to men, Muslim scholars should emphasize the idea that marriage should be for spiritual and physical fulfillment for both men and women. Women's needs are neither less significant than men's nor are they in any way negligible. Ramadan also mentions that Muslim societies should open spaces for women in mosques. The Mosque is a central place in Islam; but unfortunately men dominate all mosque related activities. In many mosques, there is not even a space for prayer that is allocated for women. Women are also not represented in any way on the boards or the councils of the mosques. Muslim societies should address this problem and create such structures so that men and women can collaborate in answering the communities' needs.

In order to accomplish all of these proposals, Ramadan underlines the idea that the entire way of thinking about women should change. He states that Islamic legal thinking about women has been negatively influenced by "literalist reductions" and "cultural projections." Some scholars take Qur'anic rulings on polygamy, inheritance, and divorce literally, while they do not pay attention to what these rulings intended to achieve when they were revealed. For instance, there was unrestricted polygamy in pre-Islamic Arabia. In order to humanize this practice, the Qur'an restricted the number of women that one can marry to four and required the fulfillment of some demanding conditions for polygamous marriages. This is why those

scholars who have contextualized polygamy and understood its rationale stipulated that the first wife's consent was necessary for a husband's second marriage. In addition, such scholars have stated that a wife can add a statement to her marriage contract in order to rule out any possibility of her husband's having second marriage (while he is married to her). But since some Muslims lack this contextual understanding of law, they believe they can marry four women without any justification, which often bring troubles to the marital relations. As Ramadan puts it, "Men increasingly take advantage of religion to justify their shortcomings and supposed privileges, while women are victims of the misuse of a religion whose essence was to liberate them." Concerning inheritance law, Ramadan admits that the classical justification of referring to different financial responsibilities of man and woman in order to explain unequal sharing of the inheritance makes sense. But he also calls the Muslim community to think about those cases in which a Muslim woman has been compelled to take care of her family due to irresponsible behavior of her husband towards his family. Apart from these rulings, Ramadan agrees with the common assertion that classical Muslim scholars were influenced by the patriarchal context that surrounded them. Ramadan argues that in order to cleanse Islamic teachings about women from the effects of patriarchal doctrines, Muslim scholars should reexamine the entire corpus of Islamic thinking on women (Islamic law, Quranic commentary, and *hadith*) in light of the "objectives of Sharīʿa" pertaining to the individual. By using "objectives of Sharīʿa" as a yardstick for evaluating Islamic teachings on women, Muslims will be able to distinguish what is cultural from what is religious. Consequently, they will be able to rid their heritage from the patriarchal denigration of women. In this sense, Ramadan appreciates the writings of Muslim feminists like Fatima

Mernissi, who questions the infiltration of patriarchal doctrines into the Islamic tradition and attempts to show the true Islamic teachings about women.[88]

C-) Interfaith Dialogue

In general, Ramadan suggests that Muslims should interact with anyone who more or less shares "objectives of Sharīʿa;" and he criticizes Muslims for dismissing some ideas just because adherents of another faith or secular philosophical tradition articulate them. Nevertheless, he specifically underscores the necessity of engaging in dialogue with other monotheistic faiths like Christianity and Judaism due to the substantial commonalities that these religions share. Ramadan reminds his Muslim readers that Christians and Jews are also interested in living a spiritual, God-centric life and that they question the individualistic, materialistic aspects of modern societies as much as Muslims.[89]

Ramadan, in his writings on interfaith dialogue, aims to rebut the objections that are often raised within Muslim community against such an initiative. First, by examining the relevant Quranic verses, Ramadan affirms an ethic of engaging with diversity. First of all, according to Ramadan's reading, the Qur'an prohibits compelling others to believe in Islam and in that sense it expects Muslims to accept diversity. Muslims are exhorted to compete in doing good deeds with the followers of other religions; and if they want to preach Islam to other people, they should do that through their life's example, not through explicit proselytizing.[90]

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[88] Ibid., 207-232.
[89] Tariq Ramadan, *Western Muslims and the Future of Islam*, 211.
[90] Ibid. 202-203, 208.

For Ramadan, respecting other religions should not stem from a reluctant acceptance of diversity. The "objectives of Sharīʿa" such as dignity, welfare, freedom, justice and equality require that everybody, regardless of religious, ethnic affiliation, should be treated fairly and be allowed to express his/her faith in the public sphere.[91] The eighth verse of *Sūrat Al-Mumtaḥina* is very critical here in the sense that it commands Muslims "to establish relations of generosity and just behavior" (Qur'an 60:8) with those people who respect Muslims' freedom of conscience and dignity.[92] In addition to the rights that an Islamic society should grant to believers of other religions, the Quran specifically exhorts Muslims to invite the People of the Book to a common word between Muslims and non-Muslims. According to the verse in *Sūrat Āl 'Imrān*, the common word between Muslims and Christians and Jews is their belief in monotheism and their rejection of *shirk* (giving divinity to anything other than God). Besides summoning Muslims to engage with Christians and Jews on the basis of the shared belief in monotheism, the Qur'an also outlines the way that dialogue should be conducted with such verses as, "Discuss with them in the most kindly manner" (Qur'an 16:125) and "Do not discuss with people of the Book except in the best of ways" (Qur'an 29:46).[93]

Ramadan also discusses some verses that are used by Muslim scholars to cast doubt on the efforts for interfaith dialogue. First, there are verses in the Qur'an that use the verb "*kafara*" for the People of Book's denial of Islam. The noun form of this verb (*kāfir*) has sometimes been translated as "infidel" or "miscreant." Ramadan rejects these translations and contends that they are not accurate descriptions of Christians' and Jews' beliefs. He states that the Quran uses the term "*kafara*" because Christians and Jews do not recognize that

[91] Tariq Ramadan, *Radical Reform*, 269.
[92] Tariq Ramadan, *Western Muslims and the Future of Islam*, 204.
[93] Ibid. 203-204.

Muhammad is a messenger of God. It does not mean that they do not believe in God, they just do not believe that Muhammad is a messenger.[94]

Concerning the verses that forbid Muslims to take Christians, Jews and deniers as allies (Qur'an 5:51; 60:9), Ramadan states that this prohibition only applies to those people who intend to harm Muslim community. But as aforementioned the eighth verse of *Sūrat al-Mumtahina* shows, as long as such hostility does not exist, it is permissible for Muslims coexist peacefully with members of other religions.[95] In this respect, Ramadan also tackles the verse that express that Jews and Christians will not be pleased with Muslims unless Muslims follow their religion (Qur'an 2:120). Based upon this verse, some Muslim thinkers argue that Muslims should not trust Jews and Christians because the People of Book have always some hidden agenda and will always seek more concessions from the Muslim community in any negotiation. Ramadan sees no problem with this verse and says that it is normal for a believer who has complete faith in his/her religion to expect other people to convert to his/her religion. Since Christians and Jews have absolute faith in their religion, they also naturally will expect Muslims to convert to their religion. This verse should not be interpreted in a way that will cast doubt on the sincerity of the People of Book in their engagement with Muslims.[96]

Ramadan also discusses another verse that says that appears to state that the only acceptable religion according to God is Islam (Qur'an 3:19). In order to dispel exclusivist implications of the verse, Ramadan appeals to the distinction between universal Islam and the Islam of Muhammad. He says that Islam has two meanings in the Qur'an. "Universal Islam"

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[94] Ibid., 205-206.

[95] In his book about the life of the Prophet Muhammad, Ramadan gives examples of coexistence between Muslims and people from other faiths. For Ramadan's discussion of the Prophet Muhammad's relationship with the Jews in Madina see: Ramadan, *In the Footsteps of the Prophet: Lessons from the Life of Muhammad*, 88-91. For Ramadan's assessment of Prophet Muhammad's dialogue with Najran Christians see: Ibid. 114-117.

[96] Tariq Ramadan, *Western Muslims and the Future of Islam*, 207-208.

comes from the literal meaning of the word *islām*, which is "surrender" or "submission." Therefore according to this perspective, anyone who surrenders to God can be called a *muslim* whether he believes in Muhammad or not. The "Islam" of Muhammad, on the other hand, is the religion that was established by the Prophet. Ramadan criticizes Muslim scholars who use the second definition of Islam to interpret the meaning of the verse "Religion in the sight of God is Islam" (Qur'an 3:19). Ramadan also relates his discussion to another verse in the Qur'an that reads "Certainly those who have believed, the Jews, the Christians, and the Sabaeans, all those who have believed in God and in the last day of judgment and who have done good, they will have their reward from God. They will not be afraid and they will not grieve" (Qur'an 2:62). Ramadan seems suggest that Christians and Jews also surrender to God; and in this sense, they will be rewarded on the Day of Judgment.[97]

Ramadan appreciates ongoing efforts for interfaith dialogue. But he also points out major shortcoming of dialogue meetings. He contends that only specialists of religions who tend to be open-minded participate in these dialogue meetings. The majority of the believers refrain from dialogue meetings; and because of this, more radical, critical views are not represented. To remedy this shortcoming, Ramadan states that specialists of religion should play the role of mediator between their partners in dialogue and their co-religionists. Furthermore, in order to build trust between different faith groups, it is incumbent upon participants of these meetings not to gloss over any controversial issue between two religions. Only frank, genuine discussions can help to build trust between estranged communities.[98]

Apart from interfaith dialogue, Ramadan, in general, calls people from all walks of life to be active citizens, to collaborate for the realization of justice, and to fight against all sorts of

[97] Ibid., 206-207.
[98] Ibid. 201, 209-210.

discrimination. Ramadan recommends the establishment of local associations where people from different backgrounds can interact and engage in civic activities. Ramadan attributes a great role to these local initiatives for the achievement of peaceful coexistence. He states that the future of Western pluralism lies in these local associations. By providing opportunities for people for genuine interaction and collaboration, these local initiatives can help people to realize the commonalities that they share with other people and build respect and trust between these alienated groups. Ramadan contends that the most effective way to combat Islamophobia and Westphobia is the frank, genuine interaction of ordinary people from both sides. According to Ramadan, unless dialogue and collaboration of ordinary citizens becomes institutionalized, dialogue of governments or high officers would not bear any fruitful result.[99]

Conclusion

In his writings, Ramadan basically asserts that Muslims are marginal social actors in the world and they are not contributing satisfactorily to the human rights debates as much as they should. By not making necessary effort to exemplify humanitarian message of Islam in the world, they are not fulfilling their obligations as vicegerents of God. According to Ramadan, inadequacy of the Muslim world in developing realistic solutions to the contemporary social, economic, and political problems stems from two facts. First, Muslims have a narrow conception of the objectives of Sharīʿa; they reduce faithfulness to the Sharīʿa to the implementation of ostentatious marks of an Islamic identity and they fail to see those objectives of Sharīʿa that are related to society, politics, economy. Second, Muslim societies do not integrate the findings of natural and social sciences into the formulation of Islamic social, economic, and political projects and this is why they are not able to offer realistic, applicable

[99] Tariq Ramadan, *What I Believe*, 93-95, Tariq Ramadan, *Western Muslims and the Future of Islam*, 155-158.

solutions for contemporary problems. Ramadan, through his concept of "transformation reform," aims to overcome these shortcomings that characterize contemporary Muslim societies. By reconceptualizing the objectives of Sharīʿa and redefining the meaning of being faithful to the Sharīʿa, Ramadan provides an important religious justification for motivating Muslim masses to be effective contributors to the advancement of human rights records of their societies.

Chapter 4

Yusuf Al-Qaradawi: The Theorist of Wasaṭiyya (Middle School)

In this chapter of my thesis, I will examine the thought of leading Muslim jurist Yusuf al-Qaradawi and show how he deploys methodological tools of Islamic law to theorize the perspective of the School of the Middle Way and to counter two other schools of thought namely the New Literalist School and the School of *Mu'aṭṭila* (Suspenders) that also aim to define Islamic mainstream in the modern times.

Qaradawi's Intellectual Concerns

Many scholars see Qaradawi as the leading juristic authority in the Sunni Muslim world. Bettina Graf and Jakob Skovgaard-Petersen, who recently edited a book about Qaradawi, *Global Mufti*, present him as "one of the most admired and best-known representatives of Sunni Islam today." According to them, it is even "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."[100] John Esposito and Ibrahim Kalin also in their book *500 Hundred Most Influential Muslims* chose Qaradawi as the ninth most influential Muslim all over the world. Esposito and Kalin attributes Qaradawi's influence and prominence to his "ability to combine the traditional knowledge of the Islamic law with a contemporary understanding of the issues that Muslims face today."[101] The contributors to the book *Global Mufti* also draw attention to the Qaradawi's scholarly qualifications and his utilization of the media to explain his influential status in the

[100] Bettina Graf and Jakob Skovgaard-Petersen, "Introduction," *Global Mufti The Phenomenon of Yūsuf al-Qaraḍāwī* (New York: Columbia University Press, 2009), 1.
[101] *500 Hundred Most Influential Muslims*, ed. John Esposito and Ibrahim Kalin http://www.rissc.jo/docs/muslim500-1M-lowres3.pdf (accessed March 7, 2010), 36.

