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From al-Shāṭibī's legal hermeneutics to thematic exegesis of the Qurʾān

Mohamed El-Tahir El-Mesawi*

Abstract: Writings on al-Shāṭibī have focused on his views on *maṣlaḥah* (utility) and *Maqāṣid al-Sharīʿah* (objectives of the *Sharīʿah*). His approach to the interpretation of the Qurʾān (the main source of the *Sharīʿah*) and the implications of such an approach have only rarely been heeded. This study addresses this aspect of al-Shāṭibī's work. It essentially asserts that in restructuring Islamic legal theory (*uṣūl al-fiqh*) around the idea of *Maqāṣid al-Sharīʿah*, al-Shāṭibī brought jurists and Qurʾān commentators closer to one another. It further argues that his contribution went beyond the interest of jurists centred on legal reasoning by holding a comprehensive hermeneutical view of the Qurʾān informed by belief in the thematic unity of its *sūrahs* and verses. Taking such unity as the cornerstone of a sound understanding of the Qurʾān capable of grasping its eternal values and universal principles, he developed a methodology that has inspired a few eminent contemporary Muslim scholars who have developed what has come to be known as thematic interpretation of the Qurʾān (*al-tafsīr al-mawḍūʿī*). This article discusses al-Shāṭibī's hermeneutics of the Qurʾān by delineating his epistemic and methodological propositions. Thus, the author aims to show the existence of semantic unity and epistemic interconnectedness among different disciplines in Islamic scholarship.

Keywords: Thematic exegesis; legal hermeneutics; al-Shāṭibī; objectives of the *Sharīʿah;* Islamic legal theory.

* Mohamed El-Tahir El-Mesawi is Associate Professor, Department of Fiqh and Usul Fiqh, Kulliyyah of Islamic Revealed Knowledge and Human Sciences, International Islamic University Malaysia, Malaysia. Email: mmesawi@yahoo.com. The author is grateful to Ibrahim M. Zein for providing useful remarks and suggestions that improved the quality of this article.

Abstrak: Penulisan mengenai al-Shatibi bertumpukan kepada pandangan beliau mengenai maslahah (utiliti) dan *Maqasid al-Shariʿah* (objektif-objektif *Shariʿah*). Namun, pendekatan beliau terhadap tafsiran Al-Qur'an (sumber utama shariʿah) dan implikasi pendekatan tersebut jarang diambilkira. Justeru itu, kajian ini menekankan hasil kerja al-Shatibi. Tesis beliau menegaskan bahawa dalam penyusunan semula teori perundangan Islam (*uṣūl al-fiqh*) yang berkaitan dengan idea *Maqasid al-Shariʿah*, al-Shatibi membawa ulama dan pengulas Al-Qur'an lebih rapat antara satu sama lain. Ia selanjutnya berpendapat bahawa sumbangan beliau melangkaui kepentingan ulama yang bertumpu kepada hujah undang-undang dengan memegang pada pandangan hermeneutikal Al-Qur'an yang komprehensif, dimaklumkan oleh kepercayaan dalam perpaduan tema surah dan ayat Al-Quran. Dengan mengambil kira perpaduan tersebut sebagai asas pemahaman Al-Quran yang mampu menerapkan nilai murni serta prinsip-prinsip sejagat, beliau telah membangunkan satu metodologi yang mampu memberikan inspirasi kepada beberapa cerdikiawan kontemporari Islam yang terkenal, yang telah membentuk tafsiran tema al-Quran (*tafsīr mawḍūʿī*). Artikel ini turut membincangkan hermeneutik Al-Quran oleh Shatibi dengan menggariskan cadangan-cadangan epistemik dan metodologi beliau. Oleh itu, tujuan penulis adalah untuk menunjukkan kewujudan perpaduan semantik dan perkaitan epistemik antara disiplin yang berbeza dalam kesarjanaan Islam.

Kata kunci: takwil tematik, undang-undang hermeneutik, al-Shatibi; objektif *Shari'ah*, teori undang-undang Islam.

