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# Rashid Ridā and Maqāsid al-Sharī'a

Yasir Ibrahim  
ibrahimy@montclair.edu

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## Rashīd Riḍā and *Maqāṣid al-Sharīʿa*

This article attempts to analyze the legal thought of the modern religious reformer Muḥammad Rashīd Riḍā (1865-1935), particularly his conception of the legal aims of Islamic law (*maqāṣid al-sharīʿa*). I argue that Riḍā's legal thought stems from his understanding of the *maqāṣid* of the Qur'ān. The Lawgiver, in Riḍā's view, wants Muslims, whether jurists or not, to contemplate the *ḥikma* or the rationale behind any legal rule and to focus on the general principles of the *sharīʿa*, in which the consideration of the public good (*maṣlaḥa*) becomes a significant part. The article also responds to the view of few Western scholars' evaluations of Riḍā's legal thought such as those of Malcolm Kerr and Wael Hallaq.

### INTRODUCTION

*Maqāṣid* is the plural form of *maqṣad*, a term which refers to intention. In Islamic legal parlance, the plural *maqāṣid* is used more often than the singular form, *maqṣad*, to refer to the aims of the *sharīʿa* (Islamic law), the intentions of the Divine Lawgiver (God).<sup>1</sup> There are few aims of the *sharīʿa* that are articulated in their general form in scripture such as the aim of "justice" mentioned in the Qur'ānic verse (16:90) which reads: "God commands justice, doing of good, and giving to kith and kin, and He forbids all indecent deeds, and evil and rebellion: He instructs you, that you may receive admonition."<sup>2</sup> Therefore, one can assume that

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1. The concept of *maqāṣid al-sharīʿa* might be equated with the Western notion of the "spirit of the law." See Bernard G. WEISS, *The Spirit of Islamic Law*, (Athens, GA: The University of Georgia Press, 1998), pp. 56-58.

2. The translation of Qur'ānic verses in this article is mainly taken from Abdul-

after the death of Muhammad in 632 C. E. the early Muslim community, especially the Prophet's Companions and their Successors, understood through the Qur'ānic references to the legal aims that *sharī'a* laws were always purposeful and intended by the Lawgiver to achieve certain goals. The Qur'ānic ban on drinking grape-wine (*khamr*) and the prohibition of gambling (*maysir*) (Q. 5:90-91), for example, is followed by the reasoning that both would lead the one engaging in these practices to have quarrels with his or her fellow Muslims and would also lead to forgetting the daily prayers. But despite the clear indication of the legal aims and purposes of some religious laws in the Qur'ān, there are other legal stipulations, such as the prohibition of eating pork meat (Q. 2:173), where no clear reference to a legal aim is mentioned. Such verses might lead us to think that the early Muslim community understood the ultimate legal aim of the *sharī'a* as obedience to the commands of the Lawgiver (God). Whether the purposes and aims of any religious law are mentioned or not, one has to follow the dictates of the Qur'ānic injunctions. But the expansion of the Islamic state to territories outside the Arabian Peninsula, after the death of the Prophet, had created many new legal cases that were not regulated by the Qur'ān or Prophetic traditions. In addition, if the Prophet's Companions succeeded during the reign of the third caliph, 'Uthmān b. 'Affān (d. 35/656), in canonizing the Qur'ānic text, the acceptance of Prophetic traditions remained controversial. This situation led the emerging early jurists and judges in different Islamic provinces to develop methods of legal reasoning in order to provide legal rules for new problems.

In the formative period of Islamic legal theory (second-fourth centuries, Hijrī/eighth-tenth centuries, C.E.), however, a controversy emerged among Muslim jurists on the question of legal reasoning. The followers of the Zāhirite school, for example, maintained that the purpose of or the reason for having the divine law could only be realized through the literal application of legal rules in the Qur'ān and *ḥadīth*. Thus the reason for having any law must be attached to its form and cannot be isolated as a guiding principle to be applied in new cases. Thus all *sharī'a* laws must be applied literally to the cases that are under their direct effect. As for the new legal cases, which are not regulated by the sacred texts of the Qur'ān and Prophetic traditions, they

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lah Yusuf 'ALI, *The Meaning of the Holy Qur'ān* (Brentwood, Maryland: Amana Corporation, 1991).

should be regarded as outside the realm of religious obligation (*khār-ij dāʾirat al-taklīf*), and therefore their legal status is “permission.”<sup>3</sup> The followers of what we now think of as the four established Sunnī schools, Ḥanafite, Mālikite, Shāfiʿite and Ḥānbalite, agreed in principle on the literal application of textual rules, but they also advocated the use of causes or reasons behind the laws as a method for extending the application of textually regulated legal rules to non-textual cases. Among the four schools, however, the jurists’ understanding of the applicability of this practice varied to a considerable degree. In general, the Sunnī schools use legal analogy (*qiyās*) to extend the effect of a textual legal rule to include non-textual cases by sharing the same cause (*illa*). A classic example of such analogy is the use of “intoxication” as *illa* for the prohibition of intoxicating drinks not mentioned in the Qurʾān or Prophetic traditions. Therefore, if drinking grape-wine is prohibited in the Qurʾān, date-wine becomes prohibited by analogy because it shares the same attribute of intoxication with grape-wine. Zāhirite and Shīʿite jurists, on the contrary, reject the use of analogy as a legal source.<sup>4</sup>

While the four established Sunnī schools agreed on having four sources of Islamic law, namely, the Qurʾān, *ḥadīth*, *ijmāʿ* (consensus of the religious scholars) and *qiyās*, some of them added other methods of legal reasoning and included them as complementary sources of law. Ḥanafite jurists, for example, used *istiḥsān* (juristic preference) to rule in some new cases instead of using *qiyās*.<sup>5</sup> Mālikite jurists used

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3. For the explanation of this Zāhirite view, see Ibn ḤAZM, *al-Iḥkām fī Uṣūl al-Aḥkām* (Beirut: Dār al-Fikr, 1978) vol. I, pp. 10-13.

4. Zāhirite and Shīʿite jurists, for example, argue that the prohibition of drinking date-wine can be established through the sacred texts themselves because there is a well-accepted Prophetic tradition which states clearly that “every intoxicating drink (*muskir*) is prohibited.” Thus, there is no need to use analogy. The main argument of Zāhirite and Shīʿite jurists against the inclusion of *qiyās* as a legal source stems from their conviction that the results of legal analogy are probable, and therefore cannot be included within the divine law (*sharīʿa*). While Zāhirite jurists approve only three sources of Islamic law, namely, the Qurʾān, *ḥadīth* and *ijmāʿ*, Shīʿite jurists also include *ʿaql* (reason) which in their interpretation amounts to rational decisions that are based on self-evident truths, and therefore, unlike *qiyās*, can provide “certain” knowledge. For a detailed explanation of the role of *ʿaql* in classical Shīʿite legal theory, see Muḥammad Ḥusayn Mughniyya, *ʿIlm Uṣūl al-Fiqh fī Thawbiḥī al-Jadīd* (Beirut: Dār al-Mashriq, 1975), pp. 25-32.

5. For a definition of *istiḥsān* by a Ḥanafite jurist, see Abū SAHL AL-SARAKHSĪ, *al-*

*istihsān* and *istiṣlāḥ* (the consideration of a *maṣlaḥa* mursala, i.e. a benefit or utility unregulated by the texts).<sup>6</sup> Other methods such as *sadd al-dharāʾi* (closing the means to harm) and the consideration of *ʿurf* (local custom) were also used by some jurists as sources for legal ruling.

As for incorporating the concept of *maqāṣid al-sharīʿa* into the theoretical formulations of medieval jurists, it is clear that the legal aims were not considered by any school of jurisprudence as a distinguished legal source similar to *qiyās*, *istihsān* or *maṣlaḥa mursala*. However, some medieval jurists expressed a general understanding of the *sharīʿa* as preserving certain utilities (*maṣāliḥ*) and preventing harms and injuries (*mafāsīd*). One of the earliest jurists who engaged in this kind of discourse was Abū Ḥāmid al-Ghazzālī (d. 505/1111). He developed a legal discourse in which the legal aims took a major part. He stated that the *sharīʿa* aims at preserving religion, life, private property, mind and offspring. These are, for Ghazzālī, the *maqāṣid* of the *sharīʿa*. But as a Shāfiʿite jurist, Ghazzālī did not accept as legitimate any legal sources other than the Qurʾān, *ḥadīth*, *ijmāʿ* and *qiyās*. *Istiṣlāḥ* can be used as a legal source only in extreme cases of necessity.<sup>7</sup> Another medieval jurist, Ibn Qayyim al-Jawziyya (d. 751/1350), reiterated Ghazzālī's new theorization with an equal emphasis on *maqāṣid al-sharīʿa*, but despite his Ḥanbalite loyalty, he acknowledged the need to resort to some methods other than *qiyās* if the use of the latter would not help to achieve the purpose of the law.

The most prominent medieval jurist who incorporated *maqāṣid al-sharīʿa* in his legal thinking was the Mālikite jurist Abū Ishāq al-Shāṭibī (d. 790/1388). He developed in his *al-Muāfaqāt fī Uṣūl al-*

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*Uṣūl*, ed. Abū al-Wafā al-Afghānī (Cairo: Dār al-Maʿrifa, 1973), vol. 2, pp. 199-215.

6. In classical legal theory, *maṣlaḥa* is usually associated with a legal source known as *maṣlaḥa mursala* (a benefit or utility unregulated by the texts). Some classic examples of the use of this source, according to some Sunnī jurists, are the collection of the Qurʾān by the third caliph after the Prophet, ʿUthmān b. ʿAffān and the institution of *Dīwān al-Jund* to write down the names of the combatants in the Muslim army by the second caliph, ʿUmar b. al-Khaṭṭāb. Although such actions were not mentioned in the Qurʾān or instituted by the Prophet, and therefore the utilities or benefits gained from them were not considered in the sacred texts, the caliphs' decisions apparently indicated a consideration of those "unregulated" utilities.

7. See Wael HALLAQ, *A History of Islamic Legal Theories: An Introduction to Sunnī Usul al-Fiqh* (Cambridge: Cambridge University Press, 1997), pp. 89-90.

*Sharī'a*, a coherent *maqāṣid* theory based on Ghazzālī's conception of *maṣlaḥa*. All *sharī'i* rules, according to Shāṭibī, aim at preserving specific utilities (*maṣāliḥ*) that can be divided into three types according to their religious significance. These are the indispensable (*darūriyyāt*), the needed (*ḥājjiyyāt*) and the utilities that achieve improvement (*taḥsiniyyāt*). Preserving life, for example, is considered by Shāṭibī an indispensable utility, while the abridgment of ritual obligations under circumstances of hardship is considered necessary but not indispensable. For the third type of utilities, the *taḥsiniyyāt*, Shāṭibī considers performing ablution before prayer and being charitable to the poor as examples of such utilities. Shāṭibī's aim was to show that in all textually regulated legal cases, whether in the Qur'ān or Prophetic traditions, the legal rule was instituted based on the priorities of the utilities aimed by the Lawgiver. Thus, in spite of the fact that fasting the month of Ramaḍān, for example, might lead to some hardship, the utility of preserving religious devotion through fasting is, according to Shāṭibī, more significant than the utility of avoiding such hardship.

Shāṭibī's reference to several levels of utilities that are considered according to their significance in the textually-based rules raises the question whether non-textual legal cases must be subjected to the same method of comparing the significance of different kinds of utilities involved. Shāṭibī focuses in his examples only on textual cases and he does not clearly call for the use of any legal methodology that is different from the traditional Mālikite one, which incorporates *maṣlaḥa mursala* as a source used only on a limited basis after *qiyās*. If this is true, then what kind of practical results can the use of this method achieve compared with, for instance, the traditional use of *qiyās* or *maṣlaḥa mursala*? These questions lie at the heart of the legal thinking of modern religious reformers.

Following Shāṭibī's methodology, the *maqāṣid* reformers, such as Riḍā and others, view the *sharī'a* as encompassing two major parts. The first part represents the laws that regulate ritual practices (*'ibādāt*) and the second part represents the laws that regulate social relations and economic transactions (*mu'āmalāt*). The first part has to be fixed. It is not developing, and no new laws are acceptable. This understanding of the fixation of *'ibādāt* resonates in Ibn Taymiyya's (d. 728/1327) dictum: *lā na'bud Allāh illā bimā shara'* (we do not worship Allah except through what he has legislated).<sup>8</sup> As for the *mu'āmalāt*, the re-

8. Taqī al-Dīn Ibn TAYMIYYA, *al-'Ubūdiyya* (Cairo: al-Dār al-Salafiyya, 1966), p. 11.

reformers define these laws as intended by the Lawgiver to serve the utility and interest (*maṣlaḥa*) of Muslims in all times and places. Rules that are explicitly stated in the Qurʾān and Prophetic traditions are, by nature, based on the consideration of utility, interest, and the public good. *Maṣlaḥa*, therefore, is presented by the reformers as one of the greatest legal aims of the *sharīʿa*. Thus, modern Muslim jurists, the reformers argue, should take this fact into consideration when interpreting and applying any legal rule of the *sharīʿa*, whether found in the sacred texts or reached through the legal reasoning of Muslim jurists.

