







Al-Būṭī vs. Al-Qaraḍāwī: A Comparative Study of Thought on *Al-Khurūj 'Alā Al-Ḥukkām*

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Abstract

This study examines the polemic of *al-ḥurūj 'alā al-ḥukkām* (rebellion against rulers) as debated by Yūsuf al-Qaraḍāwī and Muḥammad Sa'īd Ramaḍān al-Būṭī, particularly in the context of the Syria crisis and the Arab Spring. The theoretical framework employed is *maqāṣid al-sharī'ah*, encompassing the hierarchy of *maṣlaḥah* based on *ḍarūriyyāt*, *ḥājīyyāt*, and *taḥsīniyyāt*; the preservation of the *kullīyyāt al-khams* (religion, life, intellect, lineage, and property); the balancing of conflicting *mafsadah*; the application of *sadd al-dharā'i'* (blocking the means to harm); and the consideration of *ma'ālāt* (future consequences). Methodologically, the study employs a qualitative textual analysis of fatwa, jurisprudential writings, and theological arguments by scholars, situating their views within the broader *maqāṣid* framework. Within this framework, al-Qaraḍāwī justifies rebellion against unjust rulers as both a moral duty and a religious obligation to uphold justice, framing it within the *maqāṣid* imperative of resisting tyranny. Conversely, al-Būṭī employs the same *maqāṣid* tools to prohibit rebellion, prioritising the avoidance of bloodshed and societal collapse over immediate political reform. The findings reveal that although both scholars engage *maqāṣid al-sharī'ah*, their divergent prioritisation leads al-Qaraḍāwī to emphasise justice and activism as central to preserving Islam's dignity. At the same time, al-Būṭī underscores stability and unity as essential safeguards against greater chaos.

Keywords: *al-ḥurūj 'alā al-ḥukkām*, *maqāṣid al-sharī'ah*, fatwa, al-Qaraḍāwī, al-Būṭī

I. Introduction

The polemic surrounding *al-ḥurūj 'alā al-ḥukkām* (rebellion against rulers) is not merely a classical theological debate, but one that has re-emerged with intensity in the modern

context, especially during the Arab Spring (2010–2011).¹ The uprisings in Tunisia, Egypt, Libya and most critically, Syria highlighted deep tensions between calls for political reform and the religious imperative of social stability. These events triggered heated polemics among Muslim scholars, with some advocating rebellion against oppressive rulers as a religious duty. In contrast, others warned against civil strife that could lead to greater chaos. The Syria conflict, in particular, became a focal point where two leading contemporary scholars, al-Qaraḍāwī and al-Būṭī, took opposed positions, thereby bringing the classical debate over rebellion into a modern crisis with global implications.

A considerable body of scholarship has examined obedience to rulers (*ṭā'ah ulī al-amr*) and the legitimacy of political authority in Islam. Classical jurists such as al-Māwardī (d. 1058)² and Ibn Taymiyyah (d. 1328)³ consistently emphasised the necessity of preserving unity and preventing discord, even under unjust rulers. Al-Māwardī, for instance, outlined the qualifications of leadership and stressed the duty of obedience in his *al-Aḥkām al-Sultāniyyah*.⁴ Ibn Taymiyyah asserted that rebellion often produces more harm than benefit in *al-Siyāsah al-Shar'īyyah*.⁵

“If people seek to remove injustice with injustice or disbelief with disbelief, this will not repel evil but rather produce a greater one ... thus, patience is required with a tyrannical ruler, unless Muslims see manifest disbelief.”

In the modern period, several prominent scholars reaffirmed the classical Sunni consensus that rebellion against rulers is impermissible except in the case of *kufr bawāḥ* (manifest disbelief). This consideration served as the foundational principle even in al-Qaraḍāwī's own thought. In this regard, al-Qaraḍāwī emphasised in his *Fiqh al-Jihād*: The scholars have agreed that rebellion against a Muslim ruler is not permissible except if he falls into manifest disbelief, for which we have clear evidence from Allah.⁶ Muḥammad Sa'īd Ramaḍān al-Būṭī expressed the same principle, writing in *al-Jihād fī al-Islām*:

¹ M. Al-Atawneh, "Khurūj in Contemporary Islamic Thought: the Case of the "Arab Spring", 7 (2016): 27–52.

² Al-Māwardī, Abū al-Ḥasan, *Al-Aḥkām al-Sultāniyyah wa al-Wilāyat al-Diniyyah* (Cairo: Dār al-Ḥadīth, 1989), 5–7.

³ Taqīyuddīn Aḥmad Taimiyyah al-Harrānī, *Majmū'ah al-Fatāwā*, ed. 'Amīr al-Jazzār dan Anwar al-Bāz, cet.ke-3 (al-Manṣūrah: Dār al-Wafā' 2005), 28:118.

⁴ al-Māwardī, *Al-Aḥkām al-Sultāniyyah*, 5–7.

⁵ Ibn Taymiyyah, *Al-Siyāsah al-Shar'īyyah fī Ishlāḥ al-Rā'ī wa al-Ra'īyyah* (Riyadh: Dār al-Āṣimah, 1998), 161–165

⁶ Yūsuf al-Qaraḍāwī, *Fiqh al-Jihād* (Cairo: Maktabah Wahbah, 2009), 2:987

Rebellion against Muslim rulers, even if they are unjust, leads to tribulation and bloodshed... and the harms arising from this are far greater than the harms of remaining patient with their injustice.⁷

At this juncture, both scholars appear to share the same classical foundation, acknowledging that rebellion is impermissible unless *kufr bawāḥ* occurs. However, their interpretations diverged sharply in the wake of the Arab Spring, with al-Qaraḍāwī reinterpreting the *maqāṣid* framework to justify rebellion against tyrannical Muslim rulers. At the same time, al-Būṭī remained steadfast in prioritising stability and preventing bloodshed.

Other contemporary scholars, including ‘Abd al-‘Azīz ibn Bāz, Muḥammad Nāṣir al-Dīn al-Albānī⁸ and Muḥammad ibn Ṣāliḥ al-‘Uthaymīn,⁹ likewise, it affirmed the classical ruling that forbade rebellion against Muslim rulers unless apparent and proven disbelief was present. Ibn Bāz, for instance, ruled that “it is not permissible to rebel against the Muslim ruler, even if he is unjust, unless there is *kufr bawāḥ* with proof from Allah.”¹⁰

In addition, ‘Abd Allāh ibn Bayyah similarly emphasised the principle of *lā kburij ‘alā al-ḥakīm* (“no violent rebellion against the ruler”), framing it as the highest rule governing relations with political authority. His discourse, particularly in the aftermath of the Arab Spring, prioritised “peace before justice,” presenting stability and social cohesion as overriding *maqāṣid*.¹¹ Ovamir Anjum notes that Ibn Bayyah’s position reflects a broader neo-traditionalist counterrevolutionary stance, reinforcing loyalty to regimes as a safeguard against chaos.¹²

Against this backdrop, al-Qaraḍāwī’s response to the Arab Spring represented a marked departure from his earlier fatwa. In his fatwa on the uprisings in Egypt, Libya, and Syria, he went beyond the condition of *kufr bawāḥ*. Instead, he made *al-kburij ‘alā al-ḥukkām* obligatory against tyrannical rulers.¹³ He framed popular revolution as a new

⁷ Muḥammad Sa‘īd Ramaḍān al-Būṭī, *Al-Jihād fī al-Islām: Kayfa Naṣṣamuhu wa Kayfa Numārisuhu?* (Dimashq: Dār al-Fikr, 1993), 58

⁸ Muḥammad Nāṣir al-Dīn al-Albānī, *Dhābirat al-Takfīr: Asbābuhā wa Āthārubā* (Amman: al-Maktab al-Islāmī, 1997), 45–47.

⁹ Muḥammad ibn Ṣāliḥ al-‘Uthaymīn, *Fatāwā wa Rasā’il Ibn ‘Uthaymīn*, vol. 8 (Riyadh: Maktabat al-Rushd, 2004), 116–118.

¹⁰ ‘Abd al-‘Azīz ibn ‘Abd Allāh ibn Bāz, *Fatāwā Ibn Bāz*, vol. 8 (Riyadh: Dār al-Waṭan, 2001), 203.

¹¹ Muhammad Safwan Harun, S. I. Nor Mohd Zulkarnain, A. K. Ali, and M. S. Zainal Abidin, “The *Fiqh al-Ṭawāri*’ Thoughts of ‘Abd Allah Bin Bayyah on the Management of Worship during the COVID-19 Pandemic,” *Afkar: Jurnal Akidah dan Pemikiran Islam*, Special Issue (2022): 141–172, <https://doi.org/10.22452/afkar.sp2022no1.5>.

¹² Ovamir Anjum, “Theorizing Counterrevolution: Neo-traditionalist Scholars in the Wake of the Arab Spring,” *American Journal of Islamic Social Sciences* 39, no. 1 (2022): 1–30.

¹³ David H. Warren, “The ‘Ulamā’ and the Arab Uprisings 2011–13: Considering Yusuf al-Qaradawi, the ‘Global Mufti,’ between the Muslim Brotherhood, the Islamic Legal Tradition and Qatari Foreign Policy.” *New Middle Eastern Studies*, 4 (2014): 1–33. <https://doi.org/10.29311/nmes.v4i0.2649>.

form of collective *amr ma'ruf naby munkar* and a *maqāṣid*-driven necessity to uphold justice, protect lives, and restore the dignity of the ummah. This controversy is complex because the act of *al-ḵhurīj 'alā al-ḥukkām* against Muslim rulers is explicitly forbidden in religious texts and scholarly consensus, as recorded by al-Nawawī.¹⁴ Al-Qaraḍāwī's fatwa during the Arab Spring, however appears to depart from this consensus, representing a new *ijtihād* that obligates rebellion against tyrannical rulers based on *maqāṣid al-sharī'ah*. Conversely, al-Būṭī's consistent stance prohibiting rebellion is often viewed as inadequate in the face of severe oppression by the regime at that time. The clash between these two positions epitomises the contemporary polemic over *al-ḵhurīj 'alā al-ḥukkām*, where divergent applications of *maqāṣid* reasoning led to opposed conclusions.

Therefore, this article will discuss their views from the perspective of the *maqāṣid al-sharī'ah* to determine the relevance of their respective fatwas. The significance of this polemic lies not merely in juxtaposing divergent fatwa but in deconstructing the theological, political, and sociological foundations that shaped them through the lens of *maqāṣid al-sharī'ah*. Theologically, al-Qaraḍāwī's reasoning is grounded in a reformist understanding of *maqāṣid*, where the preservation of justice and dignity is treated as a dynamic imperative that legitimises active resistance to tyranny. His view situates *taḥqīq al-'adl* (realisation of justice) and *ḥifẓ al-'ird* (preservation of dignity) as higher objectives of sharia that transcend textual literalism.¹⁵ Conversely, al-Būṭī's perspective reflects a quietist and spiritually infused conception of *maqāṣid*, influenced by Sufi ethics and classical Sunni orthodoxy.¹⁶ He emphasises *sadd al-dharā'i'* (blocking harm) and *i'tibār al-ma'alāt* (consideration of consequences), prioritising social stability and the avoidance of chaos as supreme aims of sharia.