The Andalusian Mālikī jurist Abū Isḥāq al-Shāṭibī (d. 790/1388) has enjoyed widespread acclaim in modern Islamic intellectual and academic circles, especially among scholars and students of Islamic jurisprudence concerned with issues of renewal and reform. Many works have been produced on a number of different aspects of his intellectual legacy, with special focus given to his book *al-Muwāfaqāt* in which he articulated his theory of *Maqāṣid al-Sharīʿah* (objectives of the *Sharīʿah*) and legal methodology. Such works have contributed considerably to our understanding of al-Shāṭibī's work and appreciation of its place in the development of Islamic thought, notably with regard to the crystallization of the idea of *maṣlaḥah* (utility) and identification of the purposes underlying the *Sharīʿah* injunctions.

However, one important aspect of far-reaching implications seems to have escaped the attention of most of those who wrote on al-Shāṭibī's thought. This aspect concerns his conceptualization and formulation of

what he considered as the proper approach for understanding the Qurʾān. It is argued in this article that what al-Shāṭibī did in this respect could be seen as a precursor to what has come to be known, since the late 1960s, as *al-tafsīr al-mawḍūʿī*. None of those who studied *al-Muwāfaqāt* and discussed its legal methodology has heeded this important feature. This applies to scholars and students of both Islamic legal theory (*uṣūl al-fiqh*) and Qurʾānic studies and exegesis (*tafsīr*), including people who have produced exegetic works. Perhaps, due to their compartmentalized academic preoccupations, the former saw it as an ordinary work of legal theory, while the latter did not expect a jurisprudent to offer something relevant to their field.

The earliest attempt to focus on this aspect of al-Shāṭibī's work was that made by Wael B. Hallaq. His interest in it arose as part of his study regarding the place of the Qurʾān in al-Shāṭibī's legal theory according to which the Qurʾānic text is viewed "as an integral whole." As he puts it, al-Shāṭibī's view of the Qurʾānic text in addition to the legal hermeneutic and thematic inductive method he suggested for understanding it and constructing *Sharīʿah* universals all effectively transcend the boundaries set by scholars of *uṣūl*. This in turn brought him "closer to the doctrine of the exegetes than that of fellow legal scholars" (Hallaq, 1991, pp. 71-90).

Taking up this aspect of al-Shāṭibī's thought, we shall examine his *maqāṣid*-based legal hermeneutics with special focus on his approach to the Qurʾān in order to unearth its epistemic significance and methodological implications. Thus, we shall be able to show how he paved the way for the modern concept of thematic interpretation of the Qurʾān or *al-tafsīr al-mawḍūʿī*. Three basic terms therefore need to be clarified at the outset. (1) Broadly speaking, legal hermeneutics as used in this study refers to the interpretive methods and techniques developed in *uṣūl al-fiqh* whereby the meanings and legal purport of relevant Qurʾānic verses and Prophetic sayings are explicated. (2) The term *Maqāṣid al-Sharīʿah* refers to the objectives intended to be realized by obeying the Lawgiver's commands as enshrined in the Qurʾān and *Sunnah* (al-Raysuni, 2005; Attia, 2007; Ibn ʿAshur, 2006). (3) By *al-tafsīr al-mawḍūʿī*, we refer to the interpretation of the Qurʾān based on consideration of a specific theme either in one *sūrah* or throughout the whole Qurʾān (al-Daghamin, 2007; al-Akhras, 2006; Kafi, 2004; Rashwani, 2009; Saeed, 1986). This analysis will show that

by developing his views on legal Islamic hermeneutics that are in turn based on *Maqāṣid al-Sharīʿah*, al-Shāṭibī effected an unprecedented confluence between Islamic legal theory and Qurʾān exegesis which provided a basic framework for thematic interpretation.