Muslim world. The role of media in popularizing Qaradawi should not be underestimated; but in line with Esposito and Kalin, it can be argued that the major reason behind Qaradawi's influence is his long-standing ambition to relate Islamic tradition's ideals to the major debates of his age. Even a cursory look into Qaradawi's intellectual *oeuvre* reveals that since the beginning of his intellectual career, Qaradawi was deeply concerned in expounding an Islamic alternative to the prevailing ideologies of the age.

In this sense, according to my reading, the best way to make sense of Qaradawi's intellectual endeavors is to see him as the theorist or ideologue of Islamic awakening. Like Tariq Ramadan and Khaled Abou El Fadl, Qaradawi believes in the universality of Islam and its capacity to solve mankind's problems. He takes Islam as a source of civilization and stresses in his writings the comprehensive character (the idea that Islamic teachings encompass all aspects of life) of Islam. Based upon his confidence in the teachings of Islam as a guide for managing people's affairs, he explicitly rejects secularism in his writings as a normative project for Muslim societies. According to Qaradawi, with the rise of the authoritarian secularism in the Muslim world that displaced Islamic principles for social, economic, political life, Islam was reduced to a private relationship between God and man and it became a "stranger in its own land." As Qaradawi puts it succinctly, Islam was made "a set of doctrines without a law, a religion without a state, and a Qur'an without authority."[102] Qaradawi finds this situation unacceptable and calls rulers and populations in the Muslim world to pay heed to the message of Qur'an. His writings can be seen as an attempt to restore Islam to the prominent position that it enjoyed before the emergence and consolidation of authoritarian secularism in the Muslim world. Similar to Fadl and Ramadan, Qaradawi also relies upon

[102] Yusuf Al-Qaradawi, *Islamic Awakening Between Rejection and Extremism* (London: Washington: The International Institute of Islamic Thought, 2006), 72-77.

methodological tools of Islamic law and the "objectives of Sharīʿa" in order to reform Islamic societies and theorize a proper Islamic method of engagement with the modern world.

Three Schools and Three Different Approaches to the Objectives of Sharīʿa

Qaradawi, in his writings, developed the concept of *wasaṭiyya* (middle way, centrism, mainstream way) and presents his methodological and substantive views about Islamic law and awakening under the name of this school of thought. As the very name of *wasaṭiyya* suggests, Qaradawi always defines his "middle way" position vis-à-vis other schools of thought that according to him stray from mainstream Islamic point of view. According to Qaradawi, two extreme movements that exist within Muslim societies today are the literalists who do not take into account the objectives of Sharīʿa in the formulation of Islamic law and some Muslim intellectuals who reject the Quranic and Prophetic injunctions for the sake of realizing the objectives of Sharīʿa. Qaradawi calls the first group "*Madrasatu al-Ẓahiriyya al-Judud*" (The New Literalist School) and the second group "*Madrasatu al-Taʿṭīl li-l-nuṣūṣ*" (The School who suspends texts) or "*Al-Muaʿṭṭila al-Judud*" ("New Suspenders").

Qaradawi's Assessment and Criticisms of the Arguments of the New Literalist School

With regard to the New Literalist School, Qaradawi contends that literalists deny the classical Islamic law's notion of *taʿlīl al-aḥkām* (searching for the underlying causes of rulings in Islamic law) and the existence of wise purposes behind the rulings. They are suspicious of the use of *aql* (intellect, mind) in understanding texts, and they also do not pay attention to the circumstances in which a particular ruling came into existence. According to Qaradawi, literalists believe that they fulfill their responsibility as a Muslim by just applying (what they

interpret as being) the literal meaning of the text.[103] To illustrate literalists' perspective, Qaradawi gives the example of the hadith, which reads as "That which of the *izār* (robe) is lower than the ankles, then it is in the Fire."[104] Literalists take this hadith literally, and on the basis of it they rebuke any Muslim whose garment falls below the ankle, and reprimanding people in this way creates discord within the Muslim community. Qaradawi contends that if the literalist had studied all the hadiths relevant to the dress, they would have understood that long robes used to represent conceit or arrogance in the time of Prophet. Indeed there is another hadith that explicitly links the long robes to arrogant behavior: "Whoever trails his robe with conceit, God will not look at him in the Day of Judgment."[105] Therefore, according to Qaradawi, the issue is not whether one's robe is long or not, but rather whether one is arrogant towards others in his behaviors or not.[106]

According to Qaradawi, another characteristic of the New Literalist School is their belief about their infallibility and their intolerance towards any other opinion that disagrees with them. Because of this characteristic that they have Qaradawi calls them "the school of one opinion" *(madrasatu al-ra'y al-wāḥid)*. Literalists in general distrust any other scholar that does not belong to their group. In contrast to the generally held opinion that everybody is innocent until proven guilty, literalists believe that everybody is guilty until proven innocent. They hurl the charges of *bid'a* (unjustified religious innovation), *fisq* (sin) and even *kufr* (unbelief) so easily to any other scholar who disagrees with them. According to Qaradawi, they

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[103] Yusuf al-Qaradawi, *Dirāsa fī fiqhu maqāṣid al-Sharī'a bayna al-maqāṣid al-kulliya wa al-nuṣūṣ al-juziya* (Cairo: Dār al-Shurūq, 2008), 61-63.
[104] Sahih Bukhari, Volume 7, Book 72, Number 678.
http://www.msawest.net/islam/fundamentals/hadithsunnah/bukhari/072.sbt.html.
[105] Sahih Bukhari, Volume 7, Book 72, Number 679.
http://www.msawest.net/islam/fundamentals/hadithsunnah/bukhari/072.sbt.html.
[106] Yusuf al-Qaradawi, *Dirāsa fī fiqhu maqāṣid al-Sharī'a*, 53-54, , Yusuf Al-Qaradawi, *Islamic Awakening Between Rejection and Extremism*, 47. Yusuf Al-Qaradawi, *Approaching the Sunnah Comprehension & Controversy* (London: the International Instititute of Islamic Thought, 2006), 103-109.

especially direct hate against other Muslims such as the Shi'a and Ibadiyya and non-Muslims such as Christians and Jews, even if they are peaceful loyal citizens of the Muslim countries.[107] Qaradawi rejects their method of engagement with other people and asserts that, first, one should think well about other Muslim scholars who are as devout as any literalist. Also, he affirms that Muslims do not have a right to excommunicate other Muslims unless a Muslim explicitly rejects and disrespects the injunctions of the religion. Even those persons who commit major sins are not considered unbelievers in Islam, then how can one excommunicate scholars for not agreeing with the "stringent" requirements of the literalists?[108]

In order to counter their claim to infallibility, Qaradawi first points out to the distinction that was drawn in the classical Islamic law between those rulings that have been established on the basis of explicit, definitive texts and those established based on non-explicit, speculative texts. For those rulings that are based on explicit, definitive texts, Qaradawi agrees with literalists that there is only one opinion. But for other rulings that are based on texts that do not have one hundred percent authenticity, it is allowed for scholars to offer different interpretations. The second category belongs to the level of *ijtihād* (independent reasoning), and it is by definition open to renewal. Qaradawi contends that very few Islamic legal rulings are indeed based on texts that have the highest certainty with respect to their meaning and their chains of transmission. Because of this, there is a vast scope for disagreement within Islamic law. This disagreement can be seen throughout Islamic history. According to Qaradawi (like Abou El Fadl), one can find lots of different opinions about any issue not only in different schools of law but even within the same school of thought. Qaradawi reminds literalists that diversity in law is also desirable because it enhances Islamic law's

[107] Yusuf al-Qaradawi, *Dirāsa fī fiqhu maqāṣid al-Sharī'a*, 55-58.
[108] Yusuf Al-Qaradawi, *Islamic Awakening Between Rejection and Extremism*, 29-34.

flexibility, accommodates different cultural settings, and, therefore, becomes a "blessing for the Muslims." Qaradawi urges literalists to familiarize themselves with the ethics of disagreement literature in classical Islamic law, so that they can learn how to engage those Muslims with whom they disagree in a respectful way. [109]

Qaradawi also introduces his concept of *fiqh al-awlawiyat* (the study or understanding of priorities) to remind extremists of what is fundamental in the religion and what is subsidiary. According to Qaradawi extremists dwell upon some issues as if they are the most important preconditions of a proper Islamic life. For instance, Qaradawi finds literalists' talk about issues such as growing a beard, wearing robes below the ankle, moving of the finger while reciting the *tashahhud* in prayer, or acquisition of photographs as being "excessive, unnecessary and time-wasting." Qaradawi adds that these people who dwell upon these subsidiary issues often neglect more fundamental commandments of the religion such as kindness to parents, respect for the rights of their spouses, children, and neighbors, and careful investigation of what is permissible and what is prohibited.[110]

Similarly, due their lack of understanding of the "fiqh of priorities", literalists also commonly do not distinguish the minor sins from the major sins and criticize every sinner in the same harsh way. Qaradawi here again draws attention to the fact that prohibited actions are also ranked in varying degrees in Islamic law. Qaradawi mentions the four degrees of sins in Islamic law namely *makrūh tanzīhan* (acts which are undesirable or frowned upon but not to the point of being actually forbidden), *al-makrūh taḥriman* (acts which are undesirable nearly to the point of being forbidden), al-*mutashābihāt* (doubtful matters), and *al-ḥaram al-ṣarīḥ* (explicitly forbidden) and underscores the necessity of keeping these distinctions between

[109] Ibid., 107-109.
[110] Ibid. 43-44.

degrees of sins and treating everyone according to the sin and degree of sin that he has committed. In general, he affirms that Muslims should overlook the minor sins of the people as long as they do not persistently commit explicitly forbidden things. Because it is an established idea in Islamic law that as long as one avoids major sins, one's daily prayers, fasting and other acts of worship atone for his minor sins.[111]

Another characteristic of the New Literalist School is their adoption of the method of *tashaddud* (being severe) and *ta'sīr* (stringency) in legislation and their preference for hard-line opinions on any Islamic issue. According to Qaradawi, if literalists face two epistemologically valid opinions, they prefer the one that is more stringent. Qaradawi rejects this preference for the stringent opinions and asserts that facilitation *(taysīr)* not *ta'sīr* should be the defining feature of Islamic legislation. Qaradawi quotes the Quranic verses and hadiths to substantiate his point. After prescribing fasting to Muslims, Qur'an says that "Allah intends for you ease and He does not want to make things difficult for you" (Qur'an 2:185). At the end of the verse that commands cleanliness, the Qur'an again says "Allah does not want to place you in difficulty" (Qur'an 5:6). After the stipulations on marriage, the Quran says "Allah wishes to lighten (the burden) for you and man was created weak" (Qur'an 4:28). In the context of prescribing equality and forgiveness in cases of murder, Quran says, "There is an alleviation and a mercy from your Lord" (Qur'an 2:178). Also many hadiths emphasize the necessity of facilitating people's lives. It is narrated from the Companions that whenever Prophet had to choose between two options, he always chose the easier of the two, unless it was a sin.[116] Also, a well-

[111] Ibid., 124-128.

[116] Sahih Bukhari, Volume 8, Book 73, Number 147. http://www.msawest.net/islam/fundamentals/hadithsunnah/bukhari/073.sbt.html.

known hadith commands people "to facilitate (matters for people) and do not make (things) difficult."[117]

In addition to the textual justifications of facilitation, according to Qaradawi, facilitation in our age is also necessary due to the spread of anti-religion beliefs and social customs in the modern world. People are in need of using legal licenses because the obstacles in observing Islamic requirements have dramatically increased in the modern times. This anti-religious atmosphere necessitates the adoption of a more lenient approach by the preachers who invite people to Islam and the muftis who issue legal judgments.[118] Qaradawi summarizes his approach with the expression of "*taysīr fil fatwa, tabshīr fil d'awat*" (Facilitation in legal judgments and giving glad tidings in preaching/invitation).[119]

Qaradawi's contention about the irreligious or anti-religious nature of modern social conditions also led him to develop the concept of *fiqh al-muwāzana* (study or understanding of balances). Qaradawi agrees with the literalists that Muslims should always be struggling for the realization of the ideal social conditions; but according to him these conditions are hardly found or achievable. Consequently, Muslims should also develop a methodology for dealing with the imperfect social conditions. His "fiqh of balances" serves this purpose in Qaradawi's thought. Basically, "fiqh of balances" has three major components. First, assessing the relative significance of interests (*maṣlaḥah*) against each other so that if one has to choose one of them, one can prioritize the major benefits over the minor ones. Second, comparing and contrasting the intensity of the evils (*mafsadah*) against each other so that if Muslim community has to make a choice between two evils, they can choose the lesser of the two evils. Third,

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http://www.msawest.net/islam/fundamentals/hadithsunnah/bukhari/073.sbt.html.

[117] Sahih Bukhari, Volume 8, Book 73, Number 145 and 146.
http://www.msawest.net/islam/fundamentals/hadithsunnah/bukhari/073.sbt.html.

[118] Yusuf Al-Qaradawi, *Priorities of the Islamic Movement in the Coming Phase*, 141-142.