From a political standpoint, al-Qaraḍāwī's position reflects the moral optimism of postcolonial reformism, interpreting popular revolution as a contemporary manifestation of *amr bi-l-ma'ruf wa-nahy 'an al-munkar*. Al-Būṭī, by contrast adopts a state-centric conservatism that regards rebellion as an existential threat to the polity, undermining *ḥifẓ al-naḥs* (protection of life) and *ḥifẓ al-niẓām* (preservation of order). Sociologically, these two approaches represent competing models of religious authority: al-Qaraḍāwī's transnational and populist leadership versus al-Būṭī's institutionally grounded traditionalism. Their contrasting readings of *maqāṣid al-sharī'ah* therefore reveal not only

¹⁴ Yahyā bin Sharaf al-Nawawī, *al-Minhāj Sharḥ Ṣaḥīḥ Muslim bin al-Ḥajjāj*, (Beirut: Dār Iḥyā' al-Turāth al-'Arabī, 1972), 12: 229.

¹⁵ Yūsuf al-Qaraḍāwī, *Dirāsah fi Fiqḥ Maqāṣid al-Sharī'ah bayna al-Maqāṣid al-Kullīyyah wa al-Nuṣuṣ al-Juz'īyyah*, 3rd ed. (Cairo: Dār al-Shurūq, 2008), 28.

¹⁶ Muḥammad Sa'īd Ramaḍān al-Būṭī, *Dawābiṭ al-Maṣlaḥah fi al-Sharī'ah al-Islāmiyyah* (Dimashq: Muassasah al-Risālah, 1973), cet.ke-4, 420.

different juristic hierarchies but also distinct worldviews shaped by context, audience and theological orientation.

Methodologically, this study adopts a qualitative library-based approach. It examines the fatwa of al-Qaraḍāwī and al-Būṭī concerning *al-khurīj ‘alā al-ḥukkām* in the context of Syria and the wider Arab world. The selection of these two scholars is based on their markedly divergent positions, ranging from permissibility to prohibition, and on their distinct applications of *maqāṣid al-sharī‘ah*. Primary sources were selected based on three criteria: authorship, authenticity, and relevance. Authorship ensures direct reliance on the scholars’ own writings and recorded statements. Authenticity is maintained through the use of published books and verified fatwa collections, while relevance focuses on materials explicitly addressing the issue of rebellion and its *maqāṣid*-based justification. For data analysis, a qualitative thematic content analysis was employed, integrating inductive and deductive reasoning to identify recurring themes within the texts. A comparative dimension was incorporated to highlight both convergences and divergences in the two scholars’ reasoning. This analytical framework is anchored in *maqāṣid al-sharī‘ah*, encompassing the hierarchy of *maṣlaḥah*, the preservation of the *kullīyyāt al-khams*, the balancing of conflicting harms, *sadd al-dharā‘i‘* (blocking the means to harm) and *i‘tibār al-ma‘ālāt* (consideration of future consequences).

Accordingly, this article will first present a review of the existing literature on the thought of both figures to identify the significance and novelty of this study's contribution. It will then provide a detailed analysis of the fatwas of al-Qaraḍāwī and al-Būṭī, examining how elements of *maqāṣid al-sharī‘ah* are embedded in their respective legal reasoning.

II. al-Qaraḍāwī and al-Būṭī: A Overview of the Views on Legal Methods

The thought of Yūsuf al-Qaraḍāwī has been extensively studied from the perspective of *maqāṣid al-sharī‘ah*. It has often been argued that his project of *tajdīd* (renewal) is in fact the product of his mastery of foundational sciences such as *maqāṣid al-sharī‘ah*,¹⁷ which constitute a crucial prerequisite for one to qualify as a *mujtahid*.¹⁸ According to Nasrul Hisyam, this foundation became a central feature in al-Qaraḍāwī’s approach to Islamic legal thought.¹⁹ This explains why his *tajdīd* differs significantly from the deconstructionist methodology of other reformers, such as Mohammed Arkoun, who advanced his ideas without distinguishing between *qaṭ‘īyyāt* (definitive matters) and

¹⁷ Nasrul Hisyam Nor Muhamad, “Pandangan Yusuf al-Qaraḍāwī Terhadap Fiqh Semasa,” *Islamiyyat* 26, no. 2 (2004), 80.

¹⁸ ‘Abd al-Karīm Banānī, *al-Ijtihād al-Maqāṣidi ‘Inda Malikiyyah al-Andalus* (Bīrūt: Dār Ibn Ḥazm, 2014), 68.

¹⁹ Nasrul, “Pandangan Yusuf al-Qaraḍāwī, 80.

zannīyyāt (speculative matters).²⁰ Thus, al-Qaraḍāwī's command of *maqāṣid al-sharī'ah* cannot be denied, as it played a decisive role in shaping the reformist paradigm he championed. This conclusion is further supported by Jāsir 'Auda, who demonstrated that al-Qaraḍāwī developed new fields such as *fiqh al-ḥadārī* (jurisprudence of civilization) and *fiqh al-sunan al-ilāhiyyah* (jurisprudence of divine patterns) based on *maqāṣid al-sharī'ah*.²¹ Such innovations were possible because the *maqāṣidic* dimension he introduced into contemporary discourse was formulated in a comprehensive framework, not limited merely to discussions at the individual level.²²

Al-Qaraḍāwī's scholarship in the field of *maqāṣid al-sharī'ah* has left a profound impact across the Muslim world and the West, particularly in areas such as fatwa, politics, *jihād*,²³ and *ṣakāh*.²⁴ In the domain of fatwa, for instance, Ramadan Habibi concluded that al-Qaraḍāwī's method, which prioritises the attainment of *maṣlahah*, has significantly influenced political fatwa in Indonesia, steering them towards the accommodation of Indonesian society's socio-cultural context.²⁵

While al-Qaraḍāwī's contribution to the development of *maqāṣid al-sharī'ah* is undeniably significant, his approach is not without problems. Critics have observed that his application of *maqāṣid* sometimes gives precedence to *maṣlahah* (public interest), thereby risking the undermining of textual authority (*naṣṣ*). This concern is evident in the critique of Aḥmad Muḥammad Maṣṣūr, who highlighted that al-Qaraḍāwī's fatwa permitting the purchase of prohibited goods on the grounds of necessity (*ḍarūrah*) in non-Muslim minority contexts constitutes a clear case of *maṣlahah* overriding explicit scriptural prohibitions.²⁶

Regarding Muḥammad Sa'īd Ramaḍān al-Būṭī, several studies have also examined his intellectual contributions. Although his thought is frequently associated with conservatism, he nonetheless articulated a distinctive vision of *islah* (reform) at the

²⁰ Mohd Fauzi Hamat dan Wan Adli Wan Ramli, "Metode Dekonstruktif Arkoun dan Ijtihad Intiqai wa Inshai al-Qaraḍāwī: Analisis Dāri Sudut Konsep dan Implikasi Aplikasinya dalam Penentuan Hukum Islam Semasa," dalam *Pemikiran Hukum Islam Semasa: Aliran Kritikan Dan Aplikasi*, ed. Ridzwan Ahmad, Raihanah Azahari dan Noor Naemah Abdul Rahman (Kuala Lumpur: Jabatan Fiqh dan Usul, Akademi Pengajian Islam, Universiti Malaya, 2016), 88.

²¹ Jāsir 'Auda, "Maqāṣid al-Sharī'ah 'inda Shaykh al-Qaraḍāwī," (Multaqā al-Imām al-Qaraḍāwī ma'a al-Ashāb wa al-Talāmiz, Hotel al-Ritz Carlton Doha, Qatar 14-16 Julai 2007).

²² Waṣṣī 'Āshūr Abū Zayd, *Ri'āyah al-Maqāṣid fī Manhaj al-Qaraḍāwī Rukyah Istiqra'iyyah Tahli'iyyah Tatbiq'iyyah* (al-Qāhirah: Dār al-Basāir, 2011), 8.

²³ Shaul Bartal, "The Danger of Israel According to Sheikh Yusuf Qaradawi," *Israel Affairs* 22, no. 2 (2016).

²⁴ Muhammad Ikhlās Rosele, Luqman Hājī Abdullah dan Mohd Anuar Ramli, "Agricultural Wealth as Reflected in His *Fiqh Al Zakah*," Vol. 1. no. 3 (2003), 1.

²⁵ Mohamad Ramadan Habibi, "Pengaruh Fatwa al-Qaradawi Terhadap Fatwa Berkaitan Politik Dewan Syariah Pusat Partai Keadilan Sejahtera (PKS) di Indonesia" (Disertasi, Universiti Malaya, 2013), 205.

²⁶ Aḥmad Muḥammad bin Maṣṣūr al-'Adinī, *Raf' al-Lithām 'an Mukhālafah al-Qaraḍāwī li Sharī'ah al-Islam*, 2nd ed. (San 'ā': Dār al-Athar, 2001), 177.

grassroots level through *da'wah*,²⁷ raising awareness of the essence of servitude to God.²⁸ According to Bachar and Abdelaziz, al-Būṭī's process of *iṣlāḥ* could foster a more moderate Islamic movement,²⁹ since it begins with *taẓkiyah al-nafs* (self-purification), which, in his terminology, is also expressed as *aslamah al-nafs* (Islamisation of the soul).³⁰ This orientation reflects the influence of *taṣawwuf* (Sufism) that he deeply embraced. Such influence permeated not only matters of faith, creed, and politics but also his primary field of expertise, *uṣūl al-fiqh*.³¹ For instance, his view on the permissibility of *bid'ah ḥasanah* (commendable innovation) was grounded in the principle of *maṣāliḥ mursalah* (unrestricted interests).³²

In this respect, it is not an exaggeration to conclude that the influence of *taṣawwuf* also shaped his conception of *maqāṣid al-sharī'ah*. Mīthāq observed that al-Būṭī stressed the theological dimension he termed *al-ghāyah al-'uẓmā* (the supreme objective),³³ which must be taken into account when issuing Islamic rulings.³⁴ For this reason, al-Būṭī exercised great caution in applying *maṣlahah* so as not to contravene the explicit textual sources (*nuṣūṣ*). As noted by Ibrahim, Adib and Nazir, he was among the scholars most insistent on preserving scriptural injunctions in the process of *ijtihād*, ensuring that the pursuit of *maṣlahah* remained aligned with divine intent,³⁵ human welfare cannot be determined independently of revelation.

Nevertheless, al-Būṭī's strong commitment to textualism and his cautious application of *maṣlahah* have also drawn criticism. His insistence on subordinating reason (*'aql*) to revelation (*naql*) while theologically consistent can lead to a restrictive understanding of *maqāṣid al-sharī'ah* that limits the scope of renewal in Islamic law. By confining *maṣlahah* within the boundaries of explicit texts, al-Būṭī arguably reduces the dynamism of *maqāṣid*

²⁷ Bachar Bakour dan Abdelaziz Berghout, "The Anti-Islamist Discourse: The Case of Al-Būṭī," *al-Shajarah* 23, no.1 (2018), 206.