There is a consensus among the modern proponents of the concept of *maqāṣid al-sharīʿa* – coming from their Sunnī Islamic background – that it played a significant role in the legal interpretation of the early Muslim community, especially that of the four “wellguided caliphs” after the Prophet, and the early *fuqahāʾ* (religious scholars) such as Abū Ḥanīfa (d. 150/767) and Mālik b. Anas (d. 179/796).<sup>9</sup> It is also embedded in the classical interpretation of Islamic law, at least as a trend within diverse lines of thought. Modern reformers argue, for example, that the concept of *maqāṣid al-sharīʿa* was very much alive in the legal thinking of several medieval *fuqahāʾ* such as the Ḥanbalite jurists Ibn Taymiyya (d. 728/1327), Ibn Qayyim al-Jawziyya (d. 751/1350), and Najm al-Dīn al-Ṭufī (d. 716/1316). Moreover, the emphasis on the role of *maqāṣid al-sharīʿa* culminated in the works of the Mālikite jurist Abū Ishāq al-Shāṭibī who devoted a great part of his book *al-Muwāfaqāt* to this concept.<sup>10</sup> These jurists, according to the reformers’ view, always took into consideration the general aims of the *sharīʿa*, especially the consideration of *maṣlaḥa*, as a main factor in legal rulings, even though they lived in a period characterized by a trend toward literalist interpretation. Many other medieval *fuqahāʾ* ignored the *maqāṣid*, preferring a rigid imitation of their school’s legal interpretation. For example, Ibn Qayyim al-Jawziyya’s critique of both the Zāhirite and later Shāfiʿite methodologies stems from his rejection of the rigidity and misunderstanding of the spirit of Islamic law. The Zāhirites are criticized by Ibn al-Qayyim for their literal application of textual rules to the effect of being inconsistent with the legal aims of

9. Most modern religious reformers refer to some of ‘Umar b. al-Khaṭṭāb’s decisions as examples of a legal understanding based on the consideration of *maqāṣid al-sharīʿa*. One of these decisions was his suspension of the textually regulated punishment for stealing during the “year of famine.”

10. Abū Ishāq al-SHĀṬIBĪ, *al-Muwāfaqāt fī Ūṣūl al-Sharīʿa* (Beirut: Dar al-Maʿrifa, 1975), vol. 2, pp. 10 ff.



the *sharī'a*. The Shāfi'ites, argues Ibn al-Qayyim, have used *qiyās* in many occasions where non-textual cases are different from the textual ones, and therefore they do not require a legal rule based on analogy.<sup>11</sup> Thus, according to modern reformers, the concept of *maqāṣid al-sharī'a* is rooted in classical legal theory and the practical legal opinions of several medieval jurists.

As for Shāṭibī's writings on the *maqāṣid*, while some contemporary scholars, such as Muhammad Khalid Masud, view them as a response to a rigid literalism in applying the *sharī'a*, Wael Hallaq, in contrast, sees this interest of Shāṭibī in the *maqāṣid* as a call to encourage the literal application of the *sharī'a* due to the arbitrary rulings of some of Shāṭibī's contemporary *fuqahā'*.<sup>12</sup> Moreover, some modern proponents of applying the *sharī'a* might use many classical references to *maṣlaḥa* and *maqāṣid* in general to respond to secular accusations that applying the *sharī'a* would jeopardize Muslim interests today. It is not my aim in this article to check whether the medieval usage of the *maqāṣid* was only a rhetorical one, adopted for apologetic purposes to encourage the literal application of the *sharī'a*, or a possible reference to the legal aims to support their consideration in applying *sharī'i* rules, textual or non-textual. But it is clear that the modern movement for the consideration of *maqāṣid al-sharī'a*, represented by Riḍā and others, has produced some legal opinions that challenge traditionalist ones, even in the field of textual rulings.

An example of the modern consideration of *maqāṣid al-sharī'a* in relation to a legal case that is regulated by textual rulings can be demonstrated in the case of the modern abolition of slavery.<sup>13</sup> The Muslim community in the early centuries of Islam and up to the modern period practiced slavery. There is no text that prohibits slavery, and in fact the Qur'ān and *ḥadīth* contain some regulations of this practice, which gives an indication that the practice in itself is permitted. But most Muslim scholars today prohibit the practice of slavery. The reasoning behind this prohibition, at least according to the *maqāṣid* thinkers, is that although there are some texts that refer to slavery as permitted,

11. Ibn Qayyim al-Jawziyya, *I'lām al-Muwaqqi'īn 'an Rabb al-'Ālamīn*, ed. Muḥammad 'Abd al-Ḥamīd (Beirut: al-Maṭba'a al-'Aṣriyya, 1987), vol. 1, pp. 15-17.

12. See Muhammad Khalid MASUD, *Islamic Legal Philosophy: A Study of Abu Ishāq Al-Shāṭibī's Life and Thought* (Islamabad: Islamic Research Institute, 1977), p. 35; Wael HALLAQ, *A History of Islamic Legal Theories: An Introduction to Sunnī Usul al-Fiqh* (Cambridge: Cambridge University Press, 1997), pp. 162-3.

13. See Riḍā's view on slavery below in this article.

others encourage Muslims to free slaves. Freeing a slave is one of the actions that are dedicated to expiate certain kinds of sins (e.g. Q. 4:92, 5:89, 58:3). Therefore, although there is no text that prohibits slavery, those scholars argue that freeing the slaves is the aim of the Lawgiver. The Qur'ān did not prohibit slavery due to the circumstances of the time, but it was only regulated to ensure the humane treatment of slaves and also to encourage freeing them. The modern prohibition is clearly based on the consideration of the intended aim of the Lawgiver, which is to free slaves and establish equality among human beings.

In this example, modern scholars have reached a legal position that is different from the traditional one by reinterpreting the Qur'ānic verses related to each case. Some of these verses are given more significance than others by representing the ultimate legal aim of the Lawgiver (*maqṣūd al-shārī'*). The legal effect of other verses becomes conditioned to a specific historical period and therefore does not apply today. It is important to notice that without the determination of the presumed legal aim intended by the Lawgiver, as stated in specific Qur'ānic verses, other verses cannot be conditioned in their application.

### WESTERN SCHOLARSHIP ON RIḌĀ'S LEGAL THOUGHT

There are several studies on Riḍā that focus on his intellectual project as representing a new movement of reform initiated by Muḥammad 'Abduh's (d. 1905) mentor Jamāl al-Dīn al-Afghānī (d. 1897), vis-à-vis traditionalist thinking. These studies, however, include only a limited treatment of Riḍā's legal thought. Examples of earlier writings on this subject include Charles C. Adams' *Islam and Modernism in Egypt* (1933), H. A. R. Gibb's *Modern Trends in Islam* (1947) and J. Jomier's *Le Commentaire coranique du Manar* (1954).

Other studies in the West of the legal thought of Riḍā, which relate directly to the role of legal aims, have been undertaken by Malcolm Kerr, Albert Hourani and Wael Hallaq.<sup>14</sup> Malcolm Kerr in his book,

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14. A recent study by David JOHNSTON covers the legal thought of several reformers including Riḍā. Although Johnston acknowledges the role of *maqāṣid al-shārī'a* in Riḍā's thinking, he adopts Kerr's conclusion on the role of natural law in Riḍā's legal interpretation. See David JOHNSTON, *A Turn in the Epistemology and Hermeneutics of Twentieth Century Uṣūl al-Fiqh*, *Islamic Law and Society* 11, 2, 2004, pp. 233-282.

*Islamic Reform: The Political and Legal Theories of Muḥammad 'Abduh and Rashīd Riḍā*, argues that the legal thought of both 'Abduh and Riḍā, which concerns itself with concepts of utility, need and necessity, is influenced by the Western understanding of "natural law" and "utilitarianism". For 'Abduh, argues Kerr, "natural law is the moral code prescribed by the *sharī'a* and by sound human faculties."<sup>15</sup> "Rashīd Riḍā's theories of jurisprudence," observes Kerr, "generally follow logically from Muḥammad 'Abduh's concept of the identity of natural law with the *sharī'a*. He adopted this concept as his own and built upon it a liberal method of legal reasoning, in which the guiding principle was *maṣlaḥa*."<sup>16</sup> "The entire structure of substantive law arising from the general textual foundations is dictated [in Riḍā's thought] by human need, whether under the name of public interest or necessity. This equation of interest and necessity, put forth in such a manner as to make formal deductions from the revealed sources [i.e. through *qiyās*] only a secondary confirmation of what the law should be, amounts to an affirmation of natural law."<sup>17</sup>

Kerr's conclusions about the legal thought of 'Abduh and Riḍā were adopted by both Albert Hourani and Wael Hallaq, but each took a different path in relating 'Abduh and Riḍā's legal thinking to classical Sunnī legal theory. Hourani, in his *Arabic Thought in the Liberal Age*, observes that in 'Abduh and Riḍā's legal thought, the concentration on the role of utility and the public interest in legal interpretation has its roots in classical legal theory and the juristic thinking of medieval Sunnī jurists, especially Ibn Taymiyya and Ibn Qayyim al-Jawziyya.<sup>18</sup> However, 'Abduh and Riḍā, observes Hourani, go beyond their medieval masters, "at least by making explicit what was half-hidden in their writings."<sup>19</sup>

In contrast to Hourani's conclusion, Hallaq, in his *A History of Islamic Legal Theories*, claims that the modern emphasis on the role

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15. Malcolm KERR, *Islamic Reform: The Political and Legal Theories of Muḥammad 'Abduh and Rashīd Riḍā* (Berkeley: University of California Press, 1966), p. 131.

16. *Ibid.*, p. 187.

17. *Ibid.*, pp. 201-202.

18. Albert HOURANI, *Arabic Thought in the Liberal Age: 1798-1939* (London: Oxford University Press, 1962), p. 233. It should be noted that although Hourani's book appeared in press before Kerr's, Hourani had consulted Kerr's Ph.D. dissertation, written in 1959 on the same subject as his book.

19. *Ibid.*

of *maṣlaḥa*, espoused by ‘Abduh, Riḍā and others, is a new development not articulated by traditional jurists, including Shāḥībī. Only Ṭūfī might be a possible representative of modern reformers’ view.<sup>20</sup> Classical Islamic legal theory, according to Hallaq, insists on the literal application of legal rules found in the sacred texts. Consequently, the concept of *maṣlaḥa*, as the most significant legal aim of the *sharī‘a*, has limited application as a legal source, and was used only in non-textual cases by some of the Sunnī schools of jurisprudence. According to this understanding, a legal rule, approved by the Qur’ān or *ḥadīth*, has to be applied regardless of the benefit or interest gained or lost from this application. The *maṣlaḥa* can only be achieved through the literal application of a textual rule. This literal application represents the aim and intention of the Lawgiver. On the contrary, modern religious reformers’ understanding and interpretation of Islamic law, according to Hallaq, are completely based on the notions of utility, public interest, and necessity, a utilitarian approach that runs against the classical understanding of Islamic law. Moreover, in order to achieve this utilitarian interpretation, religious reformers reshaped and molded classical Islamic legal theory to support their view, making the law “nominally Islamic and dominantly utilitarian.”<sup>21</sup> In addition, “religious utilitarianists-Riḍā, Khallāf and others-”, insists Hallaq, “pay no more than lip service to Islamic legal values; for their ultimate frame of reference remains confined to the concepts of interest, need and necessity. The revealed texts become, in the final analysis, subservient to the imperatives of these concepts.”<sup>22</sup>

As stated above, it is clear that Kerr, Hourani and Hallaq deal with the legal aims in Riḍā’s thought through the study of *maṣlaḥa* alone. It is my intention to demonstrate that the legal thought of Riḍā can better be understood if *maṣlaḥa* is treated as a component of the con-

20. Najm al-Dīn al-Ṭūfī, in his treatise on a Prophetic tradition, regarded utility (*maṣlaḥa*) as the primary source of legislation. For him, even the application of textual rulings must follow the consideration of utility and the public good. His view, however, faced rejection from other medieval jurists because classical legal theory assigned the primacy to the sacred texts and their literal application. All other sources, such as the *maṣlaḥa* must follow textual evidence. Al-Ṭūfī’s treatise was published in Muṣṭafā, Zayd, *al-Maṣlaḥa fī al-Tashrī‘ al-Islāmī* (Cairo: Dār al-Fikr al-‘Arabī, 1964).