An Overview of *Maqāṣid al-Sharīʿah* before al-Shāṭibī

Abū Bakr al-Qaffāl al-Shāshī (d. 365H), the most authoritative Shāfiʿī jurist of his time in Transoxiana, wrote *Maḥāsin al-Sharīʿah,* which is thus far the oldest extant work of Islamic jurisprudence which directly deals with the subject of *Maqāṣid al-Sharīʿah* or the Objectives and Intents of Islamic Law. This book does not belong to the category of epistemological and methodological works dealing with the sources and methods of Islamic jurisprudence under the rubric of *uṣūl al-fiqh*. Rather, it is a work of substantive Islamic law (*fiqh*) meant to show the wisdom and purposes underlying the specific rules of the *Sharīʿah* in the different domains of Islamic legislation, ranging from ritual purity and prayer to the judiciary and penalties, and further delving through marriage, the family, sales and financial transactions and other topics. At the outset of his book, however, al-Shāshī makes a number of important assertions that have clear epistemological and methodological implications for *uṣūl al-fiqh*. According to him, the rules of *Sharīʿah* throughout the various domains of life are all rational. Otherwise, they would run against wisdom and that which is good and beneficial (al-Shāshī, 2007, p. 29). Abū al-Ḥasan al-ʿĀmirī (d. 381/992), a philosopher and student of al-Shāshī (Kholayfat, 1988), devoted one work to expounding the virtues of Islam and the underlying wisdom of its precepts in contrast to other religions. For him, one fundamental characteristic of Islam was the all-encompassing nature of its teachings from where the magnanimity and moderation of its commands can be seen to emanate, thus making them suitable to human beings' original nature (al-ʿĀmirī, 2006, pp. 37-90). These two scholars can thus be considered as forerunners in the systematic study of what later developed into *Maqāṣid al-Sharīʿah*.

The question of the rationality of the *Sharīʿah* and purposefulness of its rules as being enacted for the good and benefit of mankind, subsequently, constituted a major topic in the works of legal theorists (*uṣūliyyūn*). As a result of their deliberations on the issue of *taʿlīl* (ratiocination) and the related notion of *ʿillah* (effective cause or *ratio decidendi* of the *Sharīʿah* commands) in *qiyās* (analogical reasoning),

the idea of *Maqāṣid al-Sharīʿah* emerged; it mainly crystallized through the concept of *munāsabah* (suitability, appropriateness) as one of the key methods of discovering the effective causes of *Sharīʿah* commands (El-Mesawi, 2008; Emon, 2010; Hallaq, 1999; Weiss, 2010). It was al-Juwaynī (d. 478/1085) who would provide the first systematic articulation of the idea of *Maqāṣid al-Sharīʿah* in his discussion of the levels of *rationes legis*.

Al-Juwaynī asserted that the *rationes legis* underlying the *Sharīʿah* commands consist of five categories reflecting the *maṣāliḥ* intended by those commands. He classified them in descending order according to their importance for human life and existence. The first category consists of things that are necessary and universal as they concern the well-being of the entire society, thus being derived from an intelligible fundamental principle. Without them, human society cannot exist. The law of retaliation is an example of *Sharīʿah* rules aimed at protecting immune human life. The second category concerns public need (*ḥājah ʿāmmah*). Though it also derives from a general principle relating to people in general, a public need does not reach the level of necessity; the difference being that if all people abstained from it, the entire society would therefore suffer hardship and harm. The third category involves neither a universal necessity nor a general need. It consists of recommendable things which add ease and beauty to human life. The last two categories do not fall under a general rule or specific genre that may serve as the basis of analogy (al-Juwaynī, 1992, vol. 2, pp. 602-604; al-Shāṭibī, 1996, vol. 2, pp. 602-604; El-Mesawi, 2003; Opwis, 2010).