[119] Yusuf al-Qaradawi, *Dirāsa fī fiqhu maqāṣid al-Sharī'a*, 151.

considering the interests and evils that Muslims face in a particular situation so that Muslim community can decide whether Muslims can disregard slight evils for the sake of realizing a major interest or not. To use a contemporary term in the economy, Muslims should always make a cost-benefit analysis (although not simply monetary cost versus monetary benefit) in dealing with any contemporary problem. But literalists also see the "fiqh of balances" as a compromise with and capitulating to non-Islamic conditions and reject it. Qaradawi does not agree with literalist circles' "philosophy of either everything or nothing,"[120] stressing the significance of the "fiqh of balances" by affirming that in the absence of "fiqh of balances" "we will be closing many doors of good and blessing in our own faces, making the philosophy of rejection a way of dealing with everything and taking self-isolation as a pretext for avoiding problems."[121] Therefore, according to Qaradawi, Muslims cannot afford to withdraw completely from non-Islamic systems and to wait for the emergence of a perfect Islamic system in an isolated place removed from corrupting non-Islamic influences. This is why Qaradawi argues that it is permissible for Muslims to participate in the politics of the countries that are not ruled by Islamic law. Even though these countries do not uphold Islamic injunctions about life, Muslims—by participating into the politics of those societies—can positively contribute to the lessening of the evil and oppression *(taqlīl al-sharr wa-al-ẓulm)* or push those societies to choose the lesser of the two harmful things *(irtikāb akhaff al-ḍararayn).*[122]

[120] Yusuf al-Qaradawi, *Min Fiqhu al-Dawlatu fī al-Islām* (Cairo: Dār al-Shurūq, 2005), 180.
[121] Yusuf Al-Qaradawi, *Priorities of the Islamic Movement in the Coming Phase*, 47-55.
[122] Yusuf al-Qaradawi, *Min Fiqhu al-Dawlatu fī al-Islām*, 180-182.

Qaradawi's Assessment and the Criticisms of the Arguments of the School of *Mu'aṭṭila*

Qaradawi also tackles the arguments of the School of *Mu'aṭṭila* (suspenders) and offers his rebuttal for each of their points. First of all, according to Qaradawi, the school of *Mu'aṭṭila* consists of liberals, Marxists, and seculars whose relationship to religion is very tenuous. They are completely outside of the Islamic epistemology, and they seek to promote their own ideological views within Muslim societies. They use some Islamic arguments to attempt to restructure the entire Islamic law. According to Qaradawi, there are also some Muslim intellectuals who espouse the arguments of the School of *Mu'aṭṭila*. According to Qaradawi's reading of the ideas of these intellectuals, these people relativize the classical Muslim jurists' understanding of Qur'an and *Sunnah*. They see the teachings of classical Islamic schools of law as just opinions among many other possible opinions. According to Qaradawi, unlike Muslim jurists, they advocate disregarding the established schools of jurisprudence, returning to the Qur'an, and deriving new laws for the modern age based upon the universal objectives or principles of Qur'an. Similar to traditional Muslim jurists, they also understand the universal objective of the Quran as realizing benefits or interests *(maṣlaḥah)* and repelling harm *(mafsadah)*. But they go beyond the classical understanding of interests and use it to criticize some parts of the Islamic law that they deem not to be serving human interests. According to Qaradawi, these intellectuals so far have attacked Islamic criminal punishment, inheritance laws, divorce laws, and polygamy based on their claim that all these laws are inhumane and outmoded. According to Qaradawi, the school of *Mu'aṭṭila*'s views on Islamic law stems from the fact that they elevate '*aql* (intellect) over *waḥy* (revelation) *(i'lā' manṭiq al-'aql 'alá manṭiq al-*

waḥy) and attribute to the intellect the ability to recognize what is best for mankind in any particular situation.[123]

According to Qaradawi, the school of *Mu'aṭṭila* also finds justifications from Islamic history for their move from the letter of the law. They argue that second caliph Umar b. Khattab also suspended Islamic texts when he deemed that those texts were not serving human interests. For example, he did not apply the criminal punishment for theft in the year of famine. He also did not give to the *mu'allafat ul-qulūb* (those whose hearts have to be reconciled)[124] their portion from the *zakat* even though Quran has prescribed that they are one of the groups of the people to whom *zakat* can be given. [125]

According to Qaradawi, intellectuals in the School of *Mu'aṭṭila* commonly refer to the writings of Najm al-Dīn al-Ṭūfī (d. 716/1316) a controversial Ḥanbali scholar, in order to substantiate their argument that *maṣlaḥah* (interests, welfare of humans) can override explicitly mentioned commandments of Islamic law. According to these intellectuals, al-Ṭūfī took the *maṣlaḥah* as an independent source of law and argued that if naṣṣ and *maṣlaḥah* conflict, priority should be given to the *maṣlaḥah*. In other words, Muslims should put into practice whatever *maṣlaḥah* necessitates whether it conflicts with the explicitly commanded Islamic laws or not. In summary, according to these scholars "wherever *maṣlaḥah* is found, there is the law of God" *(ḥaythu tūjadu al-maṣlaḥah fa-thamma shar' Allāh)*. [126]

Apart from their textual justifications for their epistemological position, according to Qaradawi, these scholars also slavishly imitate Western societies, taking the prevailing

[123] Yusuf al-Qaradawi, *Dirāsa fī fiqhu maqāṣid al-Sharī'a*, 85-89, 99-102.
[124] *Mu'allafat al-qulūb* (Those with hearts to be reconciled) are people such as new Muslims who become alientated from their former friends and family who oppose their acceptance of Islam and non-Muslims who would like to embrace Islam but who are afraid of their society's hostility to it, among others.
[125] Ibid. 102-109.
[126] Ibid. 109-116.

standards in the West as universal and judging Islamic law based upon those standards.[127] According to Qaradawi, the fact that they are deeply influenced by Western civilizations' criteria should also be taken into account when attempting to make sense of their overall worldview.

Qaradawi rebuts all of their arguments one by one. First of all, he calls them to respect the teachings of the schools of law in Islamic history and to take them as authoritative interpretations of Quran and *Sunnah*. Qaradawi agrees with the school of *Mu'aṭṭila* that *ijtihādi* issues are open to reinterpretation and *fatwas*[128] can change on those issues. But for him, such injunctions as Islamic criminal law, inheritance law, and polygamy have been based on texts that are unambiguous in terms of their meaning and can be directly attributed to the Lawgiver because of the fact that they were mentioned in the Qur'an. The fact that those laws were derived from indubitable texts precludes any reinterpretation (*ijtihād*) of those laws.

Second, Qaradawi criticizes their raising *'aql* (intellect) over *waḥy* (revelation). Qaradawi agrees that *'aql* has an important place in Islam and it should be used to understand sources of law. But he contends that it should not be taken as a source of law. According to Qaradawi, the existence of different ideologies like liberalism or Marxism and their different suggestions for solving the problems of mankind shows that in contrast to what the school of *Mu'aṭṭila* assumes, there is not a universal *'aql*. According to Qaradawi, these two ideologies offered substantially different proposals to alleviate mankind's pains. Also, Qaradawi affirms that both in the past and in the present, human *'aql* many times allowed what divine revelation forbade and it forbade what divine revelation allowed. Therefore, relying on prevailing spirit of the age to judge Islamic concepts is a very risky enterprise. Human *'aql* is in a constant state

[127] Ibid., 95-96.

[128] An opinion by a scholar of Islamic law on a point of law.

of change, and it might revise what it today advocates. If human *'aql* would be able to discover mankind's best interests, then there would not be so much disagreement on any issue that people discuss. Based upon all these considerations Qaradawi affirms that unless *'aql* is guided with "the light of revelation," there is a great chance that it will go astray. Therefore, according to Qaradawi, divine revelation should be taken as the indisputable authority for the protection of human interests. Qaradawi reverses the motto of the school of *Mu'aṭṭila* and asserts "wherever the law of God is found, there is the benefit for people" *(ḥaythu yūjadu shar'Allāh fa-thamma al-maṣlaḥah al-'ibād)*. That is to say, intellectuals in the school of *Mu'aṭṭila* should accept the limited ability of the human intellect to propound a comprehensive law for the protection of human interests and surrender to the divinely revealed law in the Qur'an and *Sunnah*.[129]

Qaradawi also rejects their interpretation of 'Umar b. Khattāb's *ijtihāds*. According to Qaradawi's interpretation, 'Umar did not apply penalty for theft during famine because he did not consider those people who stole something during famine as thieves. According to Qaradawi, 'Umar reasoned that it was the responsibility of the Islamic state to provide necessary food to members of the society in a time of widespread famine. If the necessary provisions are not provided to them under such conditions, they might take something from other people's possessions to ensure their survival. What they do is still wrong; but at the same time it is not fair to punish them with the harshest punishment that Qur'an prescribes for theft.[130]

With regard to the school of *Mu'aṭṭila*'s claim that Umar canceled giving *zakat* to *mu'allafat ul-qulūb* (those whose hearts have to be reconciled), Qaradawi contends that their

[129] Yusuf al-Qaradawi, *Dirāsa fī fiqhu maqāṣid al-Sharī'a*, 99-102, 115-116.
[130] Ibid. 107-109.

claim stemmed from a misunderstanding of Umar's decision. Umar prevented a group of people who were receiving *zakat* under the category of *mu'allafat ul-qulūb* since the time of Prophet and Abu Bakr. After the passing of so many years, Umar ceased to consider these people as "those people whose hearts are to be reconciled" because over the years these people deeply internalized Islamic beliefs and practices and became devout Muslims. [131]

Qaradawi also rejects the school of *Mu'aṭṭila*'s interpretation of al-Ṭūfī's thought. First of all, according to Qaradawi, the *Mu'aṭṭila* have not read al-Ṭūfī very carefully and have picked and chosen those ideas from al-Ṭūfī that are harmonious with their perspective. According to Qaradawi, al-Ṭūfī first of all exempted matters of worship and *muqaddarāt* (such things as portions of the children from the inheritance of the parents, how many months a divorced woman should wait to be able to remarry *(muddatu al-'iddah)*, how many lashes should be used for punishments *('adadu al-jaldāti fī al-ḥudūd)*) from the domain of *ijtihād*. He said that human beings should accept them as they are and surrender to what the text says about them. Also, according to Qaradawi, the *Mu'aṭṭila* misunderstood what al-Ṭūfī said about "*al-naṣṣ*" (those texts in the Qur'an and *Sunnah* from which laws are derived). When al-Ṭūfī was talking about the contradiction between *al-naṣṣ* and *maṣlaḥah* (human interests), he was referring to the *al-naṣṣ al-ẓannī* (probable texts in terms of their authenticity and their meaning) not *al-naṣṣ al-qaṭ'ī* (texts that are authentic and their meaning is unambiguous). According to Qaradawi's reading of al-Ṭūfī, first of all al-Ṭūfī, never argued that authentic texts can contradict with *al-maṣlaḥah al-yaqīniyya* (real interests). If we think that they contradict, it is because we lack the capacity to fathom the wisdom behind those rulings or texts. Al-Ṭūfī only talked about the contradiction between probable texts and *al-maṣlaḥah al-yaqīniyya* (real interests) and in those

[131] Ibid., 104.

cases he argued that real interests could overrule probable texts. His argument should not be generalized outside of this specific area.[132]

The School of the Middle Way's Approach to the Objectives of Sharī'a

Qaradawi puts forward the arguments of the school of *wasaṭiyya* (middle way) as a balanced approach to the study of objectives of law and their relation to specific rulings. The school of the middle way believes that one of the attributes of God is wisdom and one of his names is The Wise (*al-Ḥakīm*). God neither creates nor legislates in vain. Both in his creation and in the law that he revealed, there are wise purposes for people who ponder upon them. God is also the most compassionate and merciful. As it is said in the *Sūrat An'ām*, "God has prescribed upon himself Mercy" (Qur'an 6:54). Therefore, He wants nothing but the welfare of his servants. And He knows his servants better than they know themselves.[133] He also knows the interests of his servants better than themselves. Therefore the Sharia that he revealed brings all the worldly and otherworldly benefits and averts all the harmful things that affect people's life in this world and the afterlife. As the scholar Ibn Qayyim (d. 751/1350) said "Sharia is nothing but all justice, all mercy, all wisdom and all benefits." But the wisdom behind the rulings of the Sharī'a may not be always self-evident, and understanding the wise purposes of the rulings might require the investigation of the scholars. Therefore, it becomes imperative for the scholars of Islam to understand and then present to others the justice, mercy, benefits and wisdom behind all the Islamic rulings so that the believers of the religion will understand what they practice and their hearts will become satisfied. And also religion is

[132] Ibid., 109-115.