21. Wael HALLAQ, *A History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh* (Cambridge: Cambridge University Press, 1997), p. 224.

22. HALLAQ, p. 254.

cept of *maqāṣid al-sharī'a*. The legal aims, or the *maqāṣid*, include the consideration of *maṣlaḥa* but they are not limited by it. Also, viewing Riḍā's project of reform as based on the consideration of *maqāṣid al-sharī'a* would clarify its dialectic relationship with the sacred texts, while looking at it from only the angle of *maṣlaḥa*, an extra-textual source, would free this project from the grip of textual evidence and make it appear, as Hallaq concludes, totally independent from the dictates of Qur'ānic verses and Prophetic traditions. This methodological position necessitates treating Riḍā's legal thought through the concept of *maqāṣid al-sharī'a* and not merely the *maṣlaḥa*.

### RIDĀ'S LIFE AND CONTRIBUTION

Muḥammad Rashīd Riḍā was born in 1865 in the Syrian village of Qalamūn near Tripoli, where he spent most of his childhood years.<sup>23</sup> He started his elementary education in a public school in Tripoli, in which teaching was offered in the Turkish language. Then he registered in an Arabic school, al-Waṭaniyya al-Islamiyya, established by the well-known religious scholar Ḥusayn al-Jisr (d. 1909). Riḍā recalls in one of his articles that he studied in this school, among other things, Gazzālī's *Iḥyā'*, to which he constantly refers in his later writings. In 1884, after Afghani and 'Abduh published their magazine, *al-'Urwa al-Wuthqā*, in Paris, Riḍā was able to read its first issues when he found them in al-Jisr's library. Riḍā writes later in *Manār* that "after reading *al-'Urwa al-Wuthqā*, I discovered a new way of understanding Islam and that it is not only a religion of spiritual guidance but also a complete way of life."<sup>24</sup> He also read, during those years of his education under the guidance of al-Jisr, the magazine *al-Muqtaṭaf*, which focused on the latest developments in science. In 1896, Riḍā got his license as

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23. Riḍā provides us with some accounts on his life published in his magazine, *Majallat al-Manār*. See Muḥammad Rashīd Riḍā, *Majallat al-Manār* (Cairo: Dār al-Manār, 1898-1935). Another Arabic source on Riḍā's life is the biography made by his friend Shakib ARSLAN, *Rashid Riḍā wa Ikhā' Arba'in 'Aman* (Beirut: Dār al-Jil, 1955). Earliest accounts on Riḍā's life include C. C. ADAMS, *Islam and Modernism in Egypt: A Study of the Modern Reform Movement Inaugurated by Muhammad 'Abduh* (London: Oxford University Press, 1933) and J. JOMIER, *Le Commentaire coranique du Manar* (Paris: G-P Maisonneuve, 1954).

24. Riḍā, *Manār*, vol. 19, 1916, p. 112.

a teacher graduating with the degree of *‘ālim* (religious scholar) from the Waṭaniyya school. After his graduation, he first tried to contact Afghani to study with him, but after his failure to do so, he decided to travel to Egypt to meet ‘Abduh. He arrived in Egypt in January 1898. After meeting ‘Abduh, Riḍā suggested to him to publish a magazine that advocates Afghani and ‘Abduh’s reformist ideas. ‘Abduh agreed to the suggestion, naming the magazine *al-Manār* (The Sign Post). In the same year, 1898, the first issue of *Manār* was published. Riḍā writes later that when *Manār* appeared in circulation, it followed the reformist line of *al-‘Urwa al-Wuthqā* except for the latter’s anti-British tone. He also adds that he accepted ‘Abduh’s suggestion to soften the *Manār*’s political voice against the Ottoman Sultan ‘Abd al-Hamid, aiming at having a more consultative system of government.<sup>25</sup>

From 1898-1908, Riḍā stayed in Egypt, but after ‘Abd al-Hamid was deposed in 1909, he traveled to Istanbul, Turkey. During his visit to Istanbul, he met with representatives of the political organization that ruled Turkey, al-Ittihad wa’l Taraqqi. Moreover, he met with Shaykh al-Islam and discussed with him the possibility of establishing a new religious school in Egypt in which Riḍā would teach the students according to his reformist line of thought.<sup>26</sup> Later in the same year, 1909, an Ottoman administrative order was issued to form an organization called Jam‘iyyat al-‘Ilm wa’l Irshād, but Riḍā did not like, according to his account in *Manār*, its administrative structure which made the school under the supervision of *Shaykh al-Islam* and affiliated with the Ottoman educational system.<sup>27</sup> But his objection was not taken into consideration by Ottoman authorities. He later traveled to India, and after his return to Egypt he established an organization and school called Jam‘iyyat al-Da‘wa wa’l Irshād. It opened its doors to students in 1912.<sup>28</sup> Riḍā worked for three years as the principal of the school, but because World War One had started and the school could not get any more funding from the Egyptian government, it closed in 1916. Riḍā narrates in *Manār* that while he was before the War very much against any attempt to abolish the Ottoman Empire, based on his pan-Islamic conviction inherited from Afghani and ‘Abduh, he nevertheless found that after the War he believed that the best for the Arabs is to get full

25. RIDĀ, *Manār*, vol. 12, 1909, p. 706.

26. RIDĀ, *Manār*, vol. 13, 1910, p. 465.

27. *Ibid.*

28. RIDĀ, *Manār*, vol. 15, 1912, pp. 9-10.

independence, whether from the Turkish authorities or the occupying Europeans.<sup>29</sup> He mentions that he and other Syrian dignitaries had sent a letter to the president of the United States asking him to help the Syrians to get their independence from France. He also supported Sharif Husayn, the *Amir* of Mecca, in the latter's revolt against Ottoman authorities. Later, and until his death in 1935, Riḍā supported King 'Abd al-'Aziz, the founder of modern Sa'udi Arabia.

### RIḌĀ AND MAQĀṢID AL-SHARĪ'A

Riḍā is clearly interested in the concept of *maqāṣid al-sharī'a*. In several places of his writings, he refers to the *maqāṣid* and envisions Islam as aiming to achieve certain goals and purposes. In his *fatwā*, known as the "fatwā on the Parisian questions," he replies to the question on the definition of *ijtihād* and the requirements of the *mujtahid*. After quoting from Tahānawī's (ca. 1158/1745) *Kashshāf* and Mārghinānī's (d. 593/1197) *Hidāya* and a reference to Shātibī, Riḍā states that *ijtihād*, according to medieval jurists, is

« contemplating the legal sources, which are the Qur'ān, *sunna*, *ijmā'*, and *qiyās*, and to know the detailed rules that are not found in the "certain" sources. The main requirement of a *mujtahid* is to be able to understand the Qur'ān and *sunna*, to know *maqāṣid al-sharī'a*, and to realize peoples' life situations and customs. This is because the rules of the *sharī'a*, especially in *mu'āmalāt*, depend on achieving what is good for the people in this life and in the hereafter on the basis of the principle "preventing harm and bringing benefit." »<sup>30</sup>

Riḍā notes that after his answers to the Parisian questions were published in *Manār*, 'Abduh told him that what he wrote was the best at explaining the principles of Islam and its *maqāṣid*.<sup>31</sup> In addition,

29. RIḌĀ, *Manār*, vol. 1, 1898, p. 257.

30. Muḥammad Rashīd RIḌĀ, *Muḥāwarāt al-Muṣliḥ wa'l-Maqallid* (Cairo: Matba'at al-Manār, 1906), p. 134. The *Muḥāwarāt* is structured as a dialogue between a young reformer (*Muṣliḥ*) and a traditionalist jurist (*muqallid*). Riḍā's ideas are expressed through the argumentation of the young reformer against his adversary.

31. RIḌĀ, *Muḥāwarāt*, p. 140.

in an editorial article of *Manār*, 1899, Riḍā declared, “whoever looks carefully at *maqāṣid al-sharīʿa*, he will know that religion spreads through propagation and not compulsion.”<sup>32</sup>

Also, in an article entitled “Religious Reform,” published in *Manār*, 1899, Riḍā asserts that “the *sharīʿa* is the guide of reformers because any good for human beings, which relates to this life or the hereafter, has been acknowledged in Islam and regarded as one of its *maqāṣid*.” Moreover, in another article published in *Manār*, and entitled *al-Tashabbuh waʾl-Iqtidāʾ*, Riḍā regrets that many Muslims during his time do not accept any kind of art or science coming from Europeans because they regard it as a way of imitating non-Muslims, an act abhorred in Islam. Riḍā explains that

« the most important pillar to preserve religion and spread its correct teachings among non-believers is jihad, which depends on acquiring such sciences. Whatever is needed to get an obligation is an obligatory action. But ignorance became pervasive in our time and fanaticism against non-Muslims without understanding and knowledge of *maqāṣid al-sharīʿa* and the lack of knowing harms and benefits are the cause for accusing the wise people among the Europeans of bad intention. »<sup>33</sup>

In addition to the many references of Riḍā to the term *maqāṣid al-sharīʿa* or *maqāṣid al-sharīʿa*, one can attain a better understanding of his *maqāṣid* thought through his treatment of *maqāṣid al-Qurʾān* found in his *al-Waḥy al-Muḥammadi*.<sup>34</sup> Following the footsteps of ʿAbduh in the latter’s introduction to *Tafsīr al-Manār*, Riḍā assigns a whole chapter in his book to *maqāṣid al-Qurʾān*. His treatment of the subject is far more detailed than that of ʿAbduh. He starts the chapter by declaring that the *maqāṣid* or aims of the Qurʾān are intended to reform individuals and social behavior, achieve brotherhood and unity among peoples, and purify their souls through spirituality.<sup>35</sup> Then, Riḍā enumerates ten *maqāṣid*, some of which can be regarded as *maqāṣid al-sharīʿa* because they directly relate to legal rulings. The first *maqāṣid* of the Qurʾān is the three pillars of belief, namely, belief in God, the day of resurrection, and good deeds as a proof of right belief.

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32. RIḌĀ, *Manār*, vol. 1, p. 765.

33. RIḌĀ, *Manār*, vol. 1, p. 554.

34. RIḌĀ, *al-Waḥy al-Muḥammadi* (Cairo: Wazārat al-Awqāf, 2000).

35. RIḌĀ, *Waḥy*, p. 124.



The second *maqṣad* is to prove prophecy in general and the miracles of prophets in particular. The third *maqṣad* is to purify and perfect the human soul and personality. This can be achieved through the call for *ḥikma*, which, according to Riḍā, is synonymous with practical philosophy and psychology, ethics, and the general rules of social relations. Riḍā defines *ḥikma* as “to know something according to its essence and what it has of benefits that inspire action.” He says that the word *ḥikmah* in the Qur’ān refers to *ḥikma* and not to the juristic meaning of specific rules of practice.<sup>36</sup> The third *maqṣad* also includes the Qur’ān’s instruction about independent reasoning and its disparagement of *taqlīd*. Riḍā notes that while European educational systems emphasize the role of independent reasoning and logical thinking, only few Muslims, including the ‘*ulamā*’, practice Islam in away that reflects its real “rational picture.”<sup>37</sup>

The fourth *maqṣad* of the Qur’ān is to call for social and political reform in a way that leads nations to unity and equality. The other form of unity is a legal one in which Riḍā envisions all those under Islamic rule would be equal in their civil rights according to the principle of justice among believers and non-believers, rich and poor, and a ruler and ordinary people.<sup>38</sup> Also, Riḍā includes within this *maqṣad* an understanding that the places of worship of non-Muslims living under Islamic rule must be respected and no one should enter such places without the consent of the people in charge. In addition, the fourth *maqṣad* of the Qur’ān also encompasses the principle of judicial independence and the equality of all people in front of the just *sharī’a*. But Riḍā notes that legal cases pertaining to non-Muslims that relate to personal and family matters must be excluded from the influence of Islamic courts, and must be judged by the leaders of each religious community, according to their religious traditions. But if such people decided to litigate in front of a Muslim judge, then the *sharī’a* must be applied. Riḍā refers here to Q. 5:42, 48, and 49.<sup>39</sup>

The fifth *maqṣad* is titled, “the general features of Islam in the field of personal obligations and prohibitions.” Riḍā enumerates within this *maqṣad* ten rules, many of which deal directly with legal theory. First, based on Q. 2:143, Islam stands in the middle of all religious tradi-