Following in the footsteps of al-Juwaynī, al-Ghazālī (d. 505/1111) adopted the abovementioned hierarchical classification of the *Sharīʿah* objectives, though he dropped the 4th and 5th categories from it. He enriched it with more analytical details and examples. However, his essential contribution lies in the taxonomy he established regarding the content of the first category. In his view, the ultimate purpose of the *Sharīʿah* with regard to human beings consists in the realization and protection of five necessary things; namely, religion, life, intellect, progeny and property. Whatever leads to the preservation and promotion of these five things is a *maṣlaḥah*, and whatever causes the undermining or omission thereof is a *mafsadah* (harm), the removal of which constitutes a *maṣlaḥah*. For al-Ghazālī, these five principal matters are universal and constitute the core values of human life throughout all

times and climes. Their necessity is such that no community can exist without them, nor would there be any legal system which does not care for them. Likewise, they are indispensable to human life and society and the human socio-ethical order is utterly inconceivable without them. As such, their respective protection and promotion occupies a primary place in the hierarchical structure of the goals intended by the Lawgiver in all domains covered by the *Sharīʿah*. These core values are consolidated and complemented by a gamut of values which constitute the following two categories of *ḥājiyyāt* and *taḥsīniyyāt* and correspond with the secondary and complementary needs of human beings (al-Ghazālī, 1997, vol. 1; El-Mesawi, 2003; Emon, 2010; Opwis, 2010).

This classification of the *Sharīʿah* objectives according to their relative importance in human life and existence has become a standard taxonomy accepted by almost all subsequent legal theorists (e.g. al-Āmidī, 2003, vol. 2/3; al-Maḥbūbī, 1996, vol. 2; al-Qarāfī, 2007; al-Rāzī, 1997, vol. 5; al-Taftazānī). No essential additions or radical modifications to them have been made. The most significant development taking place afterwards consisted of further epistemological refinement and methodological systematization which the history of Islamic jurisprudence attributes to Abū Isḥāq al-Shāṭibī (d. 790/1288) of Andalusia. As will be seen below, his *al-Muwāfaqāt* stands as a landmark in the development of Islamic legal hermeneutics which paved the way for the contemporary discourse on thematic interpretation of the Qurʾān.

Maqāṣid al-Sharīʿah as the axis of *uṣūl al-fiqh*

In his quest for the ultimate or grand objectives of Islamic teachings, al-Shāṭibī based his entire thesis on the primacy of the Qurʾān as "an integral whole" (Hallaq, 1991, p. 71). Arguing for his *maqāṣid* theory on the basis of *tawātur maʿnawī* and thematic inference, he strongly emphasized the centrality of the Qurʾān as "the comprehensive ultimate source (*kullī*) of the *Sharīʿah,* the mainstay of Religion, the wellspring of wisdom, and the paradigm of the [Divine] message" (al-Shāṭibī, 1996, vol. 2, p. 309). Used as a key term in al-Shāṭibī's discourse, *tawātur maʿnawī* had been mainly developed in the context of Muslim jurists' discussions on the epistemological value of solitary reports (*akhbār āḥād*). They distinguished between *tawātur lafẓī* in which the transmitted *āḥād* reports have identical wording and *tawātur maʿnawī*

where the *āḥād* reports, "all having independent chains of transmission, possess one theme in common." Hence, "the knowledge of this theme becomes conclusive as well as immediate" (Hallaq, 1990, p. 20).

From a first reading, al-Shāṭibī's *Muwāfaqāt* would appear as a work in *uṣūl al-fiqh*, both in its concern and language. However, to regard it as merely so is to underestimate its intellectual and methodological significance for the overall development of *uṣūl al-fiqh* and its implications for the study of Islamic scriptural sources. Careful attention to the epistemological and methodological premises outlined at the beginning of the book and profound analysis of its overall structure and the main argument running through it clearly shows that it amounts to no less than an entire restructuring of *uṣūl al-fiqh*, with great epistemological and methodological implications not only for Islamic jurisprudence, but also for the interpretation of the Qurʾān as a whole (al-Raysuni, 2005; Hallaq, 1991). In al-Shāṭibī's view, the main thrust of *al-Muwāfaqāt* consists of "a theoretical grounding of the foundations" of knowledge of the *Sharīʿah* (al-Jabiri, 1994, p. 548; al-Shāṭibī, 1996, vol. 2, p. 88). He considered his approach as novel and original, and advised the reader to shun *taqlīd* and instead rise to a maturity of thought in order to benefit from the book and appreciate its message (al-Shāṭibī, 1996, vol. 1, p. 26). The question, therefore, arises as to what makes this book unique.