[133] Qaradawi refers to the verse 14 of the *Sūrat ul-Mulk*: "How could it be that He who has created [all] should not know [all]? Yea, He alone is unfathomable [in His wisdom], aware! ." (Qur'an 67:14)

defended against the criticisms of people like the school of *Mu'aṭṭila* who argue that Islamic law violates human interests. [134]

Based upon these considerations, the school of the middle way believes in the *t'alīl al-aḥkām* (searching for the underlying causes of rulings in Islamic law) and the scholars in this school try to link specific texts with the general principles of the Sharī'a *(al-rabṭu bayna al-nuṣūs al-juz'iyya wa al-maqāṣid al-kulliyah).* The school of the middle way strikes a balance between two extremes of literalists' neglect of the objectives of Sharī'a *(ighfāl al-maqāṣid)* and suspenders' neglect of the texts *(ihmāl al-nuṣūs).*[135]

The school of the middle way agrees with the literalists that the rulings in the Islamic law related to matters of worship should be accepted without questioning. Obedience to those rulings as they were commanded is an aim in itself. There is no way to know why Muslims pray five times a day instead of three or seven times. However, in contrast to the worship related issues, in the area of social affairs, as Shāṭibī pointed out, humans could understand the rationale of the rulings. This is due to the fact that humans are experienced in the area of social affairs and, therefore, can observe the positive or negative consequences of any ruling that regulates this field. Therefore, in the field of social affairs, in contrast to matters of worship, scholars should first and foremost examine for the sake of protecting which human interest the Lawgiver has revealed this ruling. Understanding the rationale of the rulings is crucial for their proper application and for their extension to other cases. According to Qaradawi, consideration of the benefits and the meaning of the rulings in the area of social affairs should be taken as the general rule, and there are only a couple of exceptions to this general principle. These exceptions are the so-called al-*muqaddarāt al-shar'iyyah*. They are

[134] Yusuf al-Qaradawi, *Dirāsa fī fiqhu maqāṣid al-Sharī'a*, 137-149.
[135] Ibid. 137-140.

those aspects of the law where the Qur'an specifically prescribed numbers. For instance, regarding inheritance law, Qur'an mentioned how much each inheritor receives from the inheritance. Also, concerning the waiting period of divorced women, Qur'an stipulated how many months a woman should wait after divorce to be eligible for remarriage. Qur'an also mentioned the number of lashes that should be applied to adulterers or to those people who slander an innocent woman as adulteress. Nobody can explain satisfactorily why an adulterer is punished with one hundred lashes instead of eighty. Underlying causes of these rulings are unknown. With regard to these rulings, believers should surrender and say, "We heard and we obeyed" (sami'nā wa-aṭā'nā).[136]

Based upon the Shāṭibīan distinction between worship matters and social affairs, the school of the middle way always tries to understand underlying rationale of particular verses or hadiths pertaining to social affairs. This methodology is crucial for not repeating the mistakes of the literalists who stick to the letter but neglect the spirit. Literalists do not tie Islamic rulings to social benefits, and this is why they often stifle people's lives. Qaradawi gives some often-misunderstood hadiths as examples and shows in each case how the Prophet's commandments aimed to protect a particular human interest in that time.

For example, there are hadiths[137] that prohibit Muslim women to travel alone without any of their relatives accompanying them. Some Muslims continue to restrict the movement of women based upon this hadith. But according to Qaradawi, we should first try to understand why the Prophet prohibited traveling alone for women. The underlying reason of this prohibition according to Qaradawi, is the lack of security before the advent and spread of Islam

[136] Ibid., 199-205.

[137] Translation of Sahih Bukhari, Volume 2, Book 20, Number 192, 193, and 194, http://www.msawest.net/islam/fundamentals/hadithsunnah/bukhari/020.sbt.html.

in the Arabian Peninsula. In those times, there was a great possibility that a woman traveling alone might have been harassed or attacked by people. Even if she was not attacked physically during her journey, in that age people used to attribute negative traits to women who were traveling alone. Therefore, the Prophet took into account the interests of the women when he expressed this prohibition. But right now, since those conditions have changed, since various means of transportation such as plane, trains, and automobiles provide security and safety to passengers, traveling alone can be allowed for women. Indeed the Prophet himself articulated in one of his hadiths that after the spread of Islam, women would be able to travel from one land to another without the fear of harassment.[138]

Qaradawi gives another example from the hadith literature. The Prophet said, "I am distant from any Muslim who settles among the Associationists (*mushrikīn*)."[139] Some contemporary Muslim scholars on the basis of this hadith prohibited living in non-Muslim countries. According to Qaradawi, this hadith was not a general prohibition. The Prophet uttered it after *Hijra* (immigration to Madina) when Muslims and polytheists were fighting against each other. What the Prophet meant by this statement is that if a Muslim still stays in the land of polytheists in that time of conflict, despite the Islamic commandment to immigrate to the Madina, he is risking his own life and the Prophet will not protect him from any attack to his life. By expressing his discontent with living in non-Muslim lands during war, the Prophet aimed to protect the life of Muslims. Therefore, this hadith should be understood in that context of war. It is not a general prohibition for all ages. As Qaradawi says, it is

[138] Yusuf al-Qaradawi, *Dirāsa fī fiqhu maqāṣid al-Sharī'a*, 166-167, Yusuf Al-Qaradawi, *Approaching the Sunnah Comprehension & Controversy*, 129.
[139] *Translation of Sunan Abu-Dawud*, Book 14, Number 2639, http://www.msawest.net/islam/fundamentals/hadithsunnah/abudawud/014.sat.html.

permissible for Muslims to live in non-Muslim countries for various reasons i.e. education, business, work, preaching, etc.[140]

Qaradawi discusses also the hadith that gives the right to rule the Muslim community to the tribe of Quraysh. Since this hadith is also about social affairs, we should be able to understand the rationale that underlies the Prophet's judgment. Qaradawi refers to Ibn Khaldun's explanation about this hadith. Ibn Khaldun explained this hadith based on his theory of group solidarity. The Prophet gave the right to rule the Muslim community to the tribe of Quraysh because at that time members of this tribe had high level of group solidarity compared to other tribes. That is to say members of the tribe of Quraysh were more likely to support each other or sacrifice for the community compared to members of the other tribes. According to this interpretation, the Prophet granted the right to rule to Quraysh to ensure successful growth and spread of the Islamic movement. This was the *maṣlaḥah* (benefit, interest) that he took into account when he said, "Imams are from the Quraysh."[141]

The school of the middle way also follows a balanced approach in its understanding of the unchanging *(al-thawābit)* and changeable *(al-mutaghiyyirāt)* aspects of the religion. Literalists through their methodology turn the changeable into unchangeable and thereby "narrow what God has broadened." They make the religion very inflexible and non-responsive to the different conditions of various social contexts. On the other hand, suspenders through their methodology leave no unchangeable in the religion. The school of the middle way believes that articles of faith, five pillars of Islam, moral principles of Islam (justice, sincerity, mercy, patience, gratitude etc.) and those laws in Islam (lawful and unlawful foods, divorce,

[140]Yusuf Al-Qaradawi, *Approaching the Sunnah Comprehension & Controversy*, 127-128.

[141] Yusuf al-Qaradawi, *Dirāsa fī fiqhu maqāṣid al-Sharī'a*, 170-171, Yusuf Al-Qaradawi, *Approaching the Sunnah Comprehension & Controversy*, 130.

inheritance, criminal law) that are based on texts that are indisputable in their meaning and in their attribution to the Lawgiver *(al-qaṭ'iyyatu fī al-thubūt wa al-dalālah)* constitute the "the circle of unchangeable" (*dā'irat al-thawābit)*. There is no room for *ijtihād* or *tajdīd* (renewal) within this circle of unchangeable. According to Qaradawi, these unchanging aspects of the religion are indeed more limited than people generally assume. Yet, they are quite significant in the sense that they distinguish the Islamic *ummah* from other nations and in the case of a disagreement between Muslim communities, these unchangeable principles and laws become the arbiter for resolving the issue. Changeable aspects of the religion comprise other laws in Islam that are based on texts that do not have the same degree of authenticity and unambiguous meaning as much as aforementioned texts. The majority of the rulings in Islam fall into this category of "changeable aspects" *(al-mutaghayyirāt)* and scholars can offer new opinions in this field. It is open to *tajdīd* (renewal) and *taṭawwur* (development, innovation).[142]

Similarly, the school of the middle way also distinguishes unchanging purposes *(al-maqāṣid al-thābitah)* from the changeable means *(al-wasā'ilu al-mutaghayyirah)* that lead to those purposes and do not attribute a sacred status to the "changeable means," various examples of which can be seen in history. The school of the middle way believes, on the one hand, that God, the Lawgiver, (out of His mercy) left believers to discern various appropriate means for achieving unchanging purposes. On the other hand, it would have been burdensome for Muslims if he had required Muslims to follow a specific historical model for all ages. By definition this is unthinkable for God who wants to ease His servant's lives.[143]

Qaradawi gives the examples of *al-shūrá* (consultation) and *al-'amru bi-al-ma'rūf wa-l-nahy 'an al-munkar* (enjoining good and forbidding evil) to illustrate his point. Qur'an in

[142] Yusuf al-Qaradawi, *Dirāsa fī fiqhu maqāṣid al-Sharī'a*, 197-199.
[143] Ibid. 174-176.

different verses commanded Muslims to consult each other (Qur'an 42:38; 3:159) in conducting their affairs but did not specify any mechanism for practicing consultation. Therefore, Qaradawi contends that each Muslim generation, according to the unique circumstances of their age, should ponder about various mechanisms that would best guarantee their practicing the ideal of consultation. Qaradawi himself believes that in our age democracy provides some procedures that can ensure the implementation of the ideal of managing our affairs through consultation. In addition, according to Qaradawi, the Qur'an also did not prescribe a specific mechanism for enjoining good and forbidding evil. Historically Muslims have performed this duty through the institution of the *al-ḥisbah*. But there is no reason that contemporary Muslims should follow the model developed by the previous generations. Contemporary Muslims should ponder devising new means to fulfill this fundamental duty in the unique social conditions of our age.[144]

Qaradawi builds his ideas upon this theoretical framework and offers fresh ideas on many issues. Before further explaining his views on some specific issues, I will present his conception of the "objectives of Sharīʿa" in greater detail. So far, I have focused on his methodology. In his discussion of the "objectives of Sharīʿa," Qaradawi lays out the foundation for the renewal of Islamic societies.

Qaradawi's Conception of the Objectives of the Qur'an

Qaradawi underlines the necessity of going beyond the five classical objectives (namely religion, life, intellect, lineage, property) in order to respond to the contemporary challenges that Muslims face. Muslims should not only focus on benefits related to the life of individual

[144] Ibid., 174-176.

but should also try to determine objectives pertaining to the society, nation, human relations, and ethics. In his book *Kayfa Nataʻāmalu Maʻa al-Qur'ān al-Aẓīm?* Qaradawi propounds the purposes of the Qur'an that are related to these categories. The purposes of the Qur'an can be taken as the equivalent of the concept of objectives of the Sharīʻa as it is used in this thesis. The following discussion will be based on the relevant parts of this book.[145]

According to Qaradawi, the most important goal of the Qur'an is to correct mankind's beliefs about God, prophets, and afterlife *(taṣḥīḥ al-ʻaqā'id).* The Qur'an calls all people to acknowledge the Oneness of God (*tawḥīd*) and it strongly condemns *shirk* (giving divinity to anything other than God). All the messengers that God has sent to mankind preached the same message of monotheism and summoned people to worship exclusively One God (Qur'an 21:25; 7:59, 65, 74, 85; 11:50, 61, 84). The Qur'an presents *shirk* as the gravest sin and it explicitly states that God does not forgive those who associate partners with God (Qur'an 4:48). According to Qaradawi, the Qur'anic conception of monotheism is also the basis of the notions of human freedom, equality and brotherhood. All human beings are equal because they are the servants of One God; and they come from the same mother and father. *Tawḥīd* is also the basis of freedom because it undermines the power of those people who demand absolute obedience from people as if they are God. The Qur'an challenged the power of people like Pharaoh and consistently called people to resist al-*ṭāghūt,* (Qur'an 16:32) which is anything that lay claims on human life and freedom besides God. The Qur'anic call to the People of the Book that "we shall not take human beings as our lords beside God" (Qur'an 3:64) should also be understood in this framework.

[145] Yusuf al-Qaradawi, *Kayfa Nataʻāmalu Maʻa al-Qur'ān al-Aẓīm?* (Cairo: Dār al-Shurūq, 2005), 71-125.

The Qur'an also aimed to correct mankind's beliefs about prophethood and divine messages. First, the Qur'an explained the necessity of Prophethood. Prophets were sent to the people so that they can "have no excuse before God" (Qur'an 4:165) on the Day of Judgment, "to make clear to people those things in which they differ" (Qur'an 16:64), and books were revealed to Prophets in order "to judge between people in matters wherein they differed" (Qur'an 2:213).

The Qur'an explained that Messengers' roles are giving glad tidings of the rewards for the believers and warning people of the punishment for the deniers. The Qur'an also said that prophets are not Gods, divine beings or the sons of God. They are only human beings. The Qur'an also responded to the expectations and questions of some people about why God has sent human messengers instead of angels to preach his message. As a response to such speculations, the Qur'an said that God reveals his message to whomever he wants (Qur'an 14:11), and the Qur'an also implied that God sent human messengers so that people can follow their life example (Qur'an 17:95). In numerous verses, the Qur'an also explained the reward and punishment for those people who believe in or deny the messengers.