²⁸ Mohd Rumaizuddin Ghazali, *Ketokohan Muhammad Said Ramadan al-Būṭī dalam Bidang Akidah dan Ketamadunan* (Nilai: Universiti Sains Islam Malaysia, 2015), x.

²⁹ Bachar dan Abdelaziz, "The Anti-Islamist Discourse," 206.

³⁰ Hitham Muḥammad Nājī Muḥammad al-Muḥyā, "Juhūd al-Duktūr Muḥammad Sa'īd Ramaḍān al-Būṭī fī al-Fikr al-Islāmī al-Mu'āṣir," (disertasi master, Jāmi'ah Ibb, al-Jumhūriyah al-Yamaniyyah, 2018), 184.

³¹ Hishām 'Ulaywān dan Fādī al-Ghush, *al-Būṭī: al-Da'wah wa al-Jihād wa al-Islām al-Siyāsī* (Bīrūt: Markaz al-Haḍārah, 2012), 239.

³² Muhammad Safwan Harun, Luqman Abdullah & Muhamad Ikhlas Rosele, "Konsep Bid'ah Menurut Muḥammad Sa'īd Ramaḍān al-Būṭī (1929-2013): Satu Huraian," *Jurnal al-Basirah* 8, no.1 (2018), 21.

³³ Mīthāq Sādiq Maḥmūd al-Mālikī, *Maqāṣid al-Sharī'ah 'inda Muḥammad Sa'īd Ramaḍān al-Būṭī: Dirāsah Taḥlīliyyah Taṭbiqīyyah* (PhD diss., University of Malaya, 2018), 285.

³⁴ Methaq Sadeq & Ridzwan Ahmad, "An Analytical Study of al-Buti's Contribution to Maqṣad al-'Aqidah," *Afkar* Vol. 20 No 2 (2018): 243-278.

³⁵ Isma'il Ibrahim, Muḥammad Adib Samsuddin dan Muhammad Nazir Alias, "Kepentingan Ḍawābiṭ al-Maṣlahah dalam Konteks Maqāṣid al-Sharī'ah: Kesenambungan antara Pemikiran al-Būṭī dan al-Shāṭibī," dalam *Maqāṣid al-Sharī'ah*, eds. Mahmood Zuhdi Abdul Majid, Mek Wok Mahmud dan Akhtarzaite Abdul Aziz, ed.ke-2 (Kuala Lumpur: IIUM Press, 2017), 140.

to a merely confirmatory tool rather than an independent juristic mechanism, particularly in areas of legal reasoning where no explicit textual evidence exists.

Based on these previous studies, it can be concluded that both scholars possessed recognised expertise in the field of *maqāṣid al-shari‘ah*. This fact is indisputable and their fatwa clearly reflect an engagement with the preservation of *maqāṣid*. Nevertheless, their divergent fatwa on *al-khurūj ‘alā al-ḥukūkām* suggest fundamentally different applications of the *maqāṣid al-shari‘ah*. Unfortunately, current scholarship has yet to produce a comparative study examining their thought, whether theoretically or in terms of practical application of *maqāṣid* to this polemic. Hence, this article positions itself as a significant contribution to clarify how differing *maqāṣid*-based considerations have led to contrasting fatwa in the perspectives of these two influential scholars.

III. The Concept of Obedience and Rebellion to Rulers According to Islamic Law

The concepts of obedience to rulers (*ṭā‘ah ulī al-amr*) and the prohibition of rebellion (*bughāb*) are foundational to Islamic political thought. Qur’anic guidance, notably in al-Nisā’ (4:59) and Prophetic traditions establish obedience to rulers as part of the broader duty to obey Allah and His Messenger. Classical jurists reached consensus (*ijmā‘*) that obedience to Muslim rulers is obligatory, provided they do not command disobedience to Allah.³⁶ Equally, they agreed that rebellion against a legitimate ruler constitutes *bughāb* and is prohibited, as it threatens the unity of the Muslim community and risks bloodshed.³⁷

Obedience in this framework is *muqayyad* (conditional) rather than *mutlaq* (absolute). Jurists clarified that rulers must be obeyed in matters consistent with sharia, but that no obedience is due if they command disobedience.³⁸ Correspondingly, rebellion was carefully defined across the Sunni schools: the Ḥanafīs described it as collective disobedience; the Mālikīs as refusal to follow a legitimate leader without valid grounds; the Shāfi‘īs added the condition of *shawkab* (military strength); and the Ḥanbalīs emphasised rebellion against a just ruler.³⁹ Despite differences of detail, the consensus remained that rebellion undermines communal stability and should be avoided.⁴⁰

In the modern era, these principles retain their normative force but require contextualisation. Muslim-majority states today adopt diverse forms of governance: hereditary monarchies, republican and constitutional democracies.⁴¹ In all these contexts,

³⁶ al-Māwardī, *Al-Aḥkām*, 5–7.

³⁷ Ibn Taymiyyah, *Al-Siyāsah al-Shar‘iyyah*, 161–165.

³⁸ Al-Nawawī, *Rawḍat al-Ṭālibīn wa ‘Umdat al-Muftīn*, vol. 10 (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1992), 45.

³⁹ Wahbah al-Zuhaylī, *Al-Fiqh al-Islāmī wa Adillatuh*, vol. 8 (Damascus: Dār al-Fikr, 1985), 546–552.

⁴⁰ Al-Shawkānī, *Nayl al-Awṭār min Aḥādīth Sayyid al-Akhyār*, vol. 7 (Cairo: Dār al-Ḥadīth, 1993), 244–246.

⁴¹ Mohammad Hashim Kamali, *Freedom of Expression in Islam* (Cambridge: Islamic Texts Society, 1997), 151–154.

whenever the head of state (*uli al-amr*) is a Muslim, the polity is deemed an Islamic state (*dar Islām*) in the juristic sense. Thus, the obligation of obedience and the prohibition of rebellion remain binding upon the Muslim community. This understanding is reinforced by recent scholarship, which highlights that obedience in Islam is conditional and contextual, aimed at maintaining stability without legitimising tyranny.⁴²

This theory is rooted in Sunni theology, which obligates obedience to Muslim rulers even if they act unjustly, based on the Prophet's prohibition against overthrowing a legitimately appointed leader. The Prophet ﷺ said: "Whoever sees something from his ruler that he dislikes, let him be patient, for whoever separates himself from the community even a handspan and dies, dies a death of ignorance" (Ṣaḥīḥ al-Bukhārī, no. 7053).⁴³ Nevertheless, reform should still be pursued through wise and sincere advice (*naṣiḥah*) to such leaders, as the Prophet ﷺ also said: "Religion is sincere advice... for the leaders of the Muslims and their common people" (Ṣaḥīḥ Muslim, no. 55).⁴⁴ This approach seeks to avert greater destruction that may arise from rebellion against legitimate rulers. It is grounded in the principle of *ma'al* (consideration of consequences), recognising that, historically, uprisings against established authority have often led to cycles of political instability and societal turmoil within Muslim polities.

This shift raises essential questions: Does peaceful protest or electoral opposition constitute *bughāh*? Classical jurisprudence would suggest not, since *bughāh* specifically involves armed insurrection against a Muslim ruler.⁴⁵ By contrast, non-violent activism, constitutional advocacy, or participation in democratic processes align more closely with the principle of *amr bi-l-ma'rūf wa-nahy 'an al-munkar* (enjoining good and forbidding evil) than with rebellion. Thus, even where rulers act unjustly, Islamic law obliges Muslims to seek change through legitimate and constructive means, reserving rebellion only for extreme cases of manifest disbelief (*kufr bawāḥ*) as established in sound *ḥadīth*.⁴⁶

In conclusion, the doctrines of obedience and rebellion remain binding across all forms of Muslim governance, monarchical, republican or democratic, so long as rulers are Muslim. Obedience is conditional, rebellion is prohibited, and accountability must be pursued through legitimate means such as legal institutions, consultation and peaceful civic engagement. This framework affirms that the classical principles are not obsolete but continue to guide contemporary Muslim societies in balancing justice, stability and faithfulness to divine law.

⁴² Bachar Bakour, "Reconceptualizing Political Obedience in Islamic Thought: An Analytical Study of Ḥadīth Literature," *American Journal of Islam and Society* 42, no. 1–2 (2025).

⁴³ Muḥammad ibn Ismā'īl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, Kitāb al-Fitan, ḥadīth no. 7053 (Beirut: Dār Ibn Kathīr, 1987).

⁴⁴ Muslim ibn al-Ḥajjāj, *Ṣaḥīḥ Muslim*, Kitāb al-Īmān, ḥadīth no. 55 (Beirut: Dār Iḥyā' al-Turāth al-'Arabī, n.d.).

⁴⁵ Ibn Qudāmah, *Al-Mughnī*, vol. 9 (Cairo: Maktabah al-Qāhirah, 1968), 5–10.

⁴⁶ Ṣaḥīḥ al-Bukhārī, Kitāb al-Fitan, ḥadīth no. 7056; Ṣaḥīḥ Muslim, Kitāb al-Imārah, ḥadīth no. 1709.

IV. Al-Qaraḍāwī's Fatwas on *al-Khurūj 'alā al-Ḥukkām*

The humanitarian crisis in Syria has garnered attention from a significant number of Islamic scholars.⁴⁷ Al-Qaraḍāwī's perspective has been highly influential in the people's movement. In this context, his view has shaped a dominant trend permitting *al-ḵhurūj 'alā al-ḥukkām* among the Syrian society, aligning with the opinions of nearly 107 scholars at the onset of the Syrian crisis. Scholars sharing this stance include Salmān Fahd al-'Awdah, 'Abd al-Majīd al-Zandānī and 'Iṣām Bashīr.⁴⁸ Examining al-Qaraḍāwī's position, he consistently permits peaceful street demonstrations against oppressive rulers, considering that such action is a form of *jihād*⁴⁹ that is obligatory upon all (*fard 'ayn*).⁵⁰ In certain circumstances, he even deems *jihād* against oppression more important than performing acts of worship such as Hajj.⁵¹ This is because he views it as a manifestation of *amr ma'rūf* and *nahy munkar* as commanded by religion for all Muslims, without distinguishing between ordinary citizens and rulers.⁵² Consequently, al-Qaraḍāwī urges scholars who have not expressed their views to break their silence and promptly issue a fatwa regarding this crisis. Moreover, he categorises scholars who align with or support the actions of the rulers as among the evil scholars (*'ulamā' al-sū'*).⁵³

According to al-Qaraḍāwī, revolution or popular uprising to exert pressure on oppressive rulers falls within the concept of preventing evil through power, as advocated in Islam. This interpretation is based on a *ḥadīth* in which the Prophet Muhammad (peace be upon him) is reported to have said:

⁴⁷ The Syrian crisis saw al-Qaraḍāwī align with 500 scholars who declared it obligatory to rise against the regime of Bashār al-Asad. See Zulkifli Mohamad al-Bakri, *Krisis Syria dan Mauqif Ulama* (Nilai: Pustaka Cahaya Kasturi, 2012), 34.

⁴⁸ Zulkifli Mohamad al-Bakri, *Krisis Syria dan Mauqif Ulama* (Nilai: Pustaka Cahaya Kasturi, 2012), 34.