36. RIDĀ, *Wahy*, p. 184.

37. RIDĀ, *Wahy*, p. 188.

38. RIDĀ, *Wahy*, p. 193.

39. RIDĀ, *Wahy*, p. 194. The verse (5:48) reads, “So judge between them (non-muslims) by what God hath revealed...”

tions in terms of its balance between the right of the soul and that of the body, and the good in this life and in the hereafter.<sup>40</sup> Second, the objective of Islam is to help human beings to achieve happiness in this life and in the hereafter through spiritual purification, right belief, good deeds, and ethical behavior. The third rule is that the aim of Islam is to call on human beings to know each other and establish good relationships. The fourth rule is that Islam is a religion of easiness and does not call for hardship in religious practices. He refers to Q. 2:286, 2:220, 2:185, 22:27, and 5:7. One of the results of this general rule is that “a religious obligation which causes hardship would be mitigated into either a less difficult obligation or totally cancelled, such as fasting the month of Ramaḍān for the one who suffers from a long-term illness. In such a case, the ill person can feed a poor person each day in Ramaḍān as a substitute for fasting.”<sup>41</sup> As for a prohibited action, Riḍā adds, it can be permitted in cases of necessity, as clearly stated in the Qur’ān. If the prohibition is based on the principle of “closing the means to harm,” then it can be permitted in cases of extreme need (*hāja*) and not only necessity. The fifth rule, included within the fifth *maqṣad*, prohibits perceiving religion as a way of self-torture by denying what God has permitted. This is based on Q. 7:31.<sup>42</sup> The sixth rule is that Islam has only a few religious obligations and they can be easily understood. But traditional jurists increased religious obligations through their opinions, so that knowing all such rules became difficult, and practicing all of them was impossible. Riḍā gives examples of daily prayers and the ablution before prayer to argue that such practices can be easily learned without difficulty.<sup>43</sup> The seventh rule is that religious obligation can be divided into obligations (*azā’im*) and mitigations (*rukḥas*). Ibn ‘Abbās (d. 68/687) used to prefer mitigations while Ibn ‘Umar (d. 73/692) preferred obligations. Riḍā refers to Q. 35:32 which enumerates three kinds of believers according to their degrees of commitment to religious practices.<sup>44</sup> The eighth rule states that the texts of the Qur’ān and *sunna* have degrees of authenticity. Whatever is “certain” in these texts is considered the general frame-

40. RIḌĀ, *Waḥy*, p. 198.

41. RIḌĀ, *Waḥy*, p. 199.

42. Q. 7:31 reads, “O children of Adam! Wear your beautiful apparel at every time and place of prayer: eat and drink: but waste not by excess, for God loveth not the wasters.”

43. RIḌĀ, *Waḥy*, p. 200.

44. RIḌĀ, *Waḥy*, p. 201.

work of religious knowledge. Whatever is “probable” in its authenticity or meaning allows degrees of interpretations. The Prophet in such cases of possible multiplicity of meaning used to acknowledge all the opinions of his Companions. When the Qur’ānic verse in the second *sūra* (2:219) was revealed, and it mentioned the harm in drinking wine without clear prohibition, some Companions quit drinking wine while others continued. The Prophet accepted both positions until the verse in the fifth *sūra* (5: 90) was revealed, which clearly prohibited such practice. Riḍā explains that religious obligations and prohibitions cannot be authenticated except through “certain” texts that are understood by everyone. The Qur’ānic verses that have “uncertain” meanings and isolated *ḥadīths*, whether in their chains of authorities or meanings, depend in their application on whether they are accepted or not by specific jurists and on the *ijtihād* of decision-making people in the field of judicial rulings and political matters.<sup>45</sup> The ninth rule is that no one shall be punished for what is in his or her heart or mind. Punishments are exclusively applied in cases of specific crimes or infringements on practical rules related to the public good and rights. The last rule, included in the fifth *maqṣad*, states that religious rituals are decided according to what we know of the Prophet’s practice, and no one can add or change them according to one’s personal preference. These rituals have the goals of spiritual purification and remembrance of God. Riḍā concludes, after enumerating the ten rules, that each one of them is liable to be regarded as a special *maqṣad* of the *maqāṣid* of revelation.<sup>46</sup>

It is clear that the ten rules that compose the fifth *maqṣad* of the Qur’ān present a general understanding of the *sharī’a* according to Riḍā’s view. The remaining five *maqāṣid* deal with the general rules that pertain to specific fields of legal activity, namely, political and international, financial, warfare and peace making, the status of women and their rights, and slavery.

The sixth *maqṣad* of the Qur’ān is entitled, “Explaining Islamic political and international rule: its kind and general principles.” There are several rules and principles that pertain to this topic. Riḍā notes that the first fundamental rule of Islamic government is that the person who heads the government in Islamic society, whether called an *imām* or caliph, is entitled to execute the *sharī’a*. The *umma* has the

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45. RIḌĀ, *Waḥy*, p. 201.

46. RIḌĀ, *Waḥy*, p. 202.

right to appoint him and remove him from office. Riḍā quotes Q. 42:38 and 3:159 to support his view.<sup>47</sup> The Prophet, Riḍā argues, used to consult with his Companions in matters pertaining to political, military, and financial affairs that were not regulated in the Qurʾān. The wisdom behind calling for practicing *shūrā* in a general way is to allow Muslims to choose the best method, according to their time and place, that achieves the goal of consultation.<sup>48</sup> Riḍā continues his discussion by noting that one of many religious proofs that political and judicial legislation is the right of the *umma* is that the Qurʾān, when speaking on such matters, always addresses the Muslim community at large. Such references are found, for example, in the first verse of the ninth *sūra*, which reads, “A (declaration) of immunity from God and His Messenger to those of the...” and Q. 49:9 which reads, “If two parties among the believers fall into a quarrel, make ye peace between them: but if one of them transgresses beyond bounds against the other, then fight ...” Such a reference to the community at large is also found in the verses that address the rules related to properties, booty, and the status of women.<sup>49</sup> Riḍā adds that some great legal theorists declared that sovereignty in the Islamic state is the right of the *umma* through the role of the *ahl al-ḥall waʾl-ʿaqd*, who should be responsible for appointing caliphs and *imāms* or remove them from office if the public good requires such a decision. Imām Rāzī (d. 606/1210) defined *khilāfa* as “general leadership given to one person according to specific conditions.”

Rāzī stated in the last condition that the “*umma* has the right to remove the *imām* from office due to mischief.” Moreover, al-Saʿd al-Taftāzānī (d. 793/1390) said in his *Sharḥ al-Maqāṣid* as a commentary on Rāzī’s definition, “what he meant by the *umma* is the *ahl al-ḥall waʾl-ʿaqd*.” Riḍā observes that such a basic rule of the Islamic state is the greatest political reform which the Qurʾān declared in a time when all nations were enslaved by tyrannical governments. This rule was applied first by the Prophet and then by the four well-guided caliphs. Riḍā adds that the Qurʾān describes how the Queen of Sheba consulted with her people to bring an example of the best policy.<sup>50</sup> But some me-

47. Q. 42:38, for example, reads, “Those who harken to their Lord, and establish regular prayer; who (conduct) their affairs by mutual consultation...”

48. RIDĀ, *Wahy*, p. 202.

49. RIDĀ, *Wahy*, p. 203.

50. The reference here is to Q. 27:32 in which the Queen said, “Ye chiefs! Advise me in my affair: no affair have I decided except in your presence.”

dieval jurists, Riḍā observes, made *shūrā* only recommended, without any obligatory status, to satisfy the will of kings and princes.<sup>51</sup>

The second principle that relates to the sixth *maqṣad* encompasses the “fundamentals of legislation in Islam.” Here, Riḍā repeats his dominant idea that after consulting the three main sources of Islamic law, namely, Qur’ān, *sunna*, and *ijmā’*, rules that pertain to political activities can be achieved through *ijtihād*. However, Riḍā quotes for the first time in his *Waḥy* a *ḥadīth* in which the Prophet said to one of his military commanders, “If you surround a fortress, and the people inside ask you to rule according to God’s law, do not do that, but apply your own judgment, because you do not know if you can achieve treating them in accordance with God’s law or not.” Riḍā comments on the *ḥadīth* that this is one of the clearest *ḥadīths* that gives the right to make decisions in political and military affairs to the caliphs and leaders because they are part of the general benefits (*maṣāliḥ āmma*) that change according to time and place.

Then, Riḍā adds an important paragraph in which he divides the legal rulings of the Qur’ān and *sunna* into two categories. First, are rulings that deal with specific actions and events. These are composed of two types. First are rules that have a “certain” quality in terms of their authenticity and meaning, and therefore do not allow any *ijtihād* and must be applied unless there is a *shar’ī* reason to prevent such an application. Examples of such exceptional reasons are the lack of a condition necessary for applying the rule such as abandoning the application of a Qur’ānic rule of punishment (*ḥadd*) due to doubt or a case of necessity. Here Riḍā brings again the example of ‘Umar’s decision not to apply the *ḥadd* for thieves during the year of famine. The other type of specific rulings, mentioned in the Qur’ān and Prophetic traditions, include rules that have only “probable” quality in terms of either authenticity or meaning. Those are applied according to the *ijtihād* of the decision-making people as described before.

Riḍā introduces in this section of *Waḥy*, for the first time, the second category of Qur’ānic and Prophetic rules. These are described as “general rules” of all legal rulings. The most important of them are the search for truth and justice; equality in rights, testimonies, and rulings; the preservation of *maṣāliḥ* and prevention of *maḥāsib*; the consideration of local custom (*urf*) according to its conditions; the

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51. RIḌĀ, *Waḥy*, p. 204.

abandonment of applying *ḥudūd* in cases of doubt; necessities permit prohibitions; necessity has to be determined according to its conditions; the main aim of *mu'āmalāt* is gaining virtues and avoiding vices; and lastly the prohibition of injustice.<sup>52</sup> It will be more clear through Riḍā's legal opinions and *fatwās* that the kind of free *ijtihād* that he envisions in the field of *mu'āmalāt* is very much directed by such general rulings that he enlists as part of the *maqāṣid* of the Qur'ān. Riḍā, however, covers only a few of those general rules in his treatment of the sixth *maqṣad*. He quotes Qur'ānic verses that call for achieving justice and equality when judging between people and also the prohibition of injustice.<sup>53</sup> But he elaborates on the rule, which states "the aim of the *mu'āmalāt* is to achieve virtues and prevent vices." Riḍā declares, "Whoever uses induction (*istiqrā'*) in studying the rulings of the *sharī'a* finds that all rules, mentioned in the Qur'ān or the *sunna*, whether related to personal, civil, political, or military matters, are aimed at the achievement of the goals of truth, justice, trust, keeping promises, mercy, love, tranquility and avoiding injustice, lying, mistrust, usury (*ribā*), and bribery."<sup>54</sup>

After stating the specific and general rules of the *sharī'a*, Riḍā claims that penal laws in Islam are constituted of two kinds. First are the *ḥudūd*, which means the obligation to apply a specific punishment for a specific crime according to the text, such as the execution of murderers to keep the life of the community, the punishment of adultery to preserve the family honor and progeny, the punishment for stealing to preserve security, and the punishment for intoxication to preserve the mind. Riḍā explains that some jurists do not regard the punishment for intoxication as a *ḥadd* because it is not mentioned in the Qur'ān and not determined in the *sunna*. The wisdom behind applying the *ḥudūd*, Riḍā observes, is to deter criminals and other non-virtuous people. But in the case of punishment for adultery, Riḍā comments that jurists made conditions to apply the *ḥadd*, which rarely can be achieved except through confession. It is also narrated in a *ḥadīth* that the one who commits adultery should hide his problem and he or she is not encouraged to confess. In the end, Riḍā notes that the application of *ḥudūd* is the right of the caliph or the *imām*, and no one else can apply such penal laws. The second type of criminal laws are those

52. RIḌĀ, *Wahy*, p. 210.

53. RIḌĀ, *Wahy*, p. 210.

54. *Ibid.*

called *ta'zīr* (disciplinary punishment), which depend solely on the *ijtihād* of rulers, in the light of the general rules mentioned above.