The arrangement of the topics treated in *al-Muwāfaqāt* is quite telling of its methodological and epistemological orientation. Of its five parts, the third and the largest one is devoted to a lengthy discussion and analysis of the *Sharīʿah* objectives, hence its title "Kitāb al-Maqāṣid" (Book of the Objectives). Occupying a middle position in the book, this part stands as the unifying ring of its parts and provides a detailed exposition of the central theme around which its entire argument revolves. The discussion of the issues raised in the other parts is geared towards clarifying, elaborating and substantiating this central theme. Al-Shāṭibī's work was thus a profound renewal of *uṣūl al-fiqh* which shook its very conceptual and terminological structure, and amounted to a kind of "re-founding" of this discipline from a new perspective (al-Ansari, 2010, pp. 178, 270).

In the first part, al-Shāṭibī enunciates in thirteen propositions the epistemological principles underpinning his reformulation of Islamic

legal theory. A major concern overshadowing his discussion in this respect is with establishing "certitude as the epistemic foundation of the sources of law [*fiqh*]" (Hallaq, 1999, p. 164). His solution to this issue consists of three main components. The first is what he refers to as definitive rational principles, while the second consists of comprehensive or complete induction of the sources of the *Sharīʿah* (al-Shāṭibī, 1996, vol. 1, pp. 29-30). As Hallaq (1990, pp. 29-30) rightly indicated, this comprehensive thematic inference represents "the most advanced stage in a prolonged process of theoretical development" and "an extension of *al-tawātur al-maʿnawī*." For al-Shāṭibī (1996, vol. 1, p. 29, 35-36, 70-71), inductive inference in the context of the *Sharīʿah* denotes certainty, and operates as follows. It consists of an exhaustive thematic survey and analysis of *Sharīʿah* sources in order to establish universal principles, or simply *Sharīʿah* universals. These universals are similar to mental universals derived from the real world of existence and share with them the properties of universality, regularity, consistency, certainty, and predominance over particulars.

The third component of al-Shāṭibī's epistemic foundation for the study of the *Sharīʿah* is a combination of the previous two, while equally denoting certainty (al-Shāṭibī, 1996, vol. 1, p. 30; Ibn ʿAshur, 2006). The importance of the inductive thematic reading of the verses of the Qurʾān is to help one uncover their recurring themes, discover the eternal values and infer the anchoring universal principles and general rules enshrined therein. When a specific theme or principle is found to manifest itself repeatedly across a wide spectrum of issues, that theme or principle can be known definitively or hold a high probability of having a comprehensive bearing on all individual cases to which it is relevant (Hallaq, 1991).

Thus, having laid down the epistemic foundations for the study of the *Sharīʿah*, al-Shāṭibī sets out to expound his understanding of the *maqāṣid*. He starts by advancing an essential theological premise on the question of causation and ratiocination with respect to divinely revealed laws. For him, these laws emanate from a fundamental existential purpose consisting of the realization of the "well-being and good of human beings both in this world and in the Hereafter" (al-Shāṭibī, 1996, vol. 1, pp. 322). In this connection, he takes to task the Ashʿarī-Shāfiʿī scholar Fakhr al-Dīn al-Rāzī (d. 606/1209) and his likes for their

negative stand on the matter. That the *Sharīʿah* is instituted for the benefit and well-being of human beings is, for him, unquestionable. This is a fact grounded in conclusive inductive inference of its textual sources which neither al-Rāzī nor anyone else could contest. The Qurʾān and *Sunnah*, al-Shāṭibī points out, contain countless details that constitute compelling evidence on the certainty and truthfulness of this premise, thus establishing ratiocination as a general characteristic of the *Sharīʿah* in all its spheres of legislation (al-Shāṭibī, 1996, vol. 1, pp. 322-223; Ibn ʿAshur, 2006).