⁴⁹ Muhammad Amasha, "Political Judgment, Fiqh al-Wāqī', and the Egyptian 'Ulamā's: Response to the Arab Spring (2011–2013)," *Journal of Islamic and Muslim Studies*, 8 (2023): 49 - 86. <https://doi.org/10.2979/jims.00015>.

⁵⁰ Amasha, "Political Judgment, Fiqh al-Wāqī', and the Egyptian 'Ulamā's Response," 49 - 86.

⁵¹ This is stated by al-Qaraḍāwī if a Muslim has performed the obligatory hajj in religion that is, once, then it is better for him to go out jihād together than to perform the pilgrimage for the next time. Yūsuf al-Qaraḍāwī, *Fi Fiqh al-Awlawiyyāt: Dirāsāt Jadīdah fī Daw' al-Qur'ān wa al-sunnah*, cet.ke-2 (al-Qāhirah: Maktabah Wahbah, 1996), 16-17.

⁵² Yūsuf al-Qaraḍāwī, *Min Hudā al-Islām: Fatāwā Mu'aṣīrah*, cet. ke-2 (al-Kuwāyt: Dār al-Qalam, 2017), 2: 682-683.

⁵³ Amasha, "Political Judgment, Fiqh al-Wāqī', and the Egyptian 'Ulamā's Response," 49 - 86.

عن أبي سعيد الخدري رضي الله عنه قال: سمعت رسول الله صلى الله عليه وسلم يقول: (من رأى منكم منكرا فليغيره بيده، فإن لم يستطع فبلسانه، فإن لم يستطع فبقلبه، وذلك أضعف الإيمان)

Abū Saʿīd al-Khudrī (may Allah be pleased with him) reported: I heard the Messenger of Allah (peace be upon him) say: "Whosoever among you witnesses an evil, let him change it with his hand; if he is unable to do so, then with his tongue; and if he is unable to do so, then with his heart - and that is the weakest of faith."⁵⁴

This *hadith* elucidates three methods outlined by Islamic law for preventing evil: through power (hand), advice (tongue) or hatred in the heart. Prevention through strength (*al-yad*) is only permitted if the preventer possesses sufficient power to effect change. Evaluating this condition in the context of rulers' transgressions, al-Qaraḍāwī asserts that popular uprising constitutes a formidable force that cannot be impeded, as it is considered stronger than the government's military might.⁵⁵ The implication of the people's ability to form a force capable of preventing rulers' misconduct leads to the obligation of *al-khurūj 'alā al-ḥukkām*. Consequently, scholars who support the government and oppose revolution, particularly in Syria, should also be opposed⁵⁶ as their stance is deemed complicit with the wrongdoers, namely the government.

While al-Qaraḍāwī's fatwa on *al-khurūj 'alā al-ḥukkām* during the Arab Spring was framed as a *maqāṣid*-based necessity to resist tyranny, its applicability raises significant concerns. The regimes in question were not secular in the absolute sense, for Islam remained the religion of the majority and aspects of sharia, particularly in personal status law, continued to be recognised. The real catalyst for the uprisings was authoritarian rule, systemic injustice and political repression. Within such contexts, al-Qaraḍāwī's call for rebellion sought to empower the oppressed; however in practice, it produced a domino effect of instability and civil strife, undermining the very *maqāṣid* he intended to uphold. In the global political landscape, where constitutional mechanisms, elections, and civil society movements exist as alternative avenues for reform, the pathway of violent rebellion cannot be considered a viable solution. Instead, the principle of conditional obedience (*ṭā'ah muqayyadah*) offers a more sustainable framework, ensuring stability while permitting accountability and reform through legitimate channels. Significantly, this emphasis on reform through democratic participation and electoral processes was the

⁵⁴ Narrated Muslim, Kitab al-Iman, Bab { وَأَنَّ الْأَمْرَ { بِالْمَعْرُوفِ وَالنَّهْيِ عَنِ الْمُنْكَرِ وَاجْتِبَانِ } , *Hadith* No. 49. This *hadith* is a *hadith ṣaḥīḥ*. See, Abū al-Ḥasan Muslim bin al-Ḥajjāj, *al-Musnad al-Ṣaḥīḥ al-Mukhtaṣar bi Naql al-'Adl 'an al-'Adl Ilā Rasūlillāh s.a.w*, ed. Muḥammad Fu'ād 'Abd al-Bāqī (Bīrūt: Dār Iḥyā' al-Turāth al-'Arabī, t.t), 1:69.

⁵⁵ Al-Qaraḍāwī, *Fatāwā al-Mu'aṣirah*, 2: 688-689.

⁵⁶ Al-Atawneh. "Khurūj in Contemporary Islamic Thought, 27-52.

very approach al-Qaraḍāwī himself had earlier championed in his *Fiqh al-Jihād*. His subsequent fatwa on Syria, therefore, represents a novel *ijtihād* that departs from his earlier reasoning, raising further questions about consistency and the shifting applications of *maqāṣid al-sharīʿah* in contexts of political crisis.

While al-Qaraḍāwī's fatwa permitting armed opposition to oppressive rulers is framed within a *maqāṣidic* discourse of justice, it is crucial to identify the actual beneficiaries of this position. In principle, the intended beneficiaries are the *maẓlūmīn* (oppressed populations) seeking emancipation from despotic rule. However, the fatwa's influence extended to transnational Islamist movements that reinterpreted his call for *jihād al-ʿadl* as a religious sanction for militant activism. ʿAbd Allāh al-ʿUbayd notes that this transformation reflects "the politicisation of moral fatwa under the banner of *maqāṣid*," where revolutionary movements appropriated religious legitimacy for political mobilisation.⁵⁷

Yet, the problems arising from its implementation became evident in Syria. As Ovamir Anjum observes, al-Qaraḍāwī's rhetoric of liberation "unwittingly merged with revolutionary populism, collapsing the distinction between ethical protest and armed insurrection."⁵⁸ The ensuing civil war produced *mafsadah ʿammah* (collective harm): bloodshed, sectarian division, and foreign intervention outcomes antithetical to *ḥifẓ al-nafs* (preservation of life) and *ḥifẓ al-dīn* (preservation of religion). Rather than curbing tyranny, the fatwa contributed to the diffusion of chaos, undermining the very *maqāṣid* it sought to uphold.

From al-Qaraḍāwī's perspective, the justification of rebellion for the sake of public interest (*maṣlaḥah ʿammah*) rests on teleological reasoning: the eradication of tyranny restores justice (*ʿadl*) and revives the dignity (*ʿizzah*) of the ummah.⁵⁹ Yet this assumes that revolutionary actors maintain ethical discipline, an assumption invalidated by the anarchic consequences of the Arab uprisings.

The limitations of this thinking lie in its overreliance on moral idealism while neglecting empirical reality. As Hatem Bazian points out, al-Qaraḍāwī's framework presupposes "a unified Muslim polity acting under divine purpose," whereas modern nation-states are fractured by ideology, ethnicity, and international dependency.⁶⁰ His *ijtihād*, therefore, risks conflating *maqāṣidic justice* with political romanticism, equating the overthrow of a tyrant with the automatic advent of just governance, an assumption repeatedly disproven in post-revolutionary transitions.

⁵⁷ ʿAbd Allāh al-ʿUbayd, *al-Fatwā wa al-Siyāsah fī al-ʿĀlam al-ʿArabī al-Muʿāṣir* (Cairo: Dār al-Shurūq, 2018), 214–215.

⁵⁸ Anjum, "Theorizing Counterrevolution," 14–15.

⁵⁹ al-Qaraḍāwī, *Fiqh al-Jihād*, 987–988.

⁶⁰ Hatem Bazian, "Post-Revolutionary Islamism and the Problem of Governance," *Islamic Law and Society* 28 (2021): 301–303.

Moreover, power relations are deeply embedded in this fatwa. As Nathan Brown and Michele Dunne argue, the Arab Spring transformed traditional ‘*ulamā*’ into “political actors whose moral capital became weaponised within regional power struggles.”⁶¹ Al-Qaraḍāwī’s discourse, broadcast on *al-Jazeera* and by the International Union of Muslim Scholars, implicitly aligned with Qatari and broader Islamist narratives of revolutionary legitimacy. In contrast, scholars like al-Būṭī, based within Syrian state institutions, embodied what Talal Asad terms “the moral economy of obedience,” defending social order over reform.⁶² Thus, the fatwa’s epistemic power cannot be separated from its geopolitical instrumentalisation.

Finally, to deconstruct al-Qaraḍāwī’s fatwa is to reveal an internal paradox: while seeking to restore justice (‘*adl*’), it destabilises *nizām* (order), another higher objective of Sharī‘ah. By transforming *amr bi-l-ma‘rūf wa-nahy ‘an al-munkar* from an ethical principle into a revolutionary mandate, the fatwa reconfigures *maqāṣid* as an ideology of confrontation rather than a jurisprudence of reform. As Wael Hallaq reminds us, “when the ethical is instrumentalised by political will, the Sharī‘ah ceases to regulate power and instead becomes its language.”⁶³ Only through such deconstruction can one recognise the tension between moral activism and juridical restraint within al-Qaraḍāwī’s thought.

V. Al-Būṭī’s Fatwas on *al-Khurūj ‘alā al-Ḥukkām*

However, al-Būṭī’s position on this issue differs. According to the belief (*i’tiqād*) of *ahl al-sunnah wa al-jamā‘ah*, citizens are not permitted to rebel against rulers, even if they are oppressive.⁶⁴ This is because it has become an *ijmā‘* (agreed-upon) principle that obedience to rulers is obligatory in matters of compliance.⁶⁵ This principle is, in fact, a result of evaluating the negative consequences (*mafsadah*) that would arise from combating a corrupt government, such as bloodshed and other damages greater than the *mafsadah* of maintaining the current rulers.⁶⁶ Therefore, it can be concluded that the corrupt nature of an imam does not justify terminating his appointment through a

⁶¹ Nathan J. Brown and Michele Dunne, “Unprepared for Rebellion: The Transformation of the Arab ‘Ulamā’,” *Carnegie Papers, Middle East Program* no. 118 (Washington, DC: Carnegie Endowment for International Peace, 2017), 8–10.

⁶² Talal Asad, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam* (Baltimore: Johns Hopkins University Press, 1993), 242.

⁶³ Wael B. Hallaq, *The Impossible State: Islam, Politics, and Modernity’s Moral Predicament* (New York: Columbia University Press, 2013), 169.

⁶⁴ Muḥammad Sa‘īd Ramaḍān al-Būṭī, *al-Ta’arruf ‘alā al-Dhāt Huwā al-Tarīq al-Mu‘abbad ilā al-Islām* (Dimashq: Dār al-Fikr, 1980), 70–71. However, some scholars claim that al-Būṭī introduced a change in ijtihād on this issue. See, Rumaizuddin, *Ketokohan Muhammad Said Ramadan al-Buti*, 31; Shams Abu Muhammad ibn Muhammad Shihabuddin, *Krisis Syria: Suatu Pelajaran, Pengajaran, Petunjuk* (t.tp: t.p, 2018), 55.

⁶⁵ Muḥyiddīn Abū Zakariyyā bin Sharaf al-Nawawī, *Sharḥ al-Nawawī ‘alā Muṣṣalīm* (t.tp: Bayt al-Afkār al-Dawliyyah, 2000), 1189.