The seventh *maqṣad* of the Qur'ān is related to "directions toward financial reform." Riḍā argues that this *maqṣad* deals with one of the major social problems which is "the tyranny of wealth." The other three social injustices are: "the aggression of war and its severity," "the injustice against woman," and "the injustice against the weak and captives by denying their freedom." For each of these four social ills, Riḍā dedicates a separate *maqṣad*. The main general rules or principles related to financial reform are encouraging spending for the sake of God to support the poor; being wise in spending; the protection of private property; the obligation to pay the *zakāt* (alms giving); the obligation to spend on one's wife and family; and spending on the poor as an obligation to expiate one's sins. Riḍā quotes Qur'ānic verses to support his claim that all these principles are declared in the Qur'ān. What is more related to our topic, however, is that Riḍā regards those principles or general rules as part of the *maqāṣid* of the Qur'ān through his quotations of verses that deal with specific questions. For example, he quotes Q. 65:7, which reads, "Let the man of means spend according to what God has given him." Riḍā argues that although this verse was revealed to deal with the question of spending on the divorced wife during her grace period (*'idda*), the instruction is general. He refers to a principle in Islamic legal theory which states that "the main reference in any verse is to the general meaning and not just to the specific reason of revelation."<sup>55</sup> Riḍā also declares that if one does not interpret Qur'ānic instructions on financial matters according to their *ḥikam*, *'illal*, and benefits, God's word would not be called *ḥikma*. Riḍā quotes Q. 17:29 which reads, "Make not thy hand tied (like a niggard's) to thy neck, nor stretch it forth to its utmost reach, so that thou become blameworthy and destitute," and comments that God made the reason for the negative value of spending without limits the end result of such action, which is to be blameworthy and destitute.

Therefore, Riḍā, following the footsteps of Abduh, finds that Qur'ānic verses cannot be called "words of wisdom" (*ḥikma*) unless they refer to general principles that guide humanity as well as to the aims or purposes of legal rules. But a legitimate objection to Riḍā's principles of financial reform, included within the seventh *maqṣad*, is that most of them do not constitute specific rulings that can bring

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55. RIDĀ, *Wahy*, p. 221.

change and achieve real reform in Muslim societies. This objection, which is related to Riḍā's *maqāṣid* thought in general, as portrayed in *al-Wahy al-Muḥammadī*, will be checked through his *fatwās* to see if such general rules and principles can in fact generate legal opinions on specific questions.

In the eighth *maqṣad*, Riḍā deals with the "reformation of the warfare system and the prevention of its vices and conditioning its legitimacy on what brings benefit to humanity." The subtitle of this *maqṣad* is "a general outlook at the philosophy of warfare, peace making, and treaties." It is clear from the title and the subtitle that the main topic of this *maqṣad* is more specific than the previous one. One can clearly note that Riḍā's writings on this topic reflect the events of his day, mainly the post-World War One colonization of Muslim countries by European powers. He declares first that if warfare reflects a struggle to achieve justice and bring good to people, then it can be legitimized according to the Qur'an. But if it aims at the occupation of other nations and the oppression of the weak by the strong, as the European powers did, then warfare must be stopped because it is unjust. In addition, he notes that the aim of peace treaties should be achieving reform, justice, and equality among people and not the domination of one nation over the other. He cites the treaty of Versailles, after World War One, as an example of an ill-advised treaty. Then, Riḍā states what he calls "the most important rules of warfare and peacemaking in Islam." These rules are the following. The first rule permits fighting aggressors in order to stop their aggression, but prohibits Muslims from starting any aggression against non-Muslims. Riḍā quotes Q. 2:190, which reads, "Fight in the cause of God those who fight you, but do not transgress limits; for God loveth not transgressors," and comments that this verse is *muḥkam* (clear in meaning) and cannot be abrogated. The Prophet's wars were defensive in nature. Second, the positive aim of fighting in Islam, after facing aggression and injustice, is the protection of the followers of all religions from being oppressed or compelled to convert to another religion. Riḍā cites Q. 22: 39-40, which read, "To those against whom war is made, permission is given (to fight), because they are wronged-and verily, God is most powerful for their aid. (They are) those who have been expelled from their homes in defiance of right- (for no cause) except that they say, 'Our Lord is God.' Had not God checked one set of people by means of another, there would surely have been pulled down monasteries, churches, synagogues, and mosques, in which the



name of God is commemorated in abundant measure..." Third, peace is the original state of relationships between nations, and warfare is only a necessity that might be conducted to achieve good and prevent injustice. Riḍā cites Q. 8:61 which reads, "But if the enemy inclines towards peace, do thou (also) incline towards peace, and trust in God...", to prove that peace is preferred over war. Fourth, the perfect preparation for the war should be in a way that might prevent it. The fifth rule is entitled "Mercy with Captives." Riḍā cites Q. 76:8 stating, "And they feed for the love of God the indigent, the orphan, and the captive."<sup>56</sup> The sixth rule is "fulfilling the obligations of treaties without any violations." Here Riḍā cites Q. 16:91, which states, "Fulfill the covenant of God when ye have entered into it, and break not your oaths after ye have confirmed them..." The seventh and last rule, related to the eighth *maqṣad* of the Qur'ān, states that "the poll tax (*jizya*) is a consequence to fighting and not a cause." Riḍā comments on Q. 9:29, which reads, "Fight those who believe not in God nor the last day, nor hold that forbidden which hath been forbidden by God and His messenger, nor acknowledge the religion of truth, from among the People of the Book, until they pay the *Jizya* with willing submission, and feel themselves subdued..." He argues that this verse calls on Muslims to fight those mentioned when there is a legitimate reason to do so, such as an aggression against them or their country, or oppressing them and denying religious freedom to Muslims. This is the case of the Byzantines against Muslims during the time of the Prophet and leading to the battle of Tabūk, with which the verse is dealing.<sup>57</sup> The poll tax was instituted in such cases to ensure first the security of Muslims and also to place an obligation on them to protect and defend the People of the Book who paid the poll tax. Riḍā adds that the *ḥikma* of the *jizya* is that it was not a tax of conquerors on the conquered people in order to subjugate them under their will. Rather, it is an obligation on Muslims to defend against any aggression those non-Muslims who paid the poll tax. "This is well known from the behavior of the Prophet's Companions who were the most knowledgeable of *maqāṣid al-sharī'a* and the most just in applying them."<sup>58</sup> He cites some examples from Balādhurī's (d. 279/892) *Futūḥ al-Buldān* and Azdī's (c. 165/782) *Futūḥ al-Shām* in which the

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56. RIḌĀ, *Waḥy*, p. 233.

57. RIḌĀ, *Waḥy*, p. 234.

58. *Ibid.*

Companions gave back the amount of the poll tax taken from the People of Ḥimş because the Muslims could not protect them from the Byzantines during the battle of Yarmūk. Therefore, Riḍā observes, warfare in Islam is limited to preventing harm and achieving good for human beings. As for the non-Muslim states with whom the Islamic state has peace treaties, they are called *ahl al-‘ahd* and the peace arrangement must be fulfilled.

The ninth *maqṣad* of the Qur’ān is “giving women all human, religious, and civil rights.” Riḍā emphasizes in this *maqṣad* the right of women to acquire and manage properties, their rights in dowry and inheritance, and their complete independence in representing themselves in courts. All these rights are compared to the status of Arab women before Islam. Riḍā adds that although Islam placed the right of divorce in the hand of the husband, it also gave the right to the woman to condition her marriage contract with the right of initiating divorce if she wanted. This is based on the opinion of some jurists that any condition (*shart*) in a contract is a legitimate one unless it contradicts a “certain” text in the Qur’ān or *sunna*.<sup>59</sup>

The tenth *maqṣad* is entitled “The emancipation of slaves.” Riḍā argues that the *sharī‘a* ensured the just treatment of slaves during the time of the Prophet, and included rules that can gradually lead to the abolition of slavery. The way to do that was first to limit slavery to war captives with the encouragement to free them, and second, the gradual emancipation of the old slaves. This is clear in the actions of the Prophet during and after the battles of *Banī al-Muṣṭalaq*, *Fath Mecca*, and *Ghazwat Hunayn*. In those three military exhibitions, Riḍā notes, the Muslims were victorious, and the Prophet’s wish to free the war captives showed that “the spirit of the *sharī‘a* calls for the freedom of slave captives without any gain for Muslims except doing a good deed.”<sup>60</sup> Based on this spirit, Riḍā enlists several cases in which Islamic law ensures the freedom of slaves and regards this action as a religious act of devotion to God. In several cases of expiation of certain sins, the Qur’ān prescribes freeing slaves as either an obligatory or an optional act to fulfill this expiation.<sup>61</sup>

Riḍā’s *maqāṣid* thought in *al-Waḥy al-Muḥammadī* presents a general outlook on the *sharī‘a* in which principles and general rules are

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59. RIḌĀ, *Waḥy*, p. 234.

60. RIḌĀ, *Waḥy*, p. 246.

61. See, for example, Q. 58:3 and 4:92.

mentioned and authenticated as “certain” by virtue of their Qur’ānic origin. All rulings on *mu‘āmalāt* have to achieve the goal of being in line with such general rules and guiding principles. Riḍā’s method of formulating such principles follows ‘Abduh’s in first the thematic character of dealing with each question of inquiry by collecting all or most of Qur’ānic verses on the subject, and second through the concentration on the *ḥikma* of any Qur’ānic rule. The phrases in such Qur’ānic verses that focus on the rationale behind having the rules are emphasized in the interpretive process and then generalized into guiding principles or rules of action. In addition, Riḍā presents in his writings on *maqāṣid al-Qur’ān* a new genre of religious writings, practiced mostly by later *maqāṣid* thinkers, in which different sections of *fiqh*, or Islamic jurisprudence, are introduced by an enumeration and elaboration on the main *maqāṣid* of the *sharī'a* that relate to the specific section, such as financial, political, etc. However, it remains worth attempting to see if such theorization can be translated into a practical effect in Riḍā’s *fatwās*, but at least one can confidently declare such an effect in his writing on *maqāṣid al-Qur’ān*, such as in the cases of slavery and warfare and peacemaking in Islam.

### RIḌĀ’S FATWĀS

Riḍā’s *fatwās* appeared as a special section in his *Manār*, from 1903 to 1935, to answer questions on different topics of Islamic jurisprudence. According to al-Munajjid and Khūrī, who published Riḍā’s *fatwās* in six volumes, the latter issued 1061 *fatwās* in the *Manār*.<sup>62</sup> Some of these, for sure, are questions about Riḍā’s opinions on matters related to dogmatics, reason and revelation in Islam, how to achieve Muslim unity and the like. That is why Riḍā did not name this section in the *Manār* as dedicated for *fatwās* in the early issues but rather a section for “questions and *fatwās*.” However, in his fourteenth issue of the seventh volume of the *Manār*, he named the section “*bāb al-fatwā*” (the section on *fatwā*). Thus, not all the 1061 entries, which are listed in Riḍā’s *Fatāwā*, deal with legal questions. In addition, to know the limits of Riḍā’s *fatwās* and their degree of technicality, he explains in his *fatwā* on “the fundamentals of Islam,” dated 1926, that the aim of the section on *fatwās* in the *Manār* is to provide concise answers to

62. Muḥammad Rashīd RIḌĀ, *Fatāwā al-Imām Muḥammad Rashīd Riḍā*, Salāḥ al-Dīn al-Munajjid and Yusuf Khūrī, eds. (Beirut: Dār al-Kitāb al-Jadīd, 1970).

legal questions and to decline from delving into very detailed points of Islamic jurisprudence.<sup>63</sup> Since Riḍā, throughout his *fatwās*, refers his readers to his theoretical works, published first periodically in *Manār*, such as *Yusr al-Islam*, *Muḥāwarāt*, and *Khilāfa*, he undoubtedly expects the inquirer to get a more detailed answer to the theoretical part of his question in such works.

In *fatwā* 685, dated 1926, Riḍā asserts that “civil and political rulings must be based on the prevention of harms and the preservation of the public good. The judicial rulings must be based on justice and equality, and the obligation to preserve religion, life, mind, property, and honor.”<sup>64</sup> In *fatwā* 201, dated 1906, Riḍā argues that the aim of *mu‘āmalāt* rulings is to prevent injustice from being committed among people.<sup>65</sup> He also states in *fatwā* 243, dated 1907, that “the pillars of judgeship and political rule in Islam are the Qur’ān, *sunna*, *ijtihād*, and consultation. These are based on the maxim: preventing the *maḥāsib* and preserving the *maṣāliḥ*.”<sup>66</sup> In addition, in *fatwā* 304, dated 1909, Riḍā writes that “on questions related to worldly affairs in *mu‘āmalāt*, the jurist should not look only to the literal meanings (*Zawāhir*) of the Qur’ān and *sunna* but also to analyzing the cases in question, to know their actual circumstances, by using induction and research.”<sup>67</sup> Here, it becomes clear that Riḍā’s call for the consideration of *maqāṣid al-sharī‘a* in *mu‘āmalāt* in this *fatwā* is translated into a clear reference to the “spirit” of Islamic law that might be realized through a non-literal sense of textual meanings. Thus, Riḍā’s methodology in *mu‘āmalāt*, through his consideration of *maqāṣid al-sharī‘a*, is not limited to using *maṣlaḥa mursala* as the main tool to achieve his goal. First, some of his *fatwās* on *mu‘āmalāt* are based on his specific interpretation of Qur’ānic or *ḥadīth* texts in which the aim of the legal rule becomes the central focus in his decision. Second, in his response to several questions that lie outside the realm of textual evidence, he not only employs the principle of *maṣlaḥa mursala* but also *sadd al-dharā‘i‘* (closing the means to harm) to actualize the maxim of *daf‘ al-maḥāsib*, which is considered one of *maqāṣid al-sharī‘a*.