Like most Sunnī jurists before him, al-Shāṭibī adopted al-Ghazālī's taxonomy of the *Sharīʿah* objectives (Hallaq, 1999). The *Sharīʿah* legal obligations, he says, "revolve upon the realization and promotion of its purposes in the human creation," and these purposes consist of the three "categories of *ḍarūriyyāt, ḥājiyyāt* and *taḥsīniyyāt*." Comprising the above-mentioned universals (*kulliyyāt*) of religion, life, mind, offspring and property/wealth, the *ḍarūriyyāt* effectively denote those things which are indispensable not only to the proper functioning of the religious-spiritual and mundane affairs of human life, but also to the very existence of human society. In al-Shāṭibī's view (1996, vol. 1, p. 324), undermining those universals will lead to corruption and chaos in this life and to loss and misery in the hereafter. In order to maintain them, the *Sharīʿah* has followed a two-fold approach: On the one hand, it has taken positive and proactive measures to realize and enhance them; while on the other hand, it has provided preventive measures to protect them in the present and to prevent anything that might affect them in the future.

Inculcating the fundamental articles of faith (such as belief in the oneness of God) and establishing the essential acts of devotional worship (such as prayer) are meant to preserve and promote *dīn*, while instituting the rules governing customary practices (such as taking *ḥalāl* food) aims at the preservation of *nafs* and *ʿaql*. Contractual dealings, such as marriage and commercial transactions, serve to maintain progeny and property as well as life and mind. All these constitute the positive aspect of the *Sharīʿah*'s approach to realizing its objectives and promoting its values. The preventive aspect involves matters such as the enactment of penalties, the legislation of the law of compensation and the institution of the principle of enjoining good and forbidding evil (al-Shāṭibī, 1996, vol. 1, p. 325).

Al-Shāṭibī (1996, vol. 1, pp. 36-37) also maintains that the five universals constituting the *ḍarūrī* category are a matter of agreement not only among Muslims, but also among other communities. Their knowledge is so deeply engrained in the collective mind and consciousness of the Muslim community that it amounts to the level of necessary knowledge. As mentioned above, this knowledge is grounded in a conclusive thematic induction of the sources of *Sharīʿah* in all spheres of legislation excluding any doubt.

The *ḥājī* category, al-Shāṭibī (1996, vol. 1, pp. 326-227) explains, consists of what is needed to alleviate hardship and bring ease and comfort in human life. Without it, people in general would face distress and difficulty in their observance of the *Sharīʿah* law, though this is still considerably much less than the harm which results from the disorder and corruption affecting the universals. In his opinion, this easing spirit which characterizes the *Sharīʿah*'s approach to human well-being applies to all spheres of legislation whether in ritual worship, customary and daily life practices, contractual dealings or sanctioning and punishment. For example, the exemption from fasting during the month of Ramadan in the case of sickness or a long difficult journey clearly reflects this spirit. Imposing blood money on the clan or social group of the killer aims at alleviating the financial burden of the implicated individual.

Finally, the *taḥsīnī* category includes all that improves human life and makes it comfortable and graceful. Matters belonging to *taḥsīniyyāt* are not necessary in the sense that without them human life effectively becomes deficient or the *Sharīʿah* commands inoperative; rather, their role is to improve the quality of life and to make the observance of law easier. Ignoring or relinquishing this category is not detrimental to the *ḍarūriyyāt* or *ḥājiyyāt*, although it concerns the same areas of legislation like them (al-Shāṭibī, 1996, vol. 1, p. 327).

This brief exposition provides a general view of al-Shāṭibī's conception of the three categories of *maṣlaḥah* constituting the *Sharīʿah* objectives in human creation. Nevertheless, it does not do justice to the complex structure of his work nor to the sophisticated argument that he developed to expound his ideas. As mentioned above, al-Shāṭibī's work presents us with a methodological and epistemological restructuring of *uṣūl al-fiqh*. Two major features of this side of his work need to be highlighted here in order to unravel some of their implications for the