The Qur'an also sought to teach people a sound conception of afterlife. First, the Qur'an tried to prove that God is capable of resurrecting human bodies after death by presenting the stages of development of human beings (their birth, growth and death) (Qur'an 22:5) and the creation of the heavens and the earth (Qur'an 46:33) as an evidence of God's ability to create, transform and resurrect.

In numerous verses, the Qur'an aimed to refute the views of those people who denied God and saw this life as meaningless. The Qur'an affirmed that it is illogical for humans to entertain the idea that God created the humans "in mere idle play" and they will not return to

Him (Qur'an 23:115) and it is also very illogical for humans to think that man is "to be left to himself to go about at will" (Qur'an 75:36). In many verses, the Qur'an also alluded to the unreasonableness of the idea that righteous and the wicked will not be treated differently after death (Qur'an 38:28). The Qur'an vividly and in detail explained what events would transpire in the hereafter and the reward and punishment that await the believers and deniers. The Qur'an also rejected the beliefs of some deniers that there will be some intercessors in the Day of Judgment who will intercede for the forgiveness of their sins and because of this intercession they will be treated well in the afterlife. As a general rule, the Qur'an declared that in the day of judgment no man will bear the sins of another one (Qur'an 53:38) and "man have nothing but what he strives for" (Qur'an 53: 39).

According to Qaradawi, second goal of the Qur'an is to establish the dignity and the rights of human beings *(taqrīr karāmah al-insān wa-ḥuqūquhu)*. The Qur'an emphasized that human beings are noble creation of the God; God has created humans with his hand; He blew them of His spirit, and made them His vicegerents in this earth and bestowed human beings whatever exists in the heavens and the earth for their use. In addition to choosing mankind as His vicegerent on this earth and giving him His infinite blessings and bounties, God also granted him many rights that cannot be taken from him by under any circumstance.

First, God gave humans the right of the freedom of *naẓar* (observation) and *tafakkur* (contemplation, pondering) on the signs of God as substantiated by many verses (Qur'an 10: 101; 34:46).

Second, God gave mankind the right of the freedom of belief. The Qur'an forbade "compulsion in religion" and prophet was admonished for forcing people to convert in the verse 99 of the *Sūrat al-Yunus*.

The Qur'an granted the right to command good and forbid evil to humans as the following verse attests: "And [as for] the believers, both men and women, they are close unto one another: they [all] enjoin the doing of what is right and forbid the doing of what is wrong" (Qur'an 9: 71).

The Qur'an stressed every human's right to equality with other people regardless of gender, color or ethnicity as the following verse in *Sūrat al-Hujurāt* affirms: "O men! Behold, We have created you all out of a male and a female, and have made you into nations and tribes, so that you might come to know one another. Verily, the noblest of you in the sight of God is the one who is most deeply conscious of Him" (Qur'an 49: 13).

The Qur'an also talked about the human right to have a spouse and establish a family as the following verse in *Sūrat al-Rūm* alludes: "And among His wonders is this: He creates for you mates out of your own kind. so that you might incline towards them, and He engenders love and tenderness between you: in this, behold, there are messages indeed for people who think!" (Qur'an 30: 21). In several verses, The Qur'an also vindicated human beings' right to have descendants and denounced infanticide that was practiced in the Arab society before the advent of Islam (Qur'an 16: 21; 6:151; 17:31; 81:8-9: 16:58-59).

Another right that the Qur'an enjoined Muslims to protect is the sanctity of private space. Verses 26 and 27 of the *Sūrat al-Nur* prohibited entering other people's houses without asking for permission.

The Qur'an also strongly affirmed the sanctity of life. Quran condemned killing a human being without a just cause (Qur'an 6: 151; 17:33) and pointed out to the gravity of murder by equating the killing one person with killing all mankind (Qur'an 5:32).

The Qur'an established the right to enjoy the bounties bestowed by God (Qur'an 7: 32). The Qur'an underscored man's right to work and earn his livelihood through legitimate means (Qur'an 67:15; 62:9-10; 2:198; 4:32) and it prohibited taking other people's property without a just cause (Qur'an 4: 29).

The Qur'an called people to respect human honor and dignity and prohibited deriding, defaming people and calling other people with offensive nicknames (Qur'an 49: 11).

The Qur'an allowed everyone to defend himself/herself against any aggression (Qur'an 2: 194.

The Qur'an upheld justice and affirmed the right of everyone to be treated fairly. The Qur'an enjoined Muslims to observe the rules of justice when they adjudicate any trial (Qur'an 4: 58) and specifically admonished them not to "depart from justice" in dealing with those people towards whom they hold ill feelings (Qur'an 5:8). To illustrate the Qur'an's impartiality in applying rules of justice, Qaradawi mentions the verses from the *Sūrat al-Nur*, which exonerated a Jew who was wrongly accused for theft.

The Qur'an declared everyone's right to minimum life standards. The Qur'an stated that poor people have a right in the properties of the rich people (Qur'an 70: 24-25). Also, poor people, orphans, and wayfarers have a right in the revenues of the Islamic state that come from war booties.

The Qur'an drew special attention for the protection of the rights of the weak people. The Qur'an condemned the jahiliyah society for not helping the orphans and not encouraging people for feeding the poor (Qur'an 89:17-18). The Qur'an admonished people not "to treat orphans with harshness" (Qur'an 93:9) and regarded not encouraging people for feeding the poor as one of the causes of punishment in the afterlife (Qur'an 74:42-44; 69: 33-34).

Third goal of the Qur'an is to persuade mankind to the necessity of worshipping God and being always conscious of Him. From beginning to end, the Qur'an introduces and elucidates God's names and his actions and urges people to acknowledge his blessings and worship him. Indeed, according to the verse 56 in *Sūrat al-Dhāriyāt* God did not create humans and invisible things for any end other than worshipping Him. The proper attitude humans should have towards God is expressed through the term *taqwa*. *Taqwa* (God-consciousness) is showing extreme sensitivity in obeying God's commandments and avoiding His prohibitions out of one's fear of God. It is an act of the heart (22:32). The Qur'an calls believers "to be conscious of God with all the consciousness that is due to Him" and "not to die unless a person is in a state of surrender" (Qur'an 3:102). The Qur'an also enjoins *taqwa* before explaining God's commandments and prohibitions so that humans become more careful in following God's law. It sometimes also enjoins *taqwa* after introducing commandments or prohibitions as a reminder of the seriousness of the issue. We also learn from the *Sūrat al-Shu'arā'* that all the prophets called their people to have *taqwa* and obey God.

Quran ties the blessings of this world and hereafter to the observance of *taqwá*. Bestowal of provisions (Qur'an 65:2-3), deliverance from difficulties (Qur'an 65:2-3), protection from the plots of enemies (Qur'an 3:12), God's accompaniment to His servant (Qur'an 2:194), God's love (Qur'an 9:4), God's friendship (Qur'an 10: 62-63), attaining a honorable status in the eyes of God (Qur'an 49:13), being able to receive the guidance of the Qur'an (Qur'an 49:13), ,acceptance of the believers' deeds (Qur'an 49:13), the reward of Paradise (Qur'an 3:133), salvation (Qur'an 39:61) are all made by the Qur'an conditional upon the observance of *taqwa*.

The fourth goal of the Qur'an is to purify the souls of mankind *(tazkiyah al-nufūs al-bashariyyah)*. As many verses in the Qur'an indicate, one of the primary reasons of God's

sending the earlier prophets and the Prophet Muhammad is to purify the souls of the believers (Qur'an 2:129,151; 3:164). The Qur'an introduces purification of the soul as an indispensable aspect of a Muslim's religious life to the point that it sees *tazkiyah* as a precondition of salvation (Qur'an 91:7-10; 87:14). Purification of the soul primarily consists of acquiring the moral traits of the Prophet who represents the ideal believer in the Qur'an. The Qur'an mentioned these moral traits concisely in the *Sūrat al-'Anfāl, Sūrat Al- Mu'minūn, Sūrat Al-Ra'd, Sūrat Al-Dhāriyāt, Sūrat al-Furqān, Sūrat al-Ḥujurāt*. A Muslim, through his struggle with his evil commanding self (Qur'an 12: 53) acquires these moral characteristics, passes the level of blaming self (Qur'an 75: 2), and eventually achieves the level of contented self (Qur'an 89: 27-28.

The fifth goal of the Qur'an is to establish families and the protection of the rights of women *(takwīn al-usrah wa-inṣāf al-mar'ah)*. The Qur'an presents the creation of man and woman and the fact that they can find tranquility, love, and mercy when they marry "as messages/signs for those people who think" (Qur'an 30: 21). One of the primary goals of establishing a family, according to Qaradawi, is to have righteous offspring. The Qur'an mentions one's offspring as a blessing of God (Qur'an 16:72) that should be acknowledged by people; and it underscores the significance of raising pious children by giving the examples of Abraham's and Zachariah's prayers who entreated God to bestow them with righteous children (Qur'an 37: 100-101; 19:5-7).

With regard to women's rights, Qaradawi contends that the Qur'an liberated women from the demeaning social conditions of the pre-Islamic Arabia. The Qur'an improved the status of women in all the different roles that they occupy. Whether as a mother, daughter, and wife, or, in general, as a member of a society, the Qur'an affirmed the dignity and rights of

women. According to Qaradawi, in Islam man and woman are equal in all religious senses. They are responsible for performing all religious obligations; and they will be recompensed for their deeds on the Day of Judgment in the same way. Neither a man nor a woman is inherently superior to each other. The only criterion to distinguish among them—from a religious perspective—is the degree of their God-consciousness. Qaradawi considers the Islamic laws that other people such as the Mu'attila (School of Suspenders) criticize as not being egalitarian—laws dealing with matters such as polygamy, divorce, inheritance, legal testimony, and guardianship of men—to be within the circle of unchangeable parts of the religion because according to him these laws are derived from indisputable texts. Since he believes that they are unquestionable aspects of the religion, Qaradawi defends them against the criticisms and tries to show how they serve human interests. But in those cases in which the laws are not based on indisputable texts, Qaradawi rejects them and offers his alternative views on the issue. For instance, Qaradawi rejects the classical view that blood money of a woman is half of the amount that should be paid for men. Qaradawi considers the proof-texts for this ruling to be problematic and contends that there is neither a consensus of the scholars nor completely authentic hadiths that can support this ruling. Therefore, based upon the Islamic idea of equality of man and woman and the fact that the Qur'anic verse that prescribes the penalty for accidental homicide does not distinguish genders, Qaradawi asserts that the blood money of a woman should be equal to that of a man.[147]

The sixth goal of the Qur'an is to establish an *ummah* (community, nation) that can be an example to mankind through their beliefs and deeds *(binā' al-ummat al-shahīdat 'alá al-bashariyyat)*. The Qur'an and the Prophet Muhammad aimed to break tribalism in Arabian

[147] Yusuf al-Qaradawi, *The Status of Women in Islam*, Virtual Library of Witness-Pioneer, http://www.witness-pioneer.org/vil/Books/Q_WI/misconception.htm#Distinctions%20justified (accessed March 19, 2010).

society and to replace tribal identity with faith-based identity. Also the Prophet Muhammad condemned in some of his statements supremacist attitudes of some tribes against others. Hence the *ummah* that the Qur'an and the Prophet Muḥammad tried to establish— according to Qaradawi—had four characteristics. First, it is a "Godly" *(al-rabbāniyah) ummah.* It is a Godly community in two senses: One is that it is Godly community because God established this community by sending his revelation to Prophet Muhammad. The rise and spread of Islam cannot be explained without reference to God's revelation, the Qur'an. The Qur'an also uses the vocabulary that expresses the divine origin of this *ummah.* In verse 143 of the *Sūrat al-Baqarah,* when explaining the Muslim *ummah*'s characteristic of being in the middle way, the Qur'an states that God inculcated such a characteristic in the Muslim ummah. The Qur'an used the expression "we willed" *(ja'alnākum)* in this verse: "We have willed you to be a community of the middle way." Or in the verse 110 of *Sūrat Āl 'Imrān*, the Qur'an also alludes to the idea that God made possible the emergence of Muslim community by using the verb "brought forth" *(ukhrijat).* The verse reads as "You are the best community that has ever been brought forth for the good of mankind." Therefore it is God who brought into existence the Muslim community. The second sense in which the Muslim *ummah* is Godly is in terms of its orientation in life. This community dedicates its life to God, lives for God, worships only for God, and strives to establish an Islamic society on the earth of God. It is from God and to God. As expressed succinctly in the *Sūrat al-An'ām* verses 162-163, Muslims' prayers and acts of worship and their living and dying are only for God.

The second characteristic of the Muslim *ummah* is its avoidance of extreme points of view and its adherence to the middle way. The Muslim *ummah* represents the middle way in terms of beliefs, acts of worship, morality, law, and thought. Islam is also the middle way

between extremes such as spiritualism and materialism, idealism and realism, rationalism and emotionalism, and individualism and collectivism. It is the straight path that is free of the excesses of other paths.