63. RIḌĀ, *Fatāwā*, vol. 5, p. 1871.

64. RIḌĀ, *Fatāwā*, vol. 5, p. 1873. These five *maṣaliḥ* are considered by Shāṭibī as the necessary ones which the *sharī‘a* strives to preserve. See Shāṭibī’s *Muafaqat*, vol. 2, pp. 9 ff.

65. RIḌĀ, *Fatāwā*, vol. 2, p. 527.

66. RIḌĀ, *Fatāwā*, vol. 2, p. 627.

67. RIḌĀ, *Fatāwā*, vol. 3, p. 838.

Examples of cases in which Riḍā clearly interprets the texts in a way that focuses on the legal aims are the *fatwās* on the prohibition of using gold and silver plates and ornaments; eating the meat of animals slaughtered by the People of the Book; the question of bank interest and the prohibition of usury; making statues and paintings of human and animal forms; using alcohol for medical reasons; accepting evidence in court based on a telegraphic message; listening to singing and music; the prohibition of gambling; the dissolution of marriage contracts due to a physical or mental defect of the husband or wife.

### ON THE PROHIBITION OF USING GOLD AND SILVER PLATES AND ORNAMENTS

Several questions addressed to Riḍā in the *fatwās* section of *Manār* relate to the well-known prohibition of using gold and silver plates.<sup>68</sup> The narrated *ḥadīths*, most of them accepted by all schools, prohibit men to wear gold ornaments. There are also *ḥadīths* that allow men to wear silver ornaments, and others that prohibit the use of gold and silver utensils (*āniya*). Some of the questions that appear in the *fatwās* enquire about the prohibition itself, and Riḍā responds clearly with listing such *ḥadīths*, calling for their literal application. But when Riḍā is asked about cases such as whether it is permitted for the Islamic state to use gold or silver medals to praise civil or military servants, or whether a Muslim can eat from a gold or silver plate offered in the house of the People of the Book, his response is very much influenced by his consideration of the *maqāṣid* of such prohibitions. In *fatwā* 608, dated 1923,<sup>69</sup> Riḍā responds to the questions of using gold and silver utensils or wearing gold medals (or silver watches), by declaring first that even if a jurist can use *qiyās* to argue that the *'illa* in the prohibition of using gold and silver utensils is the same in using gold and silver medals, and consequently the validity of this *qiyās*, Zāhirite jurists and some Traditionists concluded that no religious prohibition can be reached through *qiyās*. In other words, Riḍā is saying that even if *qiyās* in such cases is valid, we will end up with a prohibition or disliked action which cannot be includ-

68. See, for example, Ibn Qudāma al-MAQDISĪ, *al-Mughnī* (Beirut: Dār al-Fikr, 1983) vol. 2, pp. 169-171.

69. RIḌĀ, *Fatāwā*, vol. 4, p. 1635.

ed within the category of “*ḥarām*” since religious prohibition has to be indicated through “certain” texts and not through human *ijtihād*. Although the end result of such distinction will be the same in the sense that such an action will still be prohibited, the lack of religious character of the prohibition can make room for the consideration of *maṣlaḥa* when it is relevant to do so.

But Riḍā, in relation to this question, does not stop at attacking the “religious” content of *qiyās*. Rather, he looks into the reason for the prohibition and concludes that it is to avoid an extravagant way of life. In *fatwā* 76, published in the *Manār*, 1904, Riḍā, after enlisting some of the juristic opinions on the ‘*illa* of the prohibition, declares that

« the *ḥadīth* which shows that using gold and silver is the feature of the People of Paradise indicate that the Muslim is prohibited from a lavish and extravagant way of life until he or she ignores their religious obligations and is in a state of weakness in the face of his/her enemies. This extravagant way of life causes the decay of nations and the destruction of cities, and it is the ‘*illa* of injustice, mischief, and the instigation of quarrels and transgression among people. »

Riḍā adds that if this is the ‘*illa* of the prohibition, then it is not a “religious” prohibition that must be extended to any kind of use. Thus, if a Muslim drinks from a gold or silver utensil in the home of a non-believer, or even a Muslim, without intending to mimic such way of life, his action does not violate a religious prohibition.<sup>70</sup> But how can one decide if a certain use of gold or silver commodities is lavish or not? For Riḍā this depends on the customs in each society. If a society is very poor, then most of such uses would be regarded as lavish. This was the reason for the Shāfi‘ite jurists to prohibit any kind of use except what is stated in Prophetic traditions. Riḍā also observes that the modern scholars of political economy studied the effect of manufacturing plates, furniture, etc. for aesthetic purposes and whether there is any harm in doing so. They found that societies can benefit from such kind of production because it is a way for rich people to spend their money and this creates vocations for less fortunate people. This is the kind of benefit that the people call *kamāliyyāt* and Shāṭibī in *Muāfaqāt* calls *taḥsīniyyāt*. Therefore, there is a *maṣlaḥa* for the *umma*

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70. RIḌĀ, *Fatāwā*, vol. 1, p. 189.

(the Muslim community) in having gold or silver commodities but on the condition that it must be within the ethical framework. But Riḍā concludes that for precautionary reasons, it is better for the Muslim to avoid the kind of use clearly mentioned in the *ḥadīths* and consider the *maṣlaḥa* elsewhere.<sup>71</sup> In *fatwā* 117, published in the *Manār*, 1904, Riḍā responds to the question of medals, especially gold or silver ones. He argues that this practice was not mentioned in the *sunna*, and therefore its rule depends on the maxim: the prohibition of every harmful act and the permission of every benefit. Then he reminds his reader that although in some cases offering such medals might be a benefit to the society, the current situation in Egypt being that gaining such medals means getting honorary titles in the government. This leads to the fact that people became obsessed with getting such medals even if they pay bribes. Therefore, Riḍā concludes, the current use of such medals must be prohibited.<sup>72</sup>

#### ON THE PERMISSION TO EAT THE SLAUGHTERED ANIMALS OF THE PEOPLE OF THE BOOK

In *fatwā* 154, published in the *Manār*, 1905, a Muslim from Singapore informs Riḍā that he received a book, written by an Egyptian and called *al-Taʿāḍil al-Islamiyya*, in which the author repudiates ʿAbduḥ’s *fatwā* on the permission to eat from the meat of animals slaughtered by the People of the Book.<sup>73</sup> He then asks Riḍā whether the Qur’ānic permission is conditioned on specific ways of slaughtering animals that were known during the time of the Prophet and were followed by the People of the Book at that time. Riḍā responds first that the question of eating the food of the People of the Book is not a “*taʿabbudī*” one (i.e. not considered fixed in form as a religious obligation similar to *ibādāt*). He also observes that “nothing related to the details of the legal case that is attached to the spirit (*rūḥ*) of religion and its essence except the prohibition of offering a slaughtered animal to other than God, because this is one of the rituals of pagans and the rites of the

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71. RIḌĀ, *Fatāwā*, vol. 1, p. 190.

72. RIḌĀ, *Fatāwā*, vol. 1, p. 266.

73. The inquirer in Riḍā’s *fatwā*, 154, also asks him whether ʿAbduḥ permitted eating the meat of animals killed by violent blow (*mawqūḍha*), which is prohibited in Q. 5:3.

polytheists. Therefore, Muslims are prohibited from eating such animals or contributing to such practices. Riḍā adds

« God wanted us to differentiate between polytheists and the People of the Book, and therefore He permitted their food for us without any condition, similarly to the permission to marry from them while Muslims are prohibited from marrying polytheists. Thus the *ḥikma* of this permission is to have a good relationship with the People of the Book and not because they slaughter their animals in a certain way. »<sup>74</sup>

It is clear that those jurists who objected to ‘Abduh’s Transvaal *fatwā*<sup>75</sup> were arguing that although there is a Qur’ānic verse (5:5) which clearly permits eating the meat slaughtered by Christians and Jews, current Christians and Jews do not slaughter their animals similar to what their ancestors did during the time of revelation, and consequently one should not eat from the food of contemporary Christians and Jews. Riḍā, after reminding his readers of the Qur’ānic verse, argues that this verse is general in its meaning and we cannot condition its effect based on an assumption that the way in which past Christian and Jews slaughtered their animals was different from our contemporaries, and therefore we should not eat the meat offered by them. If such logic is true, Riḍā argues, then we should look into every ruling of the *sharī‘a* and say that the permission or prohibition is conditioned by the way such a ruling was applied during the time of the Prophet. “Do we have to say, for example, that we should have a Friday prayer with an exactly similar mosque to that of the Prophet or a similar number of people attending the service?” As for the objection that ‘Abduh’s *fatwā* permits eating from the meat of an animal hacked to death (*mawqūdhā*) by the People of the Book, a state of killing the animal that is prohibited in the Qur’ān, Riḍā contends that ‘Abduh’s *fatwā* did not permit eating from the meat of such animals but on the general observation that the People of the Book in our time slaughter their animals before eating their meat. Riḍā concludes that his argumentation on this question is supported by the evidence from the Qur’ān, *sunna*, and the deep understanding of the *sharī‘a*.<sup>76</sup>

74. RIḌĀ, *Fatāwā*, vol. 1, p. 353.

75. For a detailed account of the criticism that ‘Abduh faced after issuing his *fatwā* of permission, see C. C. ADAMS, “Muhammad ‘Abduh and the Transvaal Fatwa”, *Macdonald Presentation*, vol. 3, 1933, pp. 12-29.

76. RIḌĀ, *Fatāwā*, vol. 1, p. 354.



It is clear from the previous exposition of Riḍā's *fatwā* on the permission to eat from the meat of animals slaughtered by Christians and Jews that he sees the intention of the Lawgiver regarding eating such meat of non-Muslims as similar to eating any other kind of food which does not have a religious component. The only religious prohibition is against eating from the meat offered to deities other than God. The fact that Qur'ānic texts prohibit eating only from such meat slaughtered by polytheists without stating any prohibition of eating from the meat of their animals, if not offered to their deities, indicates clearly that eating meat is not different from eating other kinds of food except for the obvious religious reason of sacrifice. The only exception to this general permission is to know that the animal was killed in a way prohibited in the Qur'ān, i.e. not slaughtered. Therefore, the reasoning behind Riḍā's argument is to focus on the purpose of the prohibition and the permission, although his argument follows the literal understanding of the Qur'ānic verse related to the People of the Book.

### ON MAKING STATUES AND PAINTINGS OF HUMAN AND ANIMAL FORMS

In more than one *fatwā*, Riḍā was asked about the prohibition of making statues and paintings of human and animal form in Islam.<sup>77</sup> While 'Abduh dealt with this issue only in his articles describing his trip to Sicily,<sup>78</sup> and therefore did not offer a sophisticated legal discourse on this legal question, Riḍā in *fatwā* 547, published in the *Manār*, 1917, engages in a very detailed treatment of the subject. After listing fifteen *ḥadīths* on the subject and then enumerating thirteen points on the opinions of early jurists regarding those *ḥadīths*, Riḍā concludes with what he thinks is the main instructions in those *ḥadīths*. First, the *muṣawwirūn* (those who make statues or paintings of human and animal forms) will be chastised on the Day of Judgment and will be ordered to resurrect into life what they made because of their intent to challenge the creation of God by producing a similar form.<sup>79</sup> Second,

77. For the traditional Sunnī views on the subject, see al-Jazīrī, *Al-Fiqh 'Alā al-Madhāhib al-Arba'a* (Beirut: Dar al-Thaqalayn, 1998), vol. 2, pp. 73-75.

78. On 'Abduh's view on the same question, see my article Muḥammad 'Abduh and *maqāṣid al-sharī'a*, *The Maghreb Review*, Vol. 32, No 1, 2007, pp. 19-21.