⁶⁶ al-Nawawī, *Sharḥ al-Nawawī ‘alā Ṣaḥīḥ Muslim*, 1189.

popular revolution. Al-Būṭī emphasises this point when describing the reality of a leader's just or corrupt nature. According to al-Būṭī,

لما هو واضح من أن اشتراط العدالة لتنصيب الإمام لا يستدعي قيام فتنة، بل عدم اشتراط ذلك قد يستدعي قيام الفتنة، أما اقتلاعه عن السلطة والإمامة بسبب فسق طارئ عليه فمن شأنه أن يستلزم فتنة وأن يحدث اضطراباً، لا تؤمن عواقبهما

"It is evident that the condition of justice in the appointment of an imam does not invite discord; however, the absence of this condition (of justice) may sometimes lead to discord. Meanwhile, deposing a ruler (through rebellion) from his governance and administration on the grounds of newly emergent misconduct (*fasiq*) will inevitably lead to discord (*mafsadah*), trigger chaos, and result in a state of insecurity for the nation."⁶⁷

This assertion reflects al-Būṭī's stance on dealing with corrupt leaders, maintaining that they should not be overthrown by revolution. From another perspective, it is undeniable that a leader's justice is a crucial indicator of the qualifications he has acquired. This is as emphasised by al-Māwardī, who outlined key criteria for leadership eligibility, including justice, knowledge, sound senses, physical integrity, mental soundness, courage, decisiveness and Qurayshi lineage.

However, the absence of these qualities does not justify rebellion against an appointed ruler. This can be seen in al-Māwardī's scenario: if a more just individual (not appointed) exists without any impediment at the time of the imam's appointment (already appointed), the appointed imam remains legitimate according to the majority of jurists and theologians.⁶⁸ This does not mean that al-Būṭī condoned the continuation of injustice or approved of corrupt behavior. Instead, his position is rooted in the *ijmā'*-based principle of weighing competing harms (*mafsadah*). For this reason, he advocated *iṣlah* through sustained and wise da'wah, adapted to the context of both ruler and society, alongside gradual reform through state institutions. This situation differs from opposition to a ruler who has openly declared disbelief, either through words or actions (*fi'liyyah* and *qawliyyah*).

Moreover, the context of *jihad* against a Muslim ruler due to oppression is vastly different from *jihad* against non-Muslim oppression of Muslims. For instance, in the case of *jihad* in Palestine, most scholars agree that *jihad* against Zionist Israeli occupation of Palestinian Muslims is obligatory. This situation, if examined, is not a case of Muslim

⁶⁷ Al-Būṭī, *al-Taa'ruf 'alā al-Dhāt*, 79.

⁶⁸ Abū al-Ḥasan 'Alī bin Muḥammad bin Ḥabīb al-Mawardī, *Kitāb al-Aḥkām al-Sulṭāniyyah wa al-Wilāyat al-Dīniyyah*, ed. Aḥmad Mubārak, (al-Kuwāyt: Dār Ibn Qutaybah, 1989), 5-9.

opposition to non-Muslims, but rather Muslims in the Palestinian conflict are seen as a group defending their rights against continued occupation.⁶⁹ Consequently, *jihād*, whether through life or wealth, is decreed as an individual obligation (*fard 'ayn*) upon all Muslims.⁷⁰ It is therefore essential to distinguish between the Palestinian struggle and the notion of *al-ḵhurīj 'alā al-ḥukkām*. The former constitutes defensive *jihād* (*jihād difā'i*) against non-Muslim occupiers who have expelled Muslims from their homeland, an obligation widely endorsed by classical and contemporary scholars.⁷¹ Such resistance is categorically different from rebellion against a Muslim ruler within his own polity, which is the specific scope of *al-ḵhurīj*. In the Palestinian case, participation by Muslims beyond Palestine can be understood as religious solidarity, even if international legal restrictions complicate its practice.⁷² Therefore, in such cases, al-Būṭī obligates citizens to engage in *jihād* against such rulers on the premise of *jihād*. This is because disbelief nullifies the *imāmah* under Islamic law, rendering the public's allegiance (*bay'ah*) void and permitting citizens to fight against such a government.⁷³ Ironically, the conflict in Syria does not present conditions that would allow for fighting against the ruler.

Furthermore, according to al-Būṭī, labelling a ruler's actions as disbelief cannot be applied simplistically, even if the ruler fails to implement Islamic law, based on Allah's statement:

وَمَنْ لَّمْ يَحْكَمْ بِمَا أَنزَلَ اللَّهُ فَأُولَٰئِكَ هُمُ الْكَافِرُونَ

“And whoever does not judge by what Allah has revealed - then it is those who are the disbelievers.” (al-Māidah 5:44)

Based on the verse in question, there is a perspective that advocates a literal interpretation. For instance, Ibn Qayyim posits that this verse is unambiguous and requires no further exegesis, asserting that individuals who fail to implement Allah's commandments are categorically considered disbelievers.⁷⁴

However, al-Būṭī contends that there is a *dalālah ḡanniyyah* within this verse that warrants elucidation. First, he argues that the verse's application is not restricted to rulers

⁶⁹ Al-Būṭī, *al-Taa'rruf 'alā al-Dhāt*, 78.

⁷⁰ 'Ulamā' al-Jāmi' al-Azhar, “Wujūb al-Jihād li Taḥrīr Falasṭīn,” dalam *Mansu'ah al-Fatāwā al-Falasṭiniyyah*, ed. Muḥammad Ṣafwat Nūr al-Dīn (al-Qāherah: Markaz Bāyt al-Maqdis li al-Dirāsāt al-Tauthīqiyyah, 2012), 82.

⁷¹ Ibn Taymiyyah, *Majmū' al-Fatāwā*, vol. 28 (Riyadh: Dār 'Ālam al-Kutub, 1991), 358–359.

⁷² al-Būṭī, *Al-Jihād fi al-Islām*, 55–60.

⁷³ Al-Būṭī, *al-Taa'rruf 'alā al-Dhāt*, 78. See also al-Būṭī, *al-Jihād fi al-Islām*, 147.

⁷⁴ Ibn Qayyim al-Jawziyah, *Madārij al-Sālikīn bayn Manāzil Iyyāka Na'budu wa Iyyāka Nasta'im*, ed. Nāṣir Sulaymān dan 'Alī bin 'Abd al-Raḥmān (al-Riyāḍ: Dār al-Ṣamī'ī, 2011), 2:904-905.

alone but is universal, encompassing ordinary citizens as well. If one were to interpret this text literally, it would imply that any individual engaging in sinful behaviour would be classified as a disbeliever, as the act of sinning inherently violates Allah's laws. Furthermore, al-Būṭī suggests that such a literal understanding would conflict with the innate human propensity for error, a concept reinforced by the following *hadith*:

كل ابن آدم خطاء، وخير الخطائين التوابون

“Every descendant of Adam (peace be upon him) is prone to error; the best among those who err are those who repent.”⁷⁵

Therefore, if the literal understanding were correct, wherein anyone sinning is considered a disbeliever, it would logically follow that every descendant of Adam (peace be upon him) would be classified as a disbeliever, given that errors and sins inherently result from transgressing Allah's commands. Consequently, it can be inferred that the designation of disbelief (*kufr*) necessitates substantiation through *qat'i* evidence, either through actions or utterances of an explicit rejection of the pillars of Islam.

Considering this, al-Būṭī emphasises that rulers who do not implement Islamic law may be influenced by various factors that require careful consideration. These factors may include:⁷⁶

1. Negligence in Islamic governance within an Islamic state,
2. Succumbing to personal desires or worldly *maṣlahah*,
3. Deliberate defiance of Allah's sharia,
4. Ignorance of Islamic jurisprudence.

In the absence of a clear justification for *al-kuḥurij*, namely explicit disbelief, the prohibition against *al-kuḥurij* remains in effect. The presumption that such a ruler remains Muslim, based on the principle of *al-aṣl baqa'mā kāna 'alā mā kāna*, continues to apply until the *iḥtimālāt* regarding the ruler's intentions in betraying Sharia law are definitively established.⁷⁷

Applying this premise to the Syrian conflict, Bashār al-Asad has not declared disbelief, despite perpetrating oppression and atrocities against the Syrian people. Although there

⁷⁵ *Hadith* narrated by al-Tirmidhī in [Kitab Ṣifāh al-Qiyāmah wa al-Raqā'iq wa al-War' 'an Rasūlillāh SAW, *hadith* no. 2499]. This *hadith* is according to al-Tirmidhī *Gharīb*. However, in practice, it can be practiced and used as an argument. See, Muḥammad bin 'Isā bin Sawrah al-Tirmidhī, *Sunan al-Tirmidhī*, ditahqiqkan oleh Aḥmad Shākir (Miṣr: Maṭba'ah Muṣṭafā al-Bābī al-Ḥalabī, 1975), 4:659.

⁷⁶ Bakour and Berghout, “The Anti-Islamist Discourse”, 156-159.

⁷⁷ Zaynuddīn bin Ibrāhīm bin Muḥammad al-Ma'rūf bin Ibn Nujāym, *al-Asbāb wa al-Nazāir 'alā Madhhab Abī Ḥanīfah al-Nu'mān* (Bīrūt: Dār al-Kutub al-'Ilmiyyah, 1999), 1:49.

may be differences in doctrinal schools of thought, this does not preclude him from being characterised as a Muslim. Al-Būṭī affirmed this stance while elucidating the meaning of a *hadith* that describes the division among the followers of the Prophet Muhammad (peace be upon him) in the following narration:

وَتَقْتَرِفُ أُمَّتِي عَلَى ثَلَاثٍ وَسَبْعِينَ مِلَّةً كُلُّهُمْ فِي النَّارِ إِلَّا مِلَّةً وَاحِدَةً، قَالُوا: وَمَنْ هِيَ يَا رَسُولَ اللَّهِ؟ قَالَ: مَا أَنَا عَلَيْهِ وَأَصْحَابِي

“My ummah will divide into 73 sects. All of them will be consigned to Hellfire except for one group.” The companions inquired, “O Messenger of Allah, who are they?” The Prophet (peace be upon him) replied, “Those who adhere to what I and my companions are upon.”⁷⁸

The *hadith* in question describes the state of Muhammad's (peace be upon him) community, which will divide into 73 factions, with only one group being saved from the torment of hellfire. Elucidating this *hadith*, al-Būṭī explains that the term “ummah” encompasses two meanings: those who are invited to the faith and those who accept the invitation. Those who take the invitation are recognised as Muslims, even if they differ in terms of doctrinal ideology. Consequently, those who will succeed in the hereafter are those who recite *shahadah* and affiliate themselves with Islam.⁷⁹ Therefore, differences in doctrinal schools do not negate the obligation of obedience, as long as there is no clear evidence of disbelief (*kufr banwāh*).