The third characteristic of the Muslim ummah is its willingness to invite people to Islam *(al-d'awah)*. As pointed out by Qur'anic verses, the Prophet Muhammad's message is a universal message (Qur'an 25:1; 7:158; 21:107; 38: 87-88; 6:90; 34:28); and God sent him as a "mercy for all the worlds" (Qur'an 21: 107). Therefore, it is incumbent upon the Muslim community to call all people to the message of Islam, enjoining good and forbidding evil (Qur'an 3: 104). Indeed, according to the Qur'anic verse, one of the reasons that the Muslim community deserves the title of "the best nation that was brought forth for mankind" is its commitment to the duty of enjoining good and forbidding evil (Qur'an 3: 110).

The fourth and last characteristic of the Islamic *ummah* is its unity *(al-wahdah)*. The Qur'an admonished Muslims to be one united community (Qur'an 21:92; 23:52) and strongly condemned any division within Islamic *ummah* (Qur'an 3: 103-105). The Qur'an and hadiths declared that all Muslims are brothers of one another (Qur'an 49:10) and enjoined Muslims to prioritize their religious identity over any other affiliation they have.

The seventh goal of the Qur'an is to invite all people across the world to cooperation *(al-da'wat ilá 'ālam insānī muta'āwin)*. Under this title, Qaradawi explains some of the important aspects of Islam's message to mankind, and he also elucidates the proper way of engagement with non-Muslims. This title has four components. First, the Qur'an aims to liberate mankind from worshipping other humans *(taḥrīr al-insān min al-'ubūdiyya lil-'insān)*. The Qur'an calls all people to believe in One God and to resist any other people who do not recognize God's revelation as an epistemological source in managing mankind's affairs. According to the

Islamic perspective, this message is very emancipatory because humans are not supposed to obey anyone unless they are legitimate authorities who are representing God. This message was very important for the Qur'an to the point that it called the People of Book to come to a "common word" between Islam and other Abrahamic religions, one aspect of this common word being not taking human beings as lords besides God (Qur'an 3:64). Based on the Quranic verse in *Sūrat al-An'ām,*[148] Qaradawi states that sovereignty belongs to God; only He owns the right to legislate, to allow, or to prohibit. And therefore, according to Qaradawi, rejecting human authorities that promote their ideologies as an alternative to the Islamic worldview is an essential component of the Islamic commandment of not taking humans as lords besides God.

According to Qaradawi, the Qur'an and *Sunnah* also advocate the brotherhood and the equality of all people *(al-ikhwatu wal-musāwāt al-'insāniyya)*. According to Qaradawi, equality of humans is established on two grounds in Islam. First, by virtue of being the servant of One God, all human beings are equal. Second, human beings are also equal because of the fact that they are the descendants of the same father, Adam. Furthermore, the Qur'an and *Sunnah* reject claims of superiority based on one's ethnicity, gender, and other determinants of one's identity, affirming "God-consciousness" as the only criterion for attaining a noble status in the eyes of God (Qur'an 49:13).[149]

The Qur'an also aims to establish a just social system for all people regardless of their religion or ethnicity *(al-'adl li-jamī' al-nās)*. Justice primarily comprises giving everyone his/her

[148] Qaradawi refers to this verse: "[say thou:] "Am I, then, to look unto anyone but God for judgment [as to what is right and wrong], when it is He who has bestowed upon you from on high this divine writ, clearly spelling out the truth?" And those unto whom We have vouchsafed revelation aforetime know that this one, too, has been bestowed from on high, step by step, by thy Sustainer. Be not, then, among the doubters" (Qur'an 6:114).

[149] Prophet Muhammad also said: "O humans, your Lord is one, your father is one, all of you is from Adam, and Adam is from clay. Arab does not have superiority over non-Arab, neither white has superiority over black except through God-consciousness."

due. It can be inferred from the Qur'an that one of the essential duties of God's Messengers is to establish a mechanism for implementing the principles of justice in the societies to which they were sent (Qur'an 57:25).[150] The Qur'an particularly admonishes Muslims to continue to uphold justice even if this goes against to the interests of their selves, parents and relatives (Qur'an 4:135). In a similar way, the Qur'an warns Muslims not to deviate from their commitment to justice in their engagement with a group of people against whom they hold grudges (Qur'an 5:8).

According to Qaradawi, the Qur'an also idealizes universal peace *(al-salām al-'ālamī)* and justifies use of force only as a last resort. In his recent book on *jihād*, Qaradawi explains in detail different perspectives that exist within the Muslim community with regard to warfare, as well as his own viewpoint. According to Qaradawi, there are two schools of thought within the Muslim world about jihād. The first group is pro-peace: they advocate defensive *jihād* and allow offensive *jihād* only under certain circumstances. This group believes that Muslims have the right to fight only those people who fight against Muslims. If non-Muslims do not attack Muslims or do not prevent Muslims from practicing and preaching their religion, there is no need for Muslims to fight them. Under certain conditions, however, this group also justifies offensive war and believes that it is legitimate to invade another country even if that country does not attack Muslims. These conditions are first that Muslims can wage war against a country if that country does not allow Muslims to preach their religion or if there is not freedom of worship in that country. Pro-peace group argues that in order to eliminate anything that prevents people from receiving or practicing the message of Islam, Muslims can invade that country. According to Qaradawi, this is the meaning of the Qur'anic verse that

[150] Qaradawi refers to the following verse: "Indeed, [even aforetime] did We send forth Our apostles with all evidence of [this] truth; and through them We bestowed revelation from on high, and [thus gave you] a balance [wherewith to weigh right and wrong], *so that men might behave with equity*" Qur'an (57:25).

reads as "Hence, fight against them until there is no more oppression and all worship is devoted to God alone" (Qur'an 2:193). Qaradawi contends that most of the early battles between Muslims and polytheists were examples of this type of war.[151] Second, the pro-peace camp allows waging war against another country if that country is plotting to annihilate the existence of an Islamic state. Qaradawi uses the term "precautionary war" and states that the wars that Muslims waged against Romans and Persians fall into this category. Third, the pro-peace camp asserts that Muslims can wage war in order to save Muslim captives or to liberate oppressed groups living under an unjust system. Fourth, *jihād* is allowed in order to restore Islam within the Arabian Peninsula in case a non-Muslim force invades it. According to Qaradawi, God willed that the Arabian Peninsula should be the land of Muslims and that at all times it should function as a place for taking refuge in case of hardship. Therefore, whenever it is invaded by another country, Muslims have a right to fight against that country.[152]

The Pro-peace camp allows offensive war only under these conditions and does not think that the underlying cause of the wars in Islamic history that Muslims waged against non-Muslims was the disbelief of non-Muslims. Qaradawi also adds that since the restrictions on freedom of worship and preaching have been lifted in many parts of the world, an important justification for offensive war has become obsolete. Muslims can spread the message of Islam through Internet and televisions to all parts of the world without facing an obstacle. [153]

[151] See Qaradawi's discussion of some early battles between Muslims and polytheists: Yusuf al-Qaradawi, "Jihad Renegotiated Interpretations of the Related Sunnah; A Revision", IslamOnline.net, http://www.islamonline.net/servlet/Satellite?c=Article_C&pagename=Zone-English-Living_Shariah/LSELayout&cid=1178193247406 (accessed March 22, 2010).
[152] Yusuf al-Qaradawi, "Jihad Renegotiated Muslim/non-Muslim Relations; Peace or War?", IslamOnline.net, http://www.islamonline.net/servlet/Satellite?c=Article_C&pagename=Zone-English-Living_Shariah/LSELayout&cid=1178193245750 (accessed March 22, 2010).
[153] Yusuf al-Qaradawi, "Jihad Renegotiated Muslim/non-Muslim Relations; Peace or War?".

Also, on the basis of the Prophet Muhammad's *Sunnah* and some Qur'anic verses, the pro-peace camp believes that peace is an ideal that is a blessing from God; while war is deviation from ideal social relations. Islam calls all people to cooperation and peace, not to hatred, fighting, or war.[154] Qaradawi, however, also urges Muslim countries to develop sufficient military power to serve as a deterrent for other countries. According to Qaradawi, always having a military power that is capable of intimidating enemies of Islam is a Qur'anic commandment.[155] Qaradawi believes that without acquiring such military power, it would be unrealistic to expect that other people will respect Muslims' right to exist. Therefore, in order to successfully wage both defensive war and legitimate types of offensive war, it is imperative that Muslims have as much as military power as other countries have.

The second group, according to Qaradawi, is pro-war and they advocate offensive war even if non-Muslims do not pose a threat to the Muslim community or do not violate Muslims' right to freedom of worship and freedom to preach their religion. They believe that Muslims should dominate non-Muslims. According to this second group, the underlying cause of Muslims' fighting non-Muslims in Islamic history is non-Muslims' disbelief. The Pro-war camp justifies their ideas on the basis of the so-called "sword verses" and a hadith of the Prophet Muhammad.[156]

Qaradawi disagrees with them and basically does not find the justification of offensive war based on the so-called "sword verses" to be convincing. He asserts that it is inconsistent to claim that the sword verses abrogated the many verses in the Qur'an that call for justice,

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[154] Rashid Al-Ghannoushi, "What is New about Al-Qaradawi's Fiqh of Jihad?", IslamOnline.net, http://www.islamonline.net/servlet/Satellite?c=Article_C&cid=1252188303047&pagename=Zone-English-Living_Shariah%2FLSELayout (accessed March 19, 2010).

[155] Qaradawi refers to the verse in the *Surāt al-'Anfāl*: "Against them make ready your strength to the utmost of your power, including steeds of war, to strike terror into (the hearts of) the enemies, of Allah and your enemies." Qur'an (8:60).

[156] Yusuf al-Qaradawi, "Jihad Renegotiated Muslim/non-Muslim Relations; Peace or War?".

tolerance, and kindness towards non-Muslims, verses that distinguish peaceful non-Muslims from hostile non-Muslims. According to Qaradawi, those "sword verses" were revealed for a group of Arab polytheists who from the beginning of Islam incessantly ridiculed and attacked Muslims and who, even after they made truce with the Muslims, did not observe the conditions of the truce. These verses should be understood in that context. Qaradawi also tackles the hadith that is used to justify offensive jihād. According to his hadith, the Prophet said, "I have been commissioned to fight until all people say, "There is no God but God." Qaradawi here also contextualizes the hadith and contends that the word "people" in the hadith just refers to the hostile Arab polytheists.[157]

According to Qaradawi, parallel to the Qur'an's idealization of peace, the Qur'an also encourages Muslims to live harmoniously with non-Muslims *(al-tasāmuḥ ma'a ghayr al-muslimīn)*. In particular Christians and Jews have a special status in Islam because of the fact that they follow the Prophet Abraham and that their religions are originally based on divine revelation. Because of their closeness with Islam compared to other religions, Muslim jurists allowed eating their food and permitted Muslim men to marry Christian and Jewish women. According to Qaradawi, the eighth of the *Sūrat al-Mumtaḥinah* should be taken as the conclusive principle for regulating Muslim and non-Muslim relations. According to this verse, "God does not forbid you (Muslims) to show them (non-Muslims) kindness and to behave towards them with full equity" if "they do not fight against you on account of [your] faith, and neither drive you forth from your homelands." Therefore, according to Qaradawi, unless non-Muslims show hostility against Muslims, Muslims have to be kind and fair to them in their relationships. Qaradawi reiterates the same argument in his other books in which he discusses Muslim and

[157] Rashid Al-Ghannoushi, "What is New about Al-Qaradawi's Fiqh of Jihad?".

non-Muslim relations.[158] Overall, this argument of Qaradawi parallels what he said about the Islamic ideal of the peace and his rejection of offensive conceptions of *jihād*.

Qaradawi also states that non-Muslims should be considered citizens of an Islamic state, possessing the same rights that Muslims have. The Islamic state should protect their body, blood,[159] money, property, and honor.[160] Furthermore, in the Islamic state they must enjoy the benefits of the social welfare system of the state and must be able to engage in any commercial activity except those that include taking interest and involve selling alcohol and swine within Muslim provinces. Non-Muslims must be permitted to occupy any position in the state except those that contain a religious dimension, such as the being the leader of the state or army or being a judge. There are many examples in Islamic history that show that non-Muslims have held positions in the state bureaucracy.[161]

Qaradawi's Views on Interfaith Dialogue, Women Rights, and Democracy

In contrast to the literalists who preach hatred against non-Muslims, the school of the middle way distinguishes polytheists from the People of the Book and believes that on the basis of theological and moral principles, Muslims and the People of the Book can engage in

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[158] Yusuf al-Qaradawi, *Min Fiqhu al-Dawlatu fī al-Islām*, 193-198, Yusuf Al-Qaradawi, *The Lawful and the Prohibited in Islam* (Cairo: Al-Falah Foundation, 2001), 333-341, Yusuf al-Qaradawi, *Fiqh of Muslim Minorities Contentious Issues&Recommended Solutions* (Cairo: Al-Falah Foundation, 2003), 139-146.