79. The Arabic word, used in those *ḥadīths* to denote the intention of statue makers, is *yudāhūna*. Some traditional jurists understand the meaning as "to make a

the *muṣawwir* is cursed in the *ḥadīth*, like those who made the graves of their Prophets as places of worship to God. The *ḥadīth* mentions that the latter people used to make statues and paintings of the pious among them and put them in their temples. They are described as the worst of creation. Third, it is prohibited to hang curtains that have such paintings, and must be torn apart or removed. Fourth, the reasoning behind the prohibition is mentioned in one *ḥadīth* that “we are not obliged to make shapes from rocks and clay.” In another *ḥadīth*, Riḍā adds, it is stated that paintings distract the Muslim who is making prayer if they are located in front of him or her. It is also stated in a *ḥadīth* that “the angels do not enter a house which has a statue or a dog.” Fifth, one can also conclude from the *ḥadīth* literature that it is permitted to wear clothes or have pillows that contain pictures of animal forms, and that the Prophet used such pillows, as in the *ḥadīth* narrated by Aḥmad b. Ḥanbal (d. 241/855).<sup>80</sup> Sixth, changing the picture of an animal to make it similar to a tree by removing its head, for instance, will permit its use. Seventh, if there is any shape of a cross in a painting or a picture, it must be removed.<sup>81</sup>

Riḍā then states his conclusion that the reason for the expected severe punishment on the Day of Judgment for *taṣwīr* is twofold: first due to an intent to challenge God’s creation by having a similar one, and second to prevent the worshipping of statues of prophets and pious people, although the maker of such statues did not intend to do so. Thus, the second reason of the prohibition is based on *sadd al-dharā’i’*. Riḍā quotes Ibn Ḥajar al-‘Asqalānī (d. 852/1449) in the latter’s commentary on Bukhārī’s (d. 256/870) *Ṣaḥīḥ*, that the reason for the prohibition of *taṣwīr* is similar to those who were cursed by God because they built places of worship to God on the graves of their prophets, and later their posterity worshipped those graves. Ibn Ḥajar declares that the prohibition of having graves of pious people in mosques is based on *sadd al-dharā’i’*, and if one is sure that there is no danger of worshipping such graves, then one can permit such practice. Riḍā adds that applying the rule of *sadd al-dharā’i’* differs from time to time and the kind of *taṣwīr* existing. Because the statues, which were venerated

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similar creation.” But for Riḍā and other jurists, the verb has the connotation of intending to challenge God’s creation.

80. The reference here is to Aḥmad b. Ḥanbal’s *al-Musnad* (Cairo: Dar al-‘Itisam, 1974), vol. 2, p. 107.

81. Riḍā, *Fatāwā*, vol. 4, p. 1411.

before Islam to the level of worship, were of human and animal forms, the Companion Ibn 'Abbās permitted the one who asked him about painting the shapes of trees to do so. But since the pictures that portray human and animal forms became used only for aesthetic reasons, and the possibility of worshipping them disappeared, some of the *salaf* (early fathers) put such pictures in their houses. However, Riḍā observes, the possibility of worshipping pictures of prophets and saints is still valid, similarly to what some Muslims were doing at the tombs of venerated people. Riḍā concludes that except for the prohibition of portraying prophets and venerated people, there is no harm in having statues and paintings of human and animal forms because there is no intention to sanctify certain people or animals by making statues and paintings, which later might become objects of worship. In fact, Riḍā adds, there are many benefits from having such pictures such as knowing what animals and plants look like when listed in a dictionary, in the sciences of natural history, medicine, anatomy, and for military purposes. Moreover, modern governments need such pictures in their political and administrative activities.

This *fatwā* shows that Riḍā's reasoning is very much based on his contemplation of the *ḥikma* of the legal rule pertaining to making statues and pictures of human and animal forms. If the practice leads to worshipping such works of art, then it must be prohibited. But since there is no intention by the artist to either challenge God's creation or offer such statues for people to worship, then Muslims are permitted to have such a practice, and in fact they are encouraged to do so if there are benefits for the Muslim community.<sup>82</sup>

### ON CONSUMING ALCOHOL FOR MEDICAL REASONS AND ITS USE AS A COMPONENT IN PERFUMES AND OTHER CHEMICALS

In *fatwā* 607, Riḍā deals with questions addressed to him from India in which a *muftī*, named Muḥammad Shafiq al-Raḥmān, issued a *fatwā* prohibiting the use of alcohol for medical treatment.<sup>83</sup> He also prohibited the use of any chemical, such as paints, in which alcohol is a component. His reasoning is based on a claim of consensus among

82. RIḌĀ, *Fatāwā*, vol. 4, p. 1417.

83. RIḌĀ, *Fatāwā*, vol. 4, pp. 1609-1634.

Muslim jurists that *khamr* is impure (*najis*), and consequently if any intoxicating material is used as a component in any chemical, the end product will be impure and hence cannot be used. This prohibition mostly applied to using chemicals that contain alcohol to paint mosques. The impurity of *khamr*, according to the Indian *muftī*, is mentioned in the Qur'ānic verse which prohibits the consumption of *khamr* by describing it as *rijs*, a term that denotes impurity.<sup>84</sup> Riḍā first rejects the claim of the consensus that *khamr*, whether made of grape wine or not, is physically an impure material. He contends with the Indian *muftī* that the term *rijs* in the Qur'ān does not refer only to *khamr* but also to gambling (*maysir*) among other prohibited practices. No one can say that there is a physical impurity in gambling but rather a moral impurity of the practice itself. This is true also for *khamr*. He mentions that the question of whether *khamr* is pure or impure is a matter of disagreement among Muslims jurists. But even with the assumption of impurity, adding an impure material to others does not make the end product necessarily impure. In fact, alcohol is used for cleaning and disinfecting and cannot be declared religiously impure, especially because it is different from *khamr* (i.e. fermented grape wine) in its chemical composition. What mostly relates to our purpose, however, is that Riḍā looks into the reasons behind the prohibition, which are declared in the Qur'ān as causing quarreling among Muslims and forgetting to remember God and the prayer (Q. 5:91). If the consumption of *khamr* is intended for its effect of intoxication, then using a little amount for medical reasons, providing that there is no other medicine available, is permitted because this will not lead to intoxication and consequently to the negative effects mentioned in the Qur'ān. The same is true in using chemicals with alcoholic components in paints and other materials.

One can see that the *ḥikma* of the prohibition is taken into consideration in Riḍā's reasoning. In juristic terms, Riḍā argues that materials such as paints are not *khamr* because they do not intoxicate if consumed even if alcohol is a component of them, and therefore they are not included in the prohibition. As for alcohol in perfumes, it is treated in a way that if consumed, it might cause intoxication but also severe medical problems. It is thus not intended for consumption and cannot be regarded as *khamr*. For the case of using *khamr* for medical reasons, Riḍā explains that it is a matter of disagreement among

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84. The reference here is to Q. 5:90.

jurists. It depends on whether one can regard such use as a case of necessity or not. Al-Shāfi'ī, for example, did not regard the case of a person dying from thirst as a necessity that allows him to drink wine to preserve his life similar to the permission to eat pork meat in such a case. Abū Ḥanīfa permitted such action by considering it a case of necessity. Riḍā quotes the Qur'ānic verse, "And He hath mentioned to you whatever He prohibited, except for what you do out of necessity," to argue that any rule of prohibition in the *sharī'a* can endure a case of necessity because the *sharī'a* is based on easiness. On the question of the medical consumption of alcohol, Riḍā reiterates his conviction that taking a medicine that has an alcoholic component is not intended for intoxication and does not lead to the harms of such consumption, mentioned in the Qur'ān. But if one takes large amounts of such medicines in order to be intoxicated, then this is definitely prohibited.<sup>85</sup> Finally, Riḍā draws on Shāfi'ī's *Muāfaqāt* to show that the *sharī'a* aims at preserving the necessary *maṣaliḥ*, which are the preservation of religion, life, honor, and property. According to this understanding, Riḍā argues, the permission for having alcoholic drug for medication lies within the aim of preserving life in Islam. The other uses of materials that have an alcoholic component are permitted based on Shāfi'ī's reference to the "needed" and "complimentary" *maṣaliḥ* that the *sharī'a* also aims to achieve.<sup>86</sup>

### ON THE QUESTION OF BANK INTEREST AND THE PROHIBITION OF USURY

Riḍā received several questions about 'Abduh's *fatwā* which apparently allowed taking interest in a savings account established through post offices in Egypt. According to many Muslim jurists, this transaction is prohibited because it is described as a usurious contract included in what the Qur'ānic prohibition called *ribā*.<sup>87</sup> Any guaranteed profit that does not have the possibility of loss is considered *ribā*, and therefore banned in Islamic law. Riḍā responds to these questions by first

85. See *fatwā* 6, RIḌĀ, *Fatāwā*, vol. 1, pp. 31-2.

86. For more details on Shāfi'ī's triple system of *maṣaliḥ*, see Muhammad Khalid MASUD, *Islamic Legal Philosophy*, pp. 5-15.

87. For the definition of *ribā*, as mentioned in the Qur'ān, see Frank E. VOGEL, *Islamic Law and Finance: Religion, Risk, and Return* (The Hague: Kluwer Law International, 1998), pp. 62-3.

arguing that there are several conditions which medieval jurists put forward to validate contracts.<sup>88</sup> These conditions should not be considered religious rulings (*ta'abbud*) but rather an interpretive effort based on *ijtihād*. Thus, in order to determine the definition of *ribā*, one needs to look into the Qur'ānic injunctions first and foremost, then to Prophetic traditions that are sound and authoritative. Riḍā quotes Ṭabarī's (d. 310/923) commentary on the Qur'ān to argue that the Qur'ānic prohibition of the practice of *ribā* is precisely a prohibition of what is known as *ribā al-jāhiliyya*, a usurious practice that was dominant among Arabs before Islam. According to Ṭabarī and other sources, *ribā al-jāhiliyya* is a transaction through which a lender agrees to postpone the payment of a loan for the borrower, which already contains a profit for the lender, on the condition that the profit is substantially increased. This situation, argues Riḍā, caused a serious economic problem for poor people because they could not repay their loans and they continued to be in debt for the rest of their lives. In juristic terms it is called *ribā al-nasī'a*.<sup>89</sup> Riḍā also quotes Ibn Qayyim al-Jawziyya in his *I'lām al-Muaqqi'īn*, who argues that the prohibited *ribā* in the Qur'ān is *ribā al-nasī'a*. As for having a loan with an original interest, this is called *ribā al-faḍl*. According to Ibn al-Qayyim, this kind of contract is prohibited in Prophetic traditions not because of its essence as an invalid transaction but rather because its practice will lead into having *ribā al-nasī'a*. Thus, according to Ibn al-Qayyim, *ribā al-faḍl* is prohibited based on the principle of *sadd al-dharā'ī'*. Ibn al-Qayyim concludes that whatever is prohibited in the *sharī'a* for its own essence (*muḥarram li-dhātihī*) can be permitted only in case of absolute necessity (*ḍarūra*). But whatever is prohibited based on *sadd al-dharā'ī'*, such as *ribā al-faḍl*, can be permitted in cases of necessity and need (*ḥāja*). That is why the Prophet permitted the sale of *'arāyā* despite its clear inclusion within *ribā al-faḍl*.<sup>90</sup>

Riḍā, however, after referring to Ibn al-Qayyim's theorization, advances his own view based on his consideration of *maqāṣid al-sharī'a*. He argues that the *ḥikma* of the prohibition of *ribā al-nasī'a* in the Qur'ān is clearly mentioned in 2: 279. The injustice committed by one party against the other is the main reason for the prohibition of usurious contracts. The bank interest in a savings account does not

88. RIḌĀ, *Fatāwā*, vol. 2, pp. 596 ff., *fatwā* 230.

89. See VOGEL, *Islamic Law and Finance*, pp. 74-5.

90. See Ibn al-QAYYIM, *I'lām*, vol. 2, pp. 15-17.

lead to injustice, which is mentioned in the Qur'ān as the reason for prohibiting usurious contracts. But the interest is still included within *ribā al-faḍl*. This analysis leads Riḍā to say that, based on Ibn al-Qayyim's theorization, if there is extreme need in modern Muslims societies to such transactions, they can be permitted based on the principle of *ḥāja*. However, Riḍā insists that 'Abduh's *fatwā* to legalize bank interest on savings accounts was issued after 'Abduh asked the relevant authorities to invest the saved money in a legitimate business, and therefore the savings can be regarded as a form of investment and not a loan to the bank. Riḍā adds that during the last few years of 'Abduh's career as Egypt's *muftī*, his relationship with the Khedive had deteriorated. The Khedive's supporters spread a rumor that 'Abduh has given a *fatwā* to legitimize *ribā* without mentioning his attempt to reform the bank system in a way that makes saving accounts totally legitimate in Islamic law.<sup>91</sup>

#### ON ACCEPTING EVIDENCE IN COURT BASED ON A TELEGRAPHIC MESSAGE

In *fatwā* 98, Riḍā received a question that inquired about the validity of using a telegraphic message as evidence in court.<sup>92</sup> He replies first by declaring that most contemporary judges do not accept a statement of a witness in a lawsuit received through a telegraphic message, just as they do not accept written documents. Rather, they strictly require that witnesses must be present in person in front of the judge. Riḍā then argues that "if we go back to the fundamentals of the Qur'ān, *sunna*, and the *ḥikam* of the *sharī'a*, we know that evidence (*bayyina*) includes everything which helps to establish truth in a way that the judge trusts." He adds that the current government sends telegraphic messages on a continuous basis to their agents as a way of instruction. Merchants make deals with each other through such messages. This is a clear proof that it is considered a trusted way of communication. Therefore, it should be included within judicial practices.