The implications of following al-Būṭī's position are twofold. On the one hand, it ensures stability, prevents bloodshed, and safeguards communal unity, thus fulfilling the *maqāṣid* of protecting life, property and social order. On the other hand, such an approach may inadvertently prolong unjust rule, raising questions of accountability. Significantly, al-Būṭī's reasoning is not restricted to any specific political form but applies to all Muslim states governed by Muslim leaders, so long as no clear act of *kufr banwāh* is committed. In the contemporary global context, his position resonates with the enduring fiqh maxim *al-darar lā yuzāl bi-l-darar* (“harm cannot be removed by a greater harm”),⁸⁰ a principle particularly relevant in fragile political environments where rebellion often results in civil war and state collapse rather than genuine reform. Hence, while al-Būṭī's stance

⁷⁸ *Hadith* narrated Abū Dāwūd, Kitāb al-Sunnah, Bab Sharh al-Sunnah, No. 4597. See, Abū Dawūd Sulaymān bin al-Ashath bin Ishāq bin Bashīr, *Sunan Abi Dāwūd*, ed. Muḥammad Kāmil Qurah dan Shu'ayb (t.tp: Dar al-Risālah al-ʿAlamiyyah, 2009), j.7,6.

⁷⁹ Sadeq and Ahmad, “An Analytical Study of al-Būṭī's Contribution, 243-278.

⁸⁰ Al-Suyūṭī, *Al-Ashbah wa al-Naẓāʾir fi al-Qawāʾid al-Fiqhiyyah* (Cairo: Dār al-Kutub al-ʿIlmiyyah, 1990), 87.

prioritises stability, it also highlights the tension between preserving order and confronting injustice in modern governance.

Al-Būṭī's prohibition of rebellion against rulers, even when they are unjust, is grounded in his conviction that social order (*niẓām al-mujtama'*) and unity (*wahdah al-ummah*) are indispensable *maqāṣid al-shari'ah*. Yet, a critical reading requires an assessment of who benefits from such a fatwa. In theory, the principal beneficiaries are the general public, protected from civil strife (*fitnah*), bloodshed and economic collapse. However, in political practice, the primary advantage accrues to ruling elites who retain legitimacy and continuity of power under a religious veneer. As Hishām 'Ulaywān and Fādī al-Ghush argue, al-Būṭī's jurisprudence effectively "offered the regime a theological grammar of obedience that neutralised dissent through the idiom of unity."⁸¹

Nevertheless, problems arise when this fatwa is implemented uncritically. The unqualified demand for obedience risks entrenching authoritarianism, silencing legitimate calls for justice, and discouraging civic accountability, thereby obstructing the *maqāṣidic* imperative of *'adl* (justice). Ovamir Anjum notes that while al-Būṭī's caution toward chaos (*fitnah*) was well-intentioned, "it inadvertently perpetuated the very structures of tyranny that the Sharī'ah seeks to restrain."⁸² In contexts such as Syria, this theology of patience translated into social paralysis amid systemic violence, revealing a tension between maintaining order and realising justice.

The limitations of al-Būṭī's reasoning emerge from his epistemological commitment to preserving *ijmā'* and textual literalism.⁸³ His fatwa prioritises *sadd al-dharā'i'* (blocking harm) over *jalb al-maṣlaḥah* (pursuing benefit) in absolute terms, leaving minimal space for dynamic political agency. As a result, his jurisprudence of obedience lacks a framework for non-violent resistance or institutional reform. Critics such as Mīthāq al-Mālikī observe that al-Būṭī's hermeneutic "restricts *maṣlaḥah* to textual compliance rather than contextual flourishing,"⁸⁴ thus underestimating the evolving nature of governance in the modern nation-state.

Despite these constraints, al-Būṭī's thinking retains partial relevance in modern contexts. In fragile states or post-conflict societies where institutional collapse threatens life and property, his insistence on stability and the prevention of chaos aligns with the higher objectives of *ḥifẓ al-nafs* and *ḥifẓ al-māl*.⁸⁵ In situations like Libya (2011–present) or Yemen, his cautionary logic serves as a sobering reminder that revolutions without moral architecture often yield greater *mafsadah*.

⁸¹ 'Ulaywān and al-Ghush, *al-Būṭī: al-Da'wah wa al-Jihād wa al-Islām al-Siyāsī*, 118–120.

⁸² Anjum, "Theorizing Counterrevolution," 20–21.

⁸³ al-Būṭī, *Dawabit al-Maṣlaḥah*, 115–117.

⁸⁴ al-Mālikī, *Maqāṣid al-Shari'ah 'inda al-Būṭī*, 112, 182–184.

⁸⁵ Ibn Taymiyyah, *Al-Siyasah al-Shar'iyyah fi Iṣlāḥ al-Rā'i wa al-Ra'iyyah*, 25.

To deconstruct al-Būṭī's fatwa is to uncover the theological assumption that obedience inherently preserves *imān* (faith) and unity. Yet, such an assumption collapses when rulers instrumentalise religion to justify oppression. His conceptual hierarchy, where preventing chaos outweighs achieving justice, reflects a defensive jurisprudence shaped by the historical trauma of civil war rather than an active pursuit of reform. Thus, al-Būṭī's fatwa, while sincere in moral intent, ultimately embodies a *maqāṣid of survival* rather than a *maqāṣid of transformation*. A balanced approach would re-contextualise his concern for order within participatory frameworks that safeguard both *'adl* and *nizām* without subordinating one to the other.

VI. Analysis of al-Qaraḏāwī and al-Būṭī's Fatwas on *al-Khurūj 'alā al-Ḥukkām* from the Perspective of *Maqāṣid al-Sharī'ah*

In scrutinising the differences between the fatwa of these two scholars from the perspective of *maqāṣid al-sharī'ah*, several key elements of *maqāṣid* can be identified as having been applied in their rulings. These include the principles of *'itibar al-ma'ālāt*, *sadd al-dhārī'ah*, *fiqh al-ḏarūrāh*, and *ta'arud bayn al-maṣāliḥ*. These fundamental elements form the essential basis incorporated into the fatwa-issuing process regarding *al-ḡhurūj 'alā al-ḡukkām*. The subsequent discussion will elaborate on these elements to understand the pattern of *ijtihād maqāṣidī* employed by the scholars under study.

Al-Būṭī's stance on *al-ḡhurūj 'alā al-ḡukkām*, upon closer inspection, appears to be based on an assessment of the consequences of actions that would lead to greater *mafsadah*. This viewpoint, when further examined, has a solid foundation in the opinions of classical scholars. In this regard, 'Izz al-Dīn 'Abd al-Salām, for instance, emphasises that greater harm would occur if justice were to be stipulated as a prerequisite for leadership appointments at all levels of governance. This is due to the prevalence of immoral behaviour that has become dominant in societal life and cannot be avoided (*umūm al-balwā*). If justice were mandated as an obligatory condition for leadership, it would cause greater harm, as there would be no qualified individuals to lead.⁸⁶ Consequently, citizens remain obligated to obey (*walā'*) the appointed rulers even if they possess immoral traits. This point is emphasised by Ibn Taymiyyah, who states that a ruler's oppression does not preclude him from receiving loyalty from his people.⁸⁷

⁸⁶ Muḡammad 'Izz al-Dīn 'Abd al-'Azīz ibn 'Abd al-Salām, *Qawā'id al-Aḡkām fī Maṣāliḥ al-Anām*, ed. Taha 'Abd al-Ra'uf Sa'ad (al-Qāhirah: Maktabah al-Kulliyah al-Azhariyyah, 1991), 1:78-79.

⁸⁷ Ibn Taymiyyah, *Majmū'ah al-Fatawā*, 28:118; Muḡammad Sulaymān bin Saḡmān. See, Sulaymān bin Saḡmān, *Kashf Ghīyāḡ al-Zulām 'an Anḡām Jalā' al-Anḡām* (t.tp: Aḡwā' al-Salaf, t.t), 1:327.

فان كان هناك مؤمن فعليه ان يواليه وان ظلمه، فإن الظلم لا يقطع الموالاة الإيمانية

“If there is a believer present, then loyalty (*walā'*) should be given to him even if he is oppressive, for the oppression of a believer does not sever the loyalty based on faith.”

Therefore, in addressing the crisis faced by oppressed communities such as those in Syria, al-Būṭī urges all parties to maintain composure and patience.⁸⁸ However, al-Būṭī's fatwa, which takes into account the aspect of *al-ma'ālāt*, did not become the dominant view in addressing *al-ḵhurīj 'alā al-ḥukkām*. This led to revolutions among communities, aligning with al-Qaraḍāwī's perspective, which subsequently triggered destruction and devastation in Syria.⁸⁹ In contrast, the fatwa prohibiting demonstrations and opposition against oppressive rulers actually adheres to the principle of *sadd al-dharā'i* and alleviates hardship and difficulty (*raf' al-mashaqqah wa al-ḥarj*)⁹⁰ from greater *mafsadah*.

The tendency of society to follow al-Qaraḍāwī's fatwa is due to the act of *al-ḵhurīj* being deemed obligatory for every individual, as emphasised by al-Qaraḍāwī in his ruling. Moreover, the dominance of this view in society also stems from the understanding of *jihād* in the name of religion. In this regard, al-Būṭī asserts that physical warfare mandated upon society under the pretext of Islamic interests is a form of betrayal of the religion.⁹¹

From another perspective, although it may appear that *al-ma'ālāt* was not considered in al-Qaraḍāwī's *ijtihād*, this element actually appears in his earlier fatwa. In al-Qaraḍāwī's earlier fatwas, known as *qawl qadīm*, the aspect of *al-ma'ālāt* from his perspective is clearly evident. In these fatwa, one of the conditions for preventing evil is that such prevention should not result in a more severe and terrible evil. In simpler terms, it should not cause greater harm. Therefore, al-Qaraḍāwī recommends that *amr al-ma'rūf* should be carried out with compassion, mercy, gentleness and wisdom.⁹² These qualities are crucial to avoid division within society.⁹³

⁸⁸ Al-Tirmīzī, *Kitāb Ithbāt al-'Ilāl*, 165.

⁸⁹ Harun, *The Thought of Maqasid al-Shari'ah of Yusuf al-Qaradawi and Muhammad Sa'id Ramadan al-Buti*, 140-150.

⁹⁰ Muhammad Safwan Harun, *The Thought of Maqasid al-Shari'ah of Yusuf al-Qaradawi and Muhammad Sa'id Ramadan al-Buti: A Comparative Study* (PhD diss., University of Malaya, 2021), 5-7.

⁹¹ Muhammad Suhaimi, “Perjalanan Panjang al-Bouti,” dalam *Imam Mohamed Said Ramadan al-Bouti Dalam Kenangan*, ed. Tim Akademi Intelektual Muda (AIMs) (Batu Caves: Publishing House SDN BHD, 2015), 81.

⁹² Al-Qaraḍāwī, *Fatāwā al-Mu'aṣirah*, 2:689-691.