[159] Qaradawi rejects the opinion of some Muslim jurists who claim that a Muslim cannot be killed if he murders a non-Muslim. On the basis of idea of the equality of all people, Qaradawi argues that the law of retaliation in criminal law should be applied to all people regardless of their religion. If a Muslim kills a non-Muslim, he should be executed. Also, a Muslim thief's hand should be cut off if he steals a non-Muslim's property. See: Yusuf al-Qaradawi, "Killing a Muslim for a non-Muslim", IslamOnline.net, http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503544568 (accessed March 20, 2010).

[160] Qaradawi quotes the following hadiths to substantiate his point: "He who hurts a dhimmi hurts me, and whomever hurts me annoys Allah" or "Whomever hurts a dhimmi, I am his adversary, and I shall be an adversary to him on the Day of Judgment".

[161]Yusuf al-Qaradawi, *Non-Muslims in the Islamic Society* (United States of America: American Trust Publications, 2005), 3-18,Yusuf al-Qaradawi, *The Lawful and the Prohibited in Islam*, 336-337, Yusuf Al-Qaradawi, *Min Fiqhu al-Dawlatu fī al-Islām*, 193-195, Mass'oud Sabri, "Non-Muslims in Muslim Societies: Contemporary Ijtihad The Rights of Non-Muslims in Society: A Reading of Al-Qaradawi Thought (Book Review)", IslamOnline.net, http://www.islamonline.net/servlet/Satellite?c=Article_C&cid=1158658487489&pagename=Zone-English-Living_Shariah%2FLSELayout (accessed March 20, 2010)

dialogue and collaborate for progressive causes. Qaradawi argues that Muslims and the People of the Book should unite and fight against the atheism and materialism that are prevalent in the modern world. They also should struggle together against the propagators of libertinism and permissiveness in moral issues. Muslims and the People of the Book should also collaborate for the protection of the rights of oppressed people. One further function of dialogue meetings, according to Qaradawi, is to help people to get rid of deep-seated prejudices and ill feelings that have emerged as a result of the historical and contemporary conflicts that have taken place between Muslims and non-Muslims, conflicts such as the Crusades and the aggressive acts of plunder undertaken by modern colonialism. Through dialogue meetings, both Muslims and non-Muslims can learn to respect each other's right to exist and practice their religion.[162]

With regard to the rights of women, Qaradawi deplores the fact that no Muslim woman leader has emerged within the Muslim Brotherhood despite the fact that Hasan al-Banna, the founder of the movement, encouraged Muslim women actively to contribute to the Islamic movement. Qaradawi explains the absence of Muslim women in the public sphere (in the Arab world) to be the result of paternalistic attitudes of male activists who have not given women a chance to develop their own perspectives about Islamic issues. Qaradawi also attributes the lack of female Muslim leadership to the prevalence of stringent opinions about women among Muslim communities. Even such a thing as going to the mosque for prayer has been denied to Muslim women, despite the existence of many clear texts that allow women to perform their prayers at mosques.[163]

[162]Yusuf al-Qaradawi, *Priorities of the Islamic Movement in the Coming Phase*, 211-213, Yusuf al-Qaradawi, *Fiqh of Muslim Minorities*, 20-23.
[163] Yusuf al-Qaradawi, *Priorities of the Islamic Movement in the Coming Phase*, 90-92.

Qaradawi contends that the Islamic movement should create institutions for Muslim women's education or should lift the restrictions imposed upon women so that they can contribute positively to the Islamic movement in such different fields as science, literature, education, and preaching. According to Qaradawi, this is both a right of women and a necessity for the welfare (maṣlaḥa) of the Muslim community since it needs women's engagement in community affairs. Consequently, Qaradawi tackles the religious justifications that are used to prohibit women's engagement with social affairs. For instance, people quote the hadith that reads "People who choose a woman to manage their affairs will not prosper"[164] in order to justify the exclusion of women from politics. Qaradawi, however, contends that this hadith only prohibits appointment of women to the office of the caliphate. Since Mustafa Kemal Ataturk abolished the caliphate in 1924, this question of women's rule over men became irrelevant in the contemporary age. Even if a Muslim woman becomes the president of a country, she is still not the caliph of all Muslims, and, therefore, this hadith cannot be used to delegitimize a woman's appointment as a president, government minister, or any other prominent figure in politics. Qaradawi also states that if this hadith meant to prohibit all kinds of participation in politics for women, it would contradict those verses in the Qur'an that portray the Queen of Sheba as an ideal ruler. Therefore it should not be interpreted in that way. Also, this hadith contradicts our own experiences in this age. As everyone can observe, there are many women who contribute positively to the well being of their societies. In addition, Qaradawi mentions a general principle that should be taken into account in discussing women's role in politics. He states that God commanded to both men and women to perform the Islamic obligation of enjoining good and forbidding evil. In order to give Muslim

[164] Translation of Sahih Bukhari, Volume 9, Book 88, Number 219, http://www.msawest.net/islam/fundamentals/hadithsunnah/bukhari/088.sbt.html.

woman the chance to carry out this fundamental obligation in Islam, they should be allowed to participate in politics, which plays a crucial role in determining many things pertaining to good and evil. Some people also oppose the participation of women in politics by arguing that this participation necessitates the mingling of men and women; and according to them this mingling might cause some people to violate Islamic principles about gender interaction. As a response to this claim, however, Qaradawi contends that Muslim men and women should be educated about the Islamic restrictions on gender interaction; this hopefully will obviate such violations. Also, making use of his concept of the "fiqh of balances," Qaradawi contends that even if the intermingling of man and woman were to give rise to some unacceptable practices, such a consequence can be overlooked for the sake of achieving a major benefit, which is raising female Muslim leaders in different fields of life.[165]

Qaradawi also discusses in his writings Islamic responses to democracy and propounds his own views on the issue. In general, Qaradawi believes that the defining features of democratic political systems are in harmony with Islamic objectives pertaining to politics. Islamic texts condemn despotism and command politicians to consult other people while making decisions. In an ideal Islamic society, rulers should answer the needs of the people; and there should be mechanisms for citizens to “enjoin the good and forbid the evil,” to question the excesses of the politicians, and to remind politicians of their responsibilities towards citizens. Also, Islamic texts assign the role of protecting human rights and dignity to political institutions. According to Qaradawi, among all the alternative political systems that are available today, democracy is the one that is closest to these Islamic political objectives. Through elections, democracies ensure that the opinions of its citizens are represented in the

[165] Yusuf al-Qaradawi, *Min Fiqhu al-Dawlatu fī al-Islām*, 161-176, Yusuf al-Qaradawi, *Priorities of the Islamic Movement in the Coming Phase*, 90-96, 155.

parliaments. And democracies give a chance for people to question politicians and hold them accountable for the policies they implement. In summary, Qaradawi argues that democracy more or less embodies all the principles that Islam requires from the political systems.[166]

Qaradawi also answers the views of some Muslims who see democracy as unbelief because according to them democracy replaces God's sovereignty with human sovereignty. According to this perspective, since in Islam only God has the right to determine that which is lawful and unlawful, democratic political systems—by conferring the right to legislate upon parliaments—violate this fundamental Islamic principle. Qaradawi shares the concern of these Muslim groups who equate democracy with unbelief. To allay their fears, Qaradawi states that in an Islamic society the unchangeable aspects of the religion must not be subjected to voting. Citizens should only be allowed to express their opinions only on issues where there are not clear, unambiguous texts in the Qur'an and *Sunnah*. Also, according to Qaradawi, democracy can be justified through the "fiqh of balances." According to this perspective, even if a political system is not based on Islamic principles or it does not recognize God's sovereignty, Muslims can still participate in it due to the fact that what they gain as a result of their participation is more than what they lose on account of comprising their Islamic principles.[167]

Conclusion

The objectives of Sharī'a play a significant role in Qaradawi's jurisprudence. Methodologically, on the one hand, Qaradawi uses "objectives of Sharī'a" to challenge literalists' epistemological position that disregards underlying causes of Islamic rulings related to social affairs. On the other hand, by relying on the objectives of Sharī'a, he attempts to rebut arguments of the school of Suspenders and to show how traditional Islamic law serves human

[166] Yusuf al-Qaradawi, *Min Fiqhu al-Dawlatu fī al-Islām*, 130-146.
[167] Ibid. 131, 142.

beings' interests. Qaradawi also underscores the necessity of utilizing the "objectives of Sharī'a" in attempting to answer contemporary Muslims' needs. In general, he supports any social project that is capable of improving the general welfare of Muslims as long as this project does not go against an Islamic prohibition. Qaradawi also uses the "objectives of Qur'an" to adjudicate between conflicting points of view. With regard to the conflicting perspectives on human rights, democracy, interfaith dialogue, and *jihād* that exist within the Muslim community, he always supports those opinions that are closer to his conception of the "objectives of Qur'an."

Chapter 5

Comparison of the Thought of Fadl, Ramadan, and Qaradawi

All these three thinkers express their dissatisfaction with the existing state of affairs in Muslim societies and put forward their conception of the "objectives of Sharīʿa" as the alternative theoretical foundation for the reconstruction of Muslim societies in 21st century. Khaled Abou El Fadl primarily directs his criticisms against the “theology of power” of extremist movements in Islam and suggests restructuring the entirety of Islamic thought around the concept of Godliness and all of qualities that this concept entails, some of the most important of which are beauty, compassion, mercy, and justice. With regard to proposing the fundamental principles of an Islamic society, Fadl finds it sufficient to outline basic human rights and to put forward general principles (justice and equality) that should regulate Muslim non-Muslim relations. In his writings, he calls on other Muslim scholars to develop more systematic and thorough conception of human rights on the basis of the ideal principles (justice, equity, equality, compassion, mercy, beauty) that are the essential components of his concept of Godliness.

Tariq Ramadan, on the other hand, is satisfied with neither conservative Muslims nor reformist ones. Conservative Muslims isolate themselves from the world, and this very isolation, as he views it, renders them incapable of offering new perspectives on social problems. Reformist scholars on the other hand just focus on “saving the day” and do not take a far-sighted approach on our problems. Ramadan’s attempt to reconceptualize objectives of Sharīʿa stems from his dissatisfaction with the conservatives’ and reformists’ understanding of

the faithfulness to the Sharīʿa. Ramadan identifies objectives that are related to individuals, groups, and societies and also uses a contemporary terminology to express Islamic ideals. The gist of his conception of objectives of Sharīʿa is that Islam teaches people to be grateful to God; and on the social level it aims to establish socio-economic systems that are capable of protecting the rights of both man and nature. Ramadan uses his conception of objectives to criticize the practice of conservatives and reformist Islamic movements. Despite their claims to embody Islamic principles, none of these groups in fact imagine Islam as a civilizational alternative to the contemporary unethical social system and therefore both of them betray the objectives of Sharīʿa.

Yusuf al-Qaradawi is equally critical of the literalists and the advocates of reform in Muslim societies, stating that literalists did not acquire a sound understanding of Islam in general and Islamic law in particular. They neither know "fiqh of priorities" nor "fiqh of balances." They also reject searching for the wise purposes of the rulings pertaining to social affairs; and this is why the *fiqh* they produce tend to be paralyzing for modern Muslims. On the other hand, the school of the *Muʿaṭṭila,* in the name of pursuing "objectives of Sharīʿa," goes beyond the established parameters of legal methodology in Islamic law and dispenses with entire corpus of the Islamic legal thought. As an alternative to these movements, Qaradawi devises new *fiqhs* (approaches for studying sources of Islamic jurisprudence), offers a rigorous methodology to distinguish unchangeable aspects of the religion from the changeable ones, reconceptualizes the "objectives of Sharīʿa," and offers objectives that inform us about how an ideal individual, the Muslim community, the international community is supposed to be. Under the title of the purposes of the Qur'an, Qaradawi expounds in detail how Islam aims to correct mankind's ontological, epistemological, ethical beliefs; and in contrast to the classical

conceptions of objectives, he pays special attention to social justice issues, women rights, and Muslim/ non-muslim relations.

With regard to ontology, epistemology and ethics, Qaradawi, Ramadan, and Fadl basically say similar things; and they all expound Islamic teachings on *tawḥīd*, revelation, and purification of soul (*tazkiyah*). Concerning social justice, women rights, and interfaith dialogue, similar to Fadl and Ramadan, Qaradawi also calls for peace, justice, equality, and mercy; and he urges the Muslim community to exemplify all these ideals in their individual, social, and political lives.

Fadl and Qaradawi both grapple with the problem of authoritarianism in the production of Islamic knowledge; and both of them strongly criticize literalists for presenting their opinions as if they are the word of God. Even though they seem to differ in the way they draw the line between what is open to *ijtihād* and what is not, they both equally emphasize the rich diversity that has characterized classical Islamic law and strongly criticize any contemporary attempt to eliminate this diversity from the domain of Islamic knowledge.