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91. See *fatwā* 526, Riḍā, *Fatāwā*, vol. 4, pp. 1340-42.

92. Riḍā, *Fatāwā*, vol. 1, pp. 228-9.

## ON LISTENING TO SINGING AND PLAYING MUSICAL INSTRUMENTS

Riḍā received several questions in his *fatwās* section of the *Manār* about the legality of singing and playing musical instruments. Many traditionalist jurists strictly prohibited singing, especially if accompanied by musical instruments. The prohibition is based on several *ḥadīths* and on traditions of early religious authorities. In *fatwā* 185, Riḍā first enlists most of the *ḥadīths* and early traditions about the case.<sup>93</sup> He then concludes that the number of sound *ḥadīths* that permit singing is actually larger than those prohibiting the practice. But even if there are some sound *ḥadīths* that prohibit singing and playing musical instruments, this is because such practices were associated, during the time of the Prophet, with drinking wine and committing great sins. He quotes in his *fatwā* Ghazzālī's *Iḥyā'*, in which the latter's reasoning is similar to that of Riḍā. Ghazzālī argues that "the reason for prohibiting the use of certain musical instruments, such as the *'ūd* and *mizmār*, is because they were associated with the gatherings of drinking wine. On the contrary, *ṭabl* and *duff* were permitted in the *ḥadīth* because they were mostly used during weddings." Ghazzālī continues his argumentation by noting that "God has permitted every good thing (*ṭayyibāt*) except if the permission leads to mischief. The sounds played by musical instruments are not prohibited to listen to because of their quality as musical intonations. If this is the case, then listening to the singing of birds must be prohibited. The prohibition, therefore, has to be for other reasons, which is the association with gatherings in which great sins are committed." Riḍā depends on Ghazzālī's analysis to argue that if the use of any kind of musical instruments is not associated with sinful actions, then there is no harm in permitting listening to singing and music, on the condition that it should not lead to indulgence that affects one's remembrance of God or his/her recitation of the Qur'ān. Riḍā concludes that "every action that is harmful to religion, mind, self, property, or honor is prohibited, and there is no prohibited action that is not harmful."<sup>94</sup> It is clear that Riḍā's *fatwā*, and his legal interpretation of singing and music, reflects his interest in considering the reasoning behind the prohibition and consequently deciding the application of the legal rule accordingly.

93. RIḌĀ, *Fatāwā*, vol. 2, p. 474.

94. RIḌĀ, *Fatāwā*, vol. 2, p. 493.



ON THE DISSOLUTION OF A MARRIAGE CONTRACT DUE  
TO PREVIOUSLY UNKNOWN MENTAL OR PHYSICAL DEFECT  
IN THE HUSBAND OR WIFE

In *fatwā* 539, Riḍā replies to a question concerning a matter of disagreement among the Sunnī schools of jurisprudence.<sup>95</sup> The question is, if the newly married husband or wife discover that his/her partner suffers from an illness such as a skin disease or insanity, can the contract be dissolved accordingly? The jurists agree that if there is a condition, related to the physical appearance or health of the wife, for example, which is stated in the contract, then the husband has the right to dissolve the contract. But if there is no stated condition in the contract, and after the conclusion of it, a defect appeared in the husband or the wife, then the disagreement is on the legality of invalidating the contract through divorce. For Zāhirite jurists, such as Dāwūd al-Zāhirī (d. 270/884) and Ibn Ḥazm (d. 456/1064), the contract cannot be dissolved because there is no clear Qur'ānic text or a *ḥadīth* which permits such an action. The Ḥanafites and Shāfi'ites each included only specific defects and not others. The established ḥanbalite opinion includes more possible health problems than both the ḥanafites and Shāfi'ites but is also limited to a specific number. The reasoning behind the disagreement is that the evidence mainly comes from opinions of the Companions and whether one can make *qiyās* to add more defects or health problems to the list. However, the enquirer who addressed the question to Riḍā was concerned about whether one can also include diseases and permanent health problems that have become well-known and documented in modern medicine but were not known to medieval jurists. Riḍā's view is that the narrated traditions from the Companions or the Successors, related to the case in question, are based on the main principles of the *sharī'a*, such as the prevention of deception and negating the acceptance of harming oneself or others (*lā ḍarar wa lā ḍirār*). Therefore, Riḍā observes, there is no reason to limit the defects to specific instances. What is interesting in this *fatwā* is that Riḍā quotes Ibn al-Qayyim's *Zād al-Ma'ād* in which the latter explains that

« any kind of defect which leads the husband or the wife to stay away from the other, and with its presence the aim (*maqṣūd*) of

95. RIḌĀ, *Fatāwā*, vol. 4, pp. 1370-76. For traditional views on the subject, see Ibn Qudama, *Mughni*, vol. 9, pp. 471 ff.

marriage, which is the mercy and love between them, will not be achieved, is considered a legitimate reason for the dissolution of the contract. Whoever contemplates *maqāṣid al-sharī'a* through its sources and finds justice, wisdom (*ḥikma*), and the consideration of *maṣāliḥ*, would definitely realize that this opinion (on the specific question) is the one that is based on the fundamentals of the *sharī'a*. »<sup>96</sup>

There are other examples of *fatwās* in which Riḍā's opinions largely depend on interpretations of texts or traditions in a way that focus on the role of *maqāṣid al-sharī'a*, such as his opinions on slavery, polygamy, war and peace, and political consultation in Islam. But these are explained previously in the section on *maqāṣid al-Qur'ān* of Riḍā's *al-Waḥy al-Muḥammadi*.

As for cases that are not governed by or related to Qur'ānic verses or Prophetic traditions, there are several *fatwās* in which Riḍā applies the principle of "bringing benefits and preventing harm." It all depends on whether an action is considered of benefit to the Muslim community or not. The guiding principle for Riḍā, as stated before, is that in *mu'āmalāt* every action or practice is considered valid unless proved to be harmful. In such a case of harm, a prohibition can be declared but is not considered a religious one. A clear example of Riḍā's prohibition of an action, based on its harmful effect, is his opinion on smoking and consuming drugs such as morphine. He declares in *fatwā* 576 that in matters related to drinking and eating, everything that God created is permitted for use except those stated in the Qur'ān or *sunna*. There are no texts that rule specifically on smoking cigarettes or injecting morphine to the body. But a jurist can depend on the general principles of the *sharī'a*, such as the one stated in the *ḥadīth* "*lā ḍarar wa lā ḍirār*," that whatever action that causes harm to the body must be prohibited.<sup>97</sup>

## CONCLUSION

This article has analyzed Riḍā's conception of *maqāṣid al-sharī'a* by examining his theoretical works and some of his *fatwās* in order to see how his line of thought is compared to traditional theorization and

96. RIḌĀ, *Fatāwā*, vol. 4, p. 1374.

97. RIḌĀ, *Fatāwā*, vol. 4, pp. 1546-1547.

legal opinions of Sunnī Muslim jurists. I argue in this article that Riḍā's emphasis on *maṣlaḥa* is a component of his understanding of the legal aims intended by the Lawgiver. His conception of *maqāṣid al-sharī'a* stems from his interpretation of the Qur'ānic text. This interpretation is very much free from the limitation of traditional commentaries but it is committed to the linguistic content of the Qur'ān. If the Qur'ānic text explains itself clearly without heavy dependence on extra-Qur'ānic material, including Prophetic traditions, then one has to focus more on the idea of how the Qur'ān interprets itself. Here, Riḍā resorts to the "thematic" method in which all or most of the verses that pertain to a specific topic can be collected and analyzed in a way that seeks harmony among their meanings. But despite the primacy of the Qur'ān at the expense of other legal sources, Riḍā's legal theorization allows a secondary role for Prophetic traditions and other levels of scholarly traditions. It is worth noting that Riḍā reminds his readers that the juristic schools disagreed on the question of the revelatory nature of Prophetic traditions. However, Riḍā does not clearly announce his position, although he calls for applying all sound *ḥadīths* by virtue of their probable authenticity but insists on their secondary role to the Qur'ān.

This article, therefore, responds to the claim made by Kerr and Hallaq that the focus on *maṣlaḥa* in Riḍā's legal thought is in fact a point of departure from traditional legal theorization in which Riḍā's legal interpretation becomes more "distant" from the texts of the Qur'ān and *ḥadīth*. This has been done in two ways according to Kerr and Hallaq. First, in the legal cases that are regulated by textual rulings, the literal meaning and legal value of the text are ignored for the favor of necessity and need. Second, for the novel cases that have no ruling in the Qur'ān or *ḥadīth*, *ijmā'* and *qiyās* are suspended and *maṣlaḥa* is elevated to become the prominent source instead. My response to Kerr and Hallaq's line of theorization is expressed in this article on two levels, textual and non-textual. On the textual level, I have argued that Riḍā's focus on the legal content of Qur'ānic and *ḥadīth* texts reflects his interest in the legal aims or the *maqāṣid* of the rulings as part of the *maqāṣid* of the Qur'ān. Necessity and need come into the discussion only when interpreting Qur'ānic verses that clearly allow for taking necessity and need into consideration. Riḍā views this resort to the case of necessity or need as part of *maqāṣid al-sharī'a*. Riḍā bases his view on some medieval juristic opinions that generalized the principle of necessity to possibly include cases of prohibition not mentioned in the Qur'ān as suspended for the existence of necessity such as eating forbidden food.

Riḍā's *fatwā* that legitimizes using alcoholic drug for medication, for instance, is based on the principle of necessity. Deciding the existence of necessity is based on Riḍā's assessment that there is no non-alcoholic medication available and the fact that one of the primary legal aims of the *sharī'a* is to preserve life. As for Riḍā's view on slavery, he sees the Qur'ān as encouraging freeing slaves and hence expressing the spirit of Islam, which is to free slaves.

As for the area of legal activity that is not governed by texts, I tried to show that although *maṣlaḥa* is prominent in Riḍā's interpretation, its legitimacy stems from Qur'ānic verses that call for the consideration of *maṣlaḥa* in the sense that in *mu'āmalāt*, the aim of the Lawgiver is to achieve the public good. In terms of the commitment to the classical doctrines of legal theorization, Riḍā's line of thought against *ijmā'* and *qiyās* is based on his view that there are no clear Qur'ānic or *ḥadīth* references to the commitment to the scholarly consensus or analogy as the only two legal sources after the Qur'ān and *ḥadīth*. In addition, he finds in his reading of the Qur'ān a clear call to consider the public good which is described as whatever brings benefit to individuals and the community at large and prevent harm and danger. The highest legal aims in Riḍā's theorization are taken from Shāṭibī, which are the preservation of religion, life, mind, offspring, and honor. Other intermediate aims that lead to the final aims include justice and equality.

As for the case of interest on saving accounts, Riḍā interprets 'Abduh's *fatwā* of permission as based on *ḥāja* (need) and not *ḍarūra* (necessity). It is important to know that although Riḍā's legal theorization might not be clearly expressed in classical Sunnī theorization, he is committed to the general meanings of the Qur'ānic text. He also argues that even isolated *ḥadīths* in *mu'āmalāt* ought to be applied if they have sound chains of authorities but on the condition first that they should not contradict the Qur'ān, and second that the application itself must achieve the public good based on the evidence from Qur'ānic and *ḥadīth* texts that call for this consideration and regard it as part of *maqāṣid al-sharī'a*. This understanding gives Riḍā the right to challenge certain traditional views based on what he thinks of as the spirit of revelation.

Yasir S. IBRAHIM  
(Montclair State University)