⁹³ Allah, the Almighty, says:

قَالَ يَهُودُ مَا مَنَعَكَ إِذْ رَأَيْتَهُمْ ضَلُّوا ۙ أَذًا تَلْبَعُونَ ۚ أَفَعَصَيْتَ أَمْرِي ۚ قَالَ يَتَتَوَّعُونَ لِي فَأَنزِلُ بِهِمْ ۚ لَا تَأْخُذْ بِلِحْيَتِي وَلَا بِرَأْسِي ۚ إِنِّي خَشِيتُ أَنْ تَقُولَ فَرَّقْتَ بَيْنَ بَنِي إِسْرَءِيلَ وَلَمْ تَرْفُقْ بِقَوْلِي ۙ ٩٤

However, in al-Qaraḍāwī's new fatwa, the aspect of *al-ma'ālāt* appears to be less central in evaluating the *maṣlaḥah* and *mafsadah* behind popular revolutions. Consequently, this article concludes that al-Qaraḍāwī's perspective on the Arab revolutions (Arab Spring), particularly in Syria, represents his new stance as mentioned before. This is evident because, upon examining the discussion of *al-ḵhurij 'alā al-ḥukkām* in his book *Fiqh al-Jihād*, he forbade resistance to rulers who oppress their people to maintain unity among citizens, prevent bloodshed and close the doors to *fitna* that would result from such warfare.⁹⁴ Indeed, he emphasises that preventing corruption by rulers need not necessarily be done through violence. This is because warfare is not an end (*ghāyah*) in itself but rather one of the means (*wasāil*) to prevent the spread of discord and polytheism. Therefore, if greater discord would result from such warfare, it is prohibited according to Islamic law, as it fails to realise the *maqāṣid al-shari'ah* of warfare and contradicts the principles of *maṣlaḥah* and *mafsadah*.⁹⁵ As a solution, al-Qaraḍāwī suggests alternative approaches to address the wrongdoing of rulers, such as their involvement as leaders chosen through elections (a democratic system).⁹⁶

In fact, even when assessing current realities, 10 obstacles prevent warfare against rulers. In simpler terms, *al-ḵhurij 'alā al-ḥukkām* in the current reality does not provide certain benefits to the people. Among these obstacles are: (1) the belief that warfare, *jihād*, or armed conflict will not bring about *maṣlaḥah*, (2) the contradiction between warfare and the guidance of life, (3) lack of capability in terms of physical strength, (4) leading to destruction and ruin, (5) endangering Muslims who are with the party to be fought against, and (6) the *mafsadah* arising from warfare being greater than the expected *maṣlaḥah* or neglecting a greater *maṣlaḥah*.⁹⁷ These points constitute al-Qaraḍāwī's arguments in his *qawl qadim* on rebelling against oppressive rulers, which align with Rashīd Ridā's more harmonious concept of *jihād* that emphasises the principles of peace and tranquillity.⁹⁸ This conclusion can be further strengthened by al-Būṭī's reaction, who believes that al-Qaraḍāwī actually knows that revolution is not the best way to prevent

Translation: *Said Moses: O Aaron, what binds you when you see that they have gone astray, (so) you do not follow me? So have you (deliberately) disobeyed my command? The Prophet Aaron replied: O son of my mother, do not hold my beard and do not (also) my head; indeed, I am afraid that you will say: "You have divided the Children of Israel and you have not kept my commission."*

The verse explains that the Prophet Aaron (a.s.) did not prevent the Israelites from following in the footsteps of Samiri, who tried to mislead them, for fear of triggering a worse *mafsadah*.

⁹⁴ al-Qaraḍāwī, *Fiqh al-Jihād*, 2:1157.

⁹⁵ al-Qaraḍāwī, *Fiqh al-Jihād*, 2:1314-1316.

⁹⁶ al-Qaraḍāwī, *Fiqh al-Jihād*, 2:1165-1166.

⁹⁷ al-Qaraḍāwī, *Fiqh al-Jihād*, 2:1311-1312.

⁹⁸ Muhammad Chirzin, *Jihad dalam al-Quran Perspektif Modernis dan Fundamental*, *Jurnal Kajian Islam Interdisipliner* 2, no. 1 (Januari-Juni 2003), 111.

rulers' wrongdoings⁹⁹ when accused by al-Qaraḍāwī of being a scholar of the regime and one who must be fought against.

In seeking common ground between the thoughts of these two scholars in addressing this issue, their positions were initially aligned, both considering *al-khurīj 'alā al-bukkam* as prohibited until al-Qaraḍāwī reversed his stance. In this regard, al-Qaraḍāwī's fatwa calling for all parties, including the police, the military, scholars, and those associated with the government (*a'wān al-ẓulmah*), to be fought against, lacks a clear religious foundation.¹⁰⁰ Consequently, this fatwa has drawn commentary from various scholars. For instance, 'Alī Jum'ah concluded that the fatwa was formulated based on al-Qaraḍāwī's misunderstanding of reality and information received from certain parties.¹⁰¹

In response to the fatwa permitting warfare against the *'awān al-ẓulmah*, al-Būṭī concluded that it stemmed from the views of Sufi scholars when discussing religious piety and avoiding sinful acts or collusion with those who commit them. For example, Ibn Qayyim, in his book *Madārij al-Salīkīn*, relayed the view of early scholars that sin is a bridge to disbelief.¹⁰² According to al-Būṭī, the influence of this thinking leads to two tendencies: (1) easily declaring leaders and rulers as disbelievers, and (2) judging the so-called *'awān al-ẓulmah*, such as officials, military, police, etc., as apostate Muslims, which thus permits armed rebellion against both groups.¹⁰³

Consequently, al-Qaraḍāwī's fatwa in this crisis has led to more severe violations against the lives of ordinary citizens who are still considered Muslims according to Islamic law, despite having different views on revolution. Moreover, al-Qaraḍāwī's *ijtihād* in this conflict contradicts the theory of *the ḍarūrah* principle, which emphasises protecting people's lives from violation. This point was stressed by al-Ghazālī when commenting on the issue of *tatarrus*, which stipulates that the violation of Muslim lives is permitted only to avoid *al-mafṣadah al-'ammah*.¹⁰⁴ Based on this discussion, it is understood that violation of Muslim lives is not permitted in principle until three conditions are met: being in a situation of *ḍarūrah*, facing *mafsadah qaṭ'iyyah*, and lifting *mafsadah kulliyah*. Due to the neglect of these fundamentals, the Syrian conflict has resulted in several forms of damage, including: (1) triggering *mafsadah kulliyah* at the national level, (2) opening attacks

⁹⁹ Harun, *The Thought of Maqasid al-Shari'ah of Yusuf al-Qaradawi and Muhammad Sa'id Ramadan al-Buti*, 140-145.

¹⁰⁰ Bakour dan Berghout, "The Anti-Islamist Discourse, 194.

¹⁰¹ Harun, *The Thought of Maqasid al-Shari'ah*, 144.

¹⁰² Ibn Qayyim al-Jawziyah, *Madārij al-Salīkīn*, 2:1394.

¹⁰³ al-Būṭī, *Al-Jihād fi al-Islām*, 161.

¹⁰⁴ If there are Muslims who are captured with the enemy, and it is believed with *certainty (qaṭ'i)* that if the enemy is not eliminated, it will trigger an attack on the Muslim army, the community, and the entire Muslim country, which will cause more destruction (*mafsadah 'ammah*). Abī Ḥāmid bin Muḥammad al-Ghazālī, *al-Muṣṭaṣṣā min 'Ilm al-Uṣūl*, ed. Ṭaha al-Shaykh (al-Qāhirah: al-Maktabah al-Tawfiqiyyah, 2010), 324.

on *'awān al-zulmah*, and (3) eliminating the *maṣlahah* of peace that could still be felt in many places in the country before the events of *al-khurūj 'alā al-bukkām*.

From the perspective of *ta'arud bayn al-maṣāliḥ*, the view that mandates *al-khurūj 'alā al-ḥukkām* presents Islam as a religion that is sensitive to wrongdoing, regardless of the perpetrator. Conversely, the view that obliges citizens to continue obeying leaders, especially in this era, while allowing leaders' crimes to proliferate, invites negative perceptions of Islam's image and strength.¹⁰⁵ This *maqāṣid* perspective, according to al-Qaraḍāwī, is also supported by Waṣfī Āshūr. He argues that among the *maqāṣid al-jihād* achievable by society are: (1) liberating people and establishing justice and equality, (2) preventing discord and preserving freedom of belief, (3) distinguishing the position of the ummah, and (4) preserving the dignity of Islamic nations.¹⁰⁶

Thus, through al-Qaraḍāwī's *ijtihād* on this issue, the study finds that he has prioritised the *maṣlahah* of image over other *maṣāliḥ*. However, from another angle, one might question whether there is a conflict with another and more critical *maṣāliḥ*. This is because al-Qaraḍāwī's fatwa explains that the primary justification for preventing wrongdoing is to preserve Islam's image, which falls under *al-taḥsinīyyāt* in *ḥifẓ al-dīn*. Meanwhile, society's need for leadership falls under the category of *al-ḥājīyyāt* in preserving religion. When there is a conflict between *al-ḥājīyyāt* and *al-taḥsinīyyāt*, preserving *maṣlahah al-ḥājīyyāt* takes precedence.

Based on this consideration, al-Būṭī asserts that engaging in *jihād* alongside a morally corrupt leader remains obligatory for fear of losing a greater *maṣlahah* at the level of *al-darūriyyāt*,¹⁰⁷ Which is to preserve Islam.¹⁰⁸ Al-Būṭī's stance on this issue has clear support from a *ḥadīth* that states:

عن أبي هريرة قال قال رسول الله صلى الله عليه وسلم الجهاد واجب عليكم مع كل أمير برا كان أو فاجرا والصلاة واجبة عليكم خلف كل مسلم برا كان أو فاجرا وإن عمل الكبائر

From Abū Hurairah (may Allah be pleased with him), the Prophet Muhammad (peace be upon him) said: "Jihād is obligatory upon every Muslim under every ruler, whether righteous or sinful, and

¹⁰⁵ Akhbār al-Yāum, "al-Islām lam Yaḥrim al-Khurūj al-Silmī 'alā al-Ḥākīm al-Zālim," *Djazairiess* website, retrieved 24 Sep 2021, <https://www.djazairiess.com/akhbareyoum/35083>. See also, Islam Today, Ta'qīb min 'Allāmah al-Duktūr Yūsuf al-Qaraḍāwī 'alā Bayān Jam'iyyah Ulamā al-Yaman fī Taḥrīm al-Muzāharāt, website *al-Islām al-Yāum*, retrieved 24 September 2021, <http://www.islamtoday.net/bohooth/artshow-86-157075.htm>.

¹⁰⁶ Āhsūr, *Jihād Fi Sabilillāh*, 9-19.

¹⁰⁷ In this case, the war waged against the leader will eliminate *the religious maṣlahah* at the *darūrī level*. al-Būṭī, *Dawābiṭ al-Maṣlahah*, 269.

¹⁰⁸ Sulaymān Walad Khusāl, "Ṣilah Maqāṣid al-Sharī'ah bi al-Siyāsah al-Shar'iyyah: Ta'ṣīlan wa Taṭbīqan," *Majallah Kulliyah al-'Ulūm al-Islāmiyyah*, no. 20 (2010), 181.

prayer behind every Muslim, whether righteous or sinful, is obligatory, even if he commits major sins."¹⁰⁹

This *ḥadīth* elucidates the obligatory nature of participating in jihād and congregational prayer led by a morally corrupt leader in Islam. This principle constitutes a crucial element in understanding al-Būṭī's reasoning regarding the fatwa prohibiting *al-khurīj 'alā al-ḥukkām*.