Fadl, Ramadan, and Qaradawi primarily aim to offer methodologies for reading the sources of Islam and laying out the fundamental values on the basis of which a contemporary Islamic discourse on social, economic, political problems can be constructed. They all underscore the universal humanitarian message of Islam and propound their ideas on how to make Islamic movements effective moral forces in 21st century. They all believe that specialists of Islamic sciences cannot by themselves fulfill this obligation; and this is why they all urge specialists of Islamic sciences to collaborate closely with the social and natural scientists for the realization of the "objectives of Sharī‘a." Qaradawi names this *fiqh al-wāqi‘a* (understanding of context) and calls the followers of Islamic movements to learn every single

aspect of the modern world.[168] Ramadan builds on the insights of Qaradawi and makes the science of context an indispensable part of his "transformation reform." Fadl also draws attention to the difficulties of achieving the moral objectives of Islam without integrating the findings of social and natural sciences to the Islamic thought.[169]

All these thinkers draw a distinction between unchanging, timeless principles and aspects of the religion, and their time-bound historical applications. Fadl and Ramadan resort to this distinction, on the one hand, in order to criticize literalists who try to perpetuate time-bound historical models in different socio-economic conditions. Qaradawi likewise appeals to this distinction, pointing out the shortcomings of literalists but, on the other hand, also arguing that the "school of suspenders" cannot legitimately dismiss Quranic rulings that are deduced from indubitable texts.

It is my contention that Qaradawi clearly elucidates his methodology and leaves no ambiguity concerning his ideas about what is unchangeable and what is changeable in the religion. He unapologetically defends controversial aspects of Islamic law against criticisms; and he criticizes those Muslims who question those laws, criticizing them for raising intellect over revelation. On the other hand, Ramadan's and Fadl's writings comprise some statements that are not easily reconcilable. In some places, they write as if they share the assumptions of the school of *Mu'aṭṭila;* and in other places they articulate ideas closer to the traditionalist perspective. For instance, in the *Radical Reform*, Ramadan praises Shāṭibī for "liberating the Qur'an from the specific contextual interpretation offered by the Medina period."[170] Or in *What I Believe*, he says "all the laws that protect human life and dignity, promote justice and

[168]Yusuf Al-Qaradawi, *Priorities of the Islamic Movement in the Coming Phase*, 112-116, Yusuf Al-Qaradawi, *The Sunnah: A Source of Civilization* (Cairo: Al-Falah Foundation, 2002), 62-66.
[169]Fadl, *The Great Theft*, 175.
[170] Ramadan, *Radical Reform*, 73.

equality, enforce respect of Nature, and so on are *my Shariah* implemented in *my society*, even though this is not a Muslim majority society or those laws have not been devised and produced by Muslim scholars."[171] Do these statements mean that Ramadan sees the laws that were revealed in Madina as not binding to later generations or does he think that Islamic law can be replaced with Western laws since both of them serving objectives of Sharia?

An example of Ramadan's more traditionalist arguments is his assessment of criminal punishments, polygamy, and inheritance. Despite the fact that Ramadan has called for the suspension of criminal punishments within the Muslim world, Ramadan affirmed that what he questioned was the lack of consideration of the conditions that make it permissible to apply these penalties. He said that he did not question the legitimacy of these penalties. With regard inheritance law, Ramadan also does not state that classical inheritance law should be replaced with a new one that gives to women a greater share of the inheritance. In his last book, he just mentions the case of those women who do not receive adequate support from their husbands and calls on the Muslim community to devise some means to meet the needs of those women. He does not suggest abrogating the inheritance law but rather states that the Muslim community should support financially those women who do not receive support from their husbands. Also, with regard to polygamy, according to my reading, Ramadan does not question its validity but rather points out the abuse of the practice, reminding Muslims that monogamy is the ideal and mentioning the strict conditions necessary for the legitimacy of the polygamous marriages.

On the other hand, Fadl in *the Great Theft*, as mentioned above, states that women should receive the same amount that men receive from inheritance if they are working and

[171] Ramadan, *What I Believe*, 57.

contributing to the family income. This argument is reminiscent of the arguments of the school of the *Muʿaṭṭila*. Concerning polygamy, it is not entirely clear whether Fadl advocates the abolishment of polygamy entirely or if he is just opposing the abuse of this practice. As regards to criminal law, again it is not clear what Fadl claims. In *the Great Theft*, he contends that moderates would not allow "Shockingly criminal penalties that can be applied unjustly and without justification." But in another article he tries to show the rationale of the same penalties.[172] To sum up, what I argue is that despite the fact that Fadl and Ramadan extensively refer to the idea of timeless principles and time-bound historical models, they do not offer a full-fledged methodology to distinguish these two things. Moreover, it is not clear whether they consider Qur'an-based rulings of Islamic law within unchangeable or changeable aspects of religion. Therefore, with regard to the age-old debate of "the historicity of Qur'an based rulings," we can confidently say that Qaradawi stands in the traditionalist side of the spectrum. On the other hand, it is not clear where Ramadan and Fadl stand on this issue.

With regard to human rights, Fadl, Ramadan, and Qaradawi all list basic human rights and urge Muslims to do their best for the promotion and protection of these rights within their societies. What should be emphasized in their discussion of human rights is that none of them distinguishes between Muslims and non-Muslims with regard to being entitled to these basic rights. They all see justice and equality as "objectives of Sharīʿa" and on the basis of that they all idealize a political system that does not discriminate against its citizens due to their religious affiliations.

With regard to women rights, they all want to see Muslim women as active participants in different fields of life. They strongly question paternalistic attitudes of Muslim men and

[172] Khaled Abou El Fadl, "Islamic Sex Laws Are Easy to Break, Impossible to Enforce", *Los Angeles Daily Journal*, Aug 15, 1999.

argue for allowing Muslim women to express themselves and hold offices within Islamic movements. They condemn depriving women of educational opportunities and put forward the education of women as one of the top priorities of Islamic movements. They all justify their arguments with reference to "Objectives of Sharīʿa." Furthermore, they all argue that Sharīʿa expects both men and women to be vicegerents of God, to enjoin what is good and forbid what is evil, and to pursue religious education. Therefore they conclude that depriving women of religious and secular education, whereby they could better perform these duties, goes fundamentally against the "objectives of Sharīʿa."

Qaradawi also justifies participation of women in the public sphere through his concept of the "fiqh of balances." (But the "fiqh of balances" is also a way of discussing "objectives of Sharīʿa," the crux of which is to achieve benefits and avert harm.) In the case of women's participation in the public sphere, the benefits that come about as a result of their participation in the public sphere outweigh the potential harms (e.g., the mixing of men and women) that might stem from such participation. Fadl and Ramadan sometimes also argue that the general welfare of the Muslim community requires women's active engagement with different aspects of life. Arguing on the basis of "general welfare" (*maṣlaḥa*) can also be considered as a sub-branch of the argument on the basis of "objectives of Sharīʿa" due to the fact that Sharīʿa aims to improve the welfare of the community.

There is one way, however, that Qaradawi and Fadl differ in their understanding of gender relationships in the family. On the one hand, Fadl argues that women do not have to obey their husbands within the family. He argues that the Qur'an does not stipulate that wives have to obey their husbands. Since Fadl also rejects the hadiths that enjoin women to obey their husbands, it becomes possible for him to make this point. Qaradawi, on the other hand,

does not reject hadiths that were deemed to be authentic by scholars of hadith even if the content of those hadiths might be controversial.[173] Instead, he tries to explain their meaning and relies on them to articulate what he considers to be the Islamic perspective on husband-wife relations. Qaradawi, for example, in order to justify the obedience of wives to their husbands, quotes the hadiths "It is forbidden for a woman to fast voluntarily without her husband's permission" and "if a woman goes to sleep, abandoning her husband's bed, angels curse her until she returns." [174]

Regarding democracy, Fadl, Ramadan, and Qaradawi all find an affinity between objectives of Sharīʿa (consultation, enjoining what is good and forbidding what is evil, justice, equality, human rights) and foundational principles (accountability, elections, separation of powers, rejection of despotism, rule of law) of democratic political systems; and this affinity constitutes the basis of their justification of democracy. They do not, however, attribute a sacred status to democracy: they value it only to the point that it helps Muslims to realize the objectives of Sharīʿa. Therefore their perspective allows criticisms of democracy. This is why, as mentioned above, Ramadan also critiques democracy even while he calls Muslims to ponder eliminating the obstacles facing democratic decision-making processes.

Concerning *jihād*, all these three thinkers contend that Muslims have waged war against non-Muslims in Islamic history due to either non-Muslims' explicit hostility or potential aggression against Muslim community. All these thinkers reject as a legitimate cause for waging war against non-Muslims non-Muslims' disbelief in Islam. Qaradawi's justification

[173] As a general rule, with regard to authentic hadiths whose content is controversial, Qaradawi contends that "Once the evidence of a hadith's being from the Prophet has been affirmed, a far-reaching, thorough examination into how it may be understood is obligatory; and there must be every caution against dismissing it merely to please far-fetched arguments, which may themselves have a mistake hidden in them." See Yusuf Al-Qaradawi, *Approaching the Sunnah Comprehension & Controversy*, 30-40.
[174] Yusuf Al-Qaradawi, *Introduction to Islam* (Islamic Inc. Publishing & Distribution, 1995), 225.

of some types of offensive war also does not contradict the point made here—because in the four types of war that Qaradawi justifies, the reason for the war is not non-Muslims' rejection of Islam. In all of those cases Qaradawi allows Muslims to wage war against non-Muslims only on the conditions that they are either plotting to attack Muslims or are oppressing Muslims.

Fadl, Ramadan and Qaradawi all tackle the issue of the permissibility of alliances with or friendship between Muslims and non-Muslims. They all assert that the Quranic verses that prohibit Muslims from allying themselves or having friendly relations with non-Muslims are only applicable under the situations of hostility between Muslims and non-Muslims, since under such conditions the likelihood of betrayal of Muslims by their non-Muslim allies would increase; therefore prohibition of alliance cannot be generalized outside of contexts such as that of war and aggression. [175]

In general they all consider peace as an "objective of Sharīʿa" and see war as an aberration from ideal social relations. It can be inferred from their writings that they prefer non-violent means of conflict resolution to violent means. Based upon all these considerations, they all consider the de facto state of international relations to be one of peace not war.

Fadl, Ramadan, and Qaradawi also resort to "objectives of Sharīʿa" in order to justify interfaith dialogue and collaboration. Based on "Say: 'O People of the Book! come to common terms as between us and you: That we worship none but Allah; that we associate no partners with him; that we erect not, from among ourselves, Lords and patrons other than Allah' " (Qur'an 3:64), they find substantial common ground between Islam, Christianity and Judaism. Hence they all suggest calling upon the "People of the Book" to recognize the one God and to reject the domination of one group of people by others. Fadl states that Muslims can in

[175] Fadl, *Great Theft*, 213.

general call anyone, whether from the "People of the Book" or not, to collaborate for realizing the moral virtues on earth. Ramadan believes that religious people share similar concerns to the extent that it is possible for them to unite and fight against materialism and individualism. Regarding social justice issues, environmentalism and any other humanitarian activism, Ramadan contends that is imperative for Muslims to benefit from the tremendous literature produced in the West; otherwise, he argues, Muslims will not be able to realize the objective of promoting and protecting the welfare of the people in this world. Qaradawi also believes that in the name of successfully fighting against materialism, atheism, libertinism in morality, and protecting the rights of oppressed people, Muslims should seek ways of dialogue and collaboration with non-Muslims so that they can realize the "objectives of Sharīʿa."

To conclude, by comparing and contrasting arguments of reformist thinkers with those of a more traditionalist one, I have aimed to show in this thesis the substantial commonalities that exist between these two different strands in contemporary Islamic thought. Many people in the West see nothing worthy of appreciation in classical Islamic thought, arguing that reform of Islam should be the *sine qua non* of Islam's adjustment to the desired modern values. In this thesis, through an in-depth study of the legal thought of a traditionalist scholar, Yusuf al-Qaradawi, I have tried to counter this argument, aiming to show how Muslims can advocate a profound humanitarian discourse without compromising the classical methodology of Islamic law. Qaradawi stands out as the distinguished example of a scholar who adheres to traditionalist methodologies and yet at the same offers progressive opinions on the controversial issues of human rights, democracy, interfaith dialogue and collaboration, and *jihād*. Based on the findings of my study of Qaradawi's thought, I also contend that integration of the "objectives of Sharīʿa-based reasoning" into the production of different branches of

Islamic knowledge can substantially contribute to the advancement of human rights causes in those Muslim societies that adhere to the traditionalist understandings of Islamic law.

Overall, be it reformist or traditionalist, Fadl, Ramadan, and Qaradawi in their explanations of the "objectives of Sharīʿa" demonstrate that the Qur'an and *Sunnah* contain a profound humanitarian ethic that can be utilized to establish egalitarian and just societies. At the same time, they are aware of the fact that Muslims have not always lived up to the ideals of the Islamic tradition. In that sense, all of them call for a radical reform in the way we think about and understand faithfulness to the Sharīʿa. We can hope that Muslim societies will educate their citizens about the "objectives of Sharīʿa" and establish institutions for the collaboration of both textually-based and contextually-aware scholars so that Muslims may become effective protectors and exemplifiers of Islam's conception of God and humanitarian values in the 21st century.

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