Based on al-Qaraḍāwī's approach to this issue, the image of Islam needs to be elevated through the prevention of wrongdoing and adherence to the principle of *amr ma'rūf nahy munkar*, which will realise *maṣlaḥah al-dīn*. However, the opposing fatwa prohibiting *al-khurīj* against a morally corrupt imam represents a form of preventing *mafsadah*, such as bloodshed and other consequences. Thus, this issue also presents a conflict between *jalb al-maṣlaḥah* and *dar' al-mafāsīd*. In reality, evaluating *maṣlaḥah* or *mafsadah* in this situation must be referred back to the balance of knowledge in *al-ta'arūf* and *al-tarjīḥ* between different *maṣāliḥ*. In this regard, preventing harm takes precedence over bringing about benefits that customary considerations can identify¹¹⁰, which aligns with the principle that "averting corruption is more important than bringing about benefit."¹¹¹ Indeed, there are clear stances from scholars in the early period regarding this issue. For instance, Ibn Qayyim emphatically states that the act of *al-khurīj 'alā al-ḥukkām* with the intention of preventing the wickedness of the ruler would certainly incur Allah's wrath and pave the way for all kinds of persistent evil and discord.¹¹² Therefore, it is implausible that the act of *al-khurīj 'alā al-ḥukkām* would not cause damage and eliminate the peace and freedom that citizens generally still enjoy.

In light of the foregoing analysis, this article adopts the position that al-Būṭī's fatwa represents the stronger application of *maqāṣid al-sharī'ah*. His emphasis on preventing bloodshed, preserving stability, and safeguarding the community aligns with the *ijmā'* of Ahl al-Sunnah and the established fiqh maxim that averting greater harm takes

¹⁰⁹ *Ḥadīth* narrated Abū Dāwūd, Kitāb al-Jihād, Bab Fī al-Ghazw Ma'a A'imma al-Jūr, ḥadīth no. 2533. According to al-Albānī, this *ḥadīth* is *ḍa'īf*. However, Abū Dāwūd did not comment on this *ḥadīth*. If Abū Dāwūd does not comment, then by his side the *ḥadīth* is *ṣāliḥ* (practical). See, Abū Dāwūd Sulaymān bin al-Ash'at al-Azdī al-Sijistānī, *Sunan Abī Dāwūd*, diṭaḥqīqkan oleh Muḥammad Muḥy al-Dīn 'Abd al-Ḥamīd (Bīrūt: Maktabah al-'Aṣriyyah, t.t), j.3, 18. Therefore, based on Abū Dāwūd's view of the status of this *ḥadīth*, it is permissible to argue with him.

¹¹⁰ 'Izz al-Dīn, *Qawā'id al-Aḥkām*, 1:81.

¹¹¹ درء المفاسد أولى من جلب المصالح. See, Al-Suyūṭī, Jalāluddīn 'Abd al-Raḥmān, *al-Ashbāḥ wa al-Nazā'ir fī Qawā'id wa Furū' Fiqh al-Shāfi'īyyah* (Bīrūt, Dār al-Kutub al-'Ilmiyyah, 1983), 1:217.

¹¹² There are four circumstances for preventing evil, namely (1) it is commanded to prevent evil by causing the opposite condition (*maṣlaḥah*), (2) it is required to prevent evil even in the capacity to reduce (*taqlīl*) its harm, (3) it is considered (ijtihād) *maṣlaḥah* and *mafsadah* in the evil that causes the same harm, and (4) it is forbidden to prevent evil that will cause harm *bad mafsadah*. Ibn Qayyim al-Jawziyyah, *Ilām al-Muwāqī'in*, ed. 'Iṣām al-Dīn (al-Qāhirah: Dār al-Ḥadīth, 2006), 3:6.

precedence over bringing benefit (*dar' al-mafāsīd muqaddam 'alā jalb al-maṣāliḥ*). While al-Qaraḍāwī's fatwa constitutes a novel *maqāṣid*-based *ijtihād* in response to tyranny during the Arab Spring, its practical outcomes, civil strife, economic collapse, and social fragmentation, undermine the very *maqāṣid* it seeks to uphold. Therefore, this article concludes that al-Būṭī's approach better preserves the higher objectives of *Sharī'ah* and offers a more sustainable framework for navigating the complex relationship between rulers and the ruled in Muslim societies.

In other words, the contrast between al-Qaraḍāwī and al-Būṭī is often presented as a binary of activism versus quietism, yet a deeper analysis reveals a more complex dialectic between ethical idealism and pragmatic realism. Al-Qaraḍāwī's justification for rebellion (*al-ḡhurīj 'alā al-ḥukkām*) rests on the *maqāṣidic* imperative to uphold justice (*'adl*) and human dignity (*ḡaramah insāniyyah*). His position embodies the moral vision of Islam as a faith that resists oppression and empowers the *maḡlūmīn* (oppressed). However, his *ijtihād* overlooks the structural realities of governance in fragile states. The Syrian cases demonstrate that the collapse of political order following rebellion leads to economic devastation, sectarian violence, and foreign intervention outcomes antithetical to the *maqāṣid* of *ḡifḡ al-naḡs* (protection of life) and *ḡifḡ al-māl* (protection of wealth). Hence, while al-Qaraḍāwī's reasoning appeals to moral urgency, its empirical consequences contradict the higher objectives of the *Sharī'ah*.

Conversely, al-Būṭī's prohibition of rebellion prioritises the preservation of social order (*ḡifḡ al-'amm*) and stability (*istiḡarār siyāsī*), reflecting his concern with *ma'ālāt al-af'al* (future consequences). His fatwa aligns with the classical Sunni tradition, which holds that unity is a precondition for justice. Politically, this position prevents state disintegration; economically, it protects institutions that ensure the continuity of welfare and public administration; and socially, it safeguards communal cohesion in societies where sectarian divisions can easily escalate into civil war. Nonetheless, such conservatism risks legitimising autocracy and moral stagnation if unaccompanied by mechanisms of accountability. This tension underscores that *maqāṣid al-sharī'ah* must balance between *amr bi-l-ma'rūf* (enjoining good) and *sadd al-dḡarā'i* (blocking harm).

From a political-science perspective, al-Būṭī's view resonates with Samuel Huntington's theory of "political order in changing societies," where stability precedes liberalisation.¹¹³ Meanwhile, al-Qaraḍāwī's revolutionary stance parallels modern liberation theology, which privileges moral justice over institutional continuity. Economically, the two positions represent opposing models of reform: al-Qaraḍāwī's approach emphasises ethical redistribution and empowerment from below, while al-Būṭī advocates gradual transformation through institutional resilience. Culturally, al-

¹¹³ Samuel P. Huntington, *Political Order in Changing Societies* (New Haven: Yale University Press, 1968), 5–11.

Qaraḍāwī's fatwa nurtures civic consciousness and moral resistance, but al-Būṭī's stance sustains traditional authority and communal solidarity, both reflecting competing visions of Islamic social ethics.

Psychologically, the divergent fatwa carry profound effects. Al-Qaraḍāwī's discourse of moral struggle can inspire hope and agency among the oppressed, but it can also generate cognitive dissonance when revolution fails to deliver justice. Al-Būṭī's emphasis on patience and reform through *da'wah* cultivates spiritual discipline but risks passivity and fatalism. A balanced *maqāṣidic* synthesis must therefore integrate psychological well-being (*ḥifẓ al-nafs*) as a core objective of societal reform, ensuring that religious discourse does not perpetuate despair or violence.

This article thus advances the position that both scholars capture partial truths within the broader *maqāṣid* paradigm. Al-Qaraḍāwī represents the ethical idealism of Islam, al-Būṭī the institutional realism. The author's own position is that a viable *maqāṣid al-niẓām al-'amm* (objective of public order) must mediate between them, ensuring that justice is pursued through stable institutions, and stability is maintained through ethical accountability. In this synthesis, rebellion is replaced by reform through legal, educational, and civic mechanisms, reflecting a *wasatiyyah maqāṣidiyyah* (balanced *maqāṣidic* approach) that harmonises moral action with structural sustainability.

From this integrative perspective, Islamic legal thought can make a meaningful contribution to modern discourses on governance, statecraft, and social reform. The tension between al-Qaraḍāwī's activism and al-Būṭī's quietism mirrors the universal dilemma of ethics versus order, idealism versus pragmatism. A renewed *maqāṣid* framework, one that draws from political science, economics, sociology, and psychology, can transform this tension into a constructive dialogue on how Islam envisions the equilibrium between justice (*'adl*), stability (*istiḳarār*), and collective flourishing (*ṣalāḥ al-ummah*).

VII. Conclusion

This study provides a comprehensive comparative analysis of al-Qaraḍāwī's and al-Būṭī's fatwas on *al-khurīj 'alā al-ḥukūkām* within the framework of *maqāṣid al-sharī'ah*. The analysis revealed that while both scholars grounded their reasoning within the same *maqāṣidic* principles, their divergent prioritisation of *maṣlaḥah* and mafsadah led to two opposing yet internally coherent paradigms of Islamic political ethics.

Al-Qaraḍāwī's perspective represents a moral-activist paradigm that elevates justice (*'adl*) and dignity (*karāmah insāniyyah*) as the central aims of Sharī'ah. His call for resistance against tyranny embodies Islam's ethical idealism and its obligation to defend the oppressed. However, the outcomes of his fatwa during the Arab Spring, especially the Syrian conflict, demonstrated the limitations of this idealism when divorced from the

political, social, and institutional realities of fragile Muslim states. The resultant bloodshed, sectarianism, and instability undermined the *maqāṣid* of *ḥifẓ al-nafs*, *ḥifẓ al-dīn*, and *ḥifẓ al-‘āmm* that Sharī‘ah seeks to protect.

Conversely, al-Būṭī's reasoning reflects a pragmatic-institutionalist paradigm rooted in the preservation of social order, unity, and long-term stability. His fatwa aligns with classical Sunni orthodoxy and the fiqh maxim *dar’ al-mafāsīd muqaddam ‘alā jalb al-maṣāliḥ* (averting harm takes precedence over pursuing benefit). By prioritising the prevention of bloodshed and the maintenance of political stability, his position safeguards the structural conditions necessary for gradual reform. Yet, this conservative caution also risks legitimising authoritarianism if not balanced with mechanisms of accountability and moral correction.

Therefore, this study concludes that a balanced *maqāṣidic* approach (*al-wasatiyyah al-maqāṣidiyyah*) must integrate both perspectives: al-Qaraḍāwī's ethical impetus for justice and al-Būṭī's institutional concern for order. Justice cannot thrive in chaos, nor can stability justify moral complacency. The preservation of *maqāṣid al-‘āmm* (public order) must thus operate in harmony with *maqāṣid al-‘adl* (justice) through reformatory, non-violent, and participatory mechanisms embedded in education, governance, and civic institutions.

In sum, this comparative analysis demonstrates that the true spirit of *maqāṣid al-sharī‘ah* lies not in choosing between activism and quietism but in reconciling them through contextual equilibrium, in which moral transformation proceeds within stable structures, and stability is continually renewed by moral accountability. Such a synthesis offers an enduring framework for reimagining Islamic governance that is both ethically principled and socially sustainable.

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