study of Islamic jurisprudence. Al-Shāṭibī's aim, as seen earlier, was not to simply add a new chapter to *uṣūl al-fiqh* under the heading of *maqāṣid*. Rather, the main thrust of his contribution was towards making the concept of *Maqāṣid al-Sharīʿah* as a central and unifying theme guiding his treatment of all components of the discipline; the knowledge of which he considered as a necessary condition for *ijtihād*, whether for understanding textual sources or for analogical reasoning and rational extrapolation of the general principles of the *Sharīʿah* to new cases and situations (al-Raysuni 2005). For example, in the part of the book devoted to the *adillah* or legal proofs, al-Shāṭibī (1996, vol. 2, pp. 6-7) again bases the discussion on the major premise that the main purpose of the *Sharīʿah* is to preserve and promote the three categories of *ḍarūriyyāt*, *ḥājiyyāt* and *taḥsīniyyāt* underlying its injunctions in all spheres of legislation. This, therefore, requires that legal inquiry into its sources must not be confined to some of its aspects or particulars. Such an inquiry must be comprehensive so as to reflect the inclusive, universal and all-encompassing nature of those categories formed on the basis of inference from a multitude of particulars (*juzʾiyyāt*).

Put differently, since these universals constitute "the foundations of the *Sharīʿah,*" particulars must always be considered in relation to the universal to which they belong. Conversely, universals derived from *Sharīʿah* sources cannot exist without the particulars forming them (al-Durayni, 2008, vol. 1; al-Shāṭibī, 1996, vol. 2, pp. 7-8). Similar to Ibn Taymiyyah, he adopted a *nominalist* view for which universals do not exist as extra-mental entities while only particulars do. Al-Shāṭibī further upholds that there is a dialectical relationship "between the universal and its particulars [dictating] that the setting aside of a particular is detrimental to the cognate universal." The converse of this is that "considering a universal while neglecting its constituent particulars would undermine that universal" (Hallaq, 1999, p. 167).

This holistic *maqāṣid*-based approach to the study of the *Sharīʿah* is clearly reflected in al-Shāṭibī's (1996, vol. 2, pp. 264-265) discussion of the issue of generic grammatical forms in the Qurʾān. In his opinion, generic forms are not the only means to denoting a general or universal meaning as generally understood by *uṣūl al-fiqh* scholars. There is an equally, and indeed more important method to establishing universal meanings. It consists of induction, be it complete or incomplete. Once a general or universal meaning is established through inductive inference

from multiple particulars, it will be applicable to any particular case even if that case is a mere likelihood. This rule, for al-Shāṭibī, is taken for granted by scholars of both transmitted and rational sciences. For example, removing hardship in the *Sharīʿah* is not merely based on some specific general expressions or generic grammatical forms. Rather, it is inferred from multiple instances obtained in a variety of areas in Islamic law where the notion of alleviating hardship is clearly taken into account. Likewise, we may take for granted that this constitutes a universal principle observed by the *Sharīʿah* in all spheres of legislation.

However, al-Shāṭibī (1996, vol. 2, pp. 266-667) anticipates that the validity of the inductive method for establishing universal truths in *Sharīʿah*-related matters might be questioned on more than one ground. Two major objections are of special interest to us here. The first is that induction is applicable only to rational concepts and not to legal matters for two main reasons: (1) Meanings in the realm of *ʿaqliyyāt* are simple and do not allow for differences and differentiation; as such, the mind can apply the same judgement to similar things whether they are seen or unseen by virtue of logical necessity. (2) By contrast, the *sharʿiyyāt*, which belong to conventions (*waḍʿiyyāt*), do not enjoy the same status as *ʿaqliyyāt* which refer to the realities of the realm of existence; as they depend for their existence on the mere will of the authority instituting them. Likewise, similar things may be "disunited and separated", that is, be given different judgements, while opposites may be united, by judging them equally.

The second objection goes as follows. By virtue of being characteristic attributes of particulars, *differentiae* necessarily imply the existence of one or more than one meaning other than that which serves as basis for the construction of a universal. Unless there is compelling evidence, such *differentiae* are excluded from the judgement applied to all particulars belonging to a universal, and we are in no position to admit the validity of *sharʿī* universals. If such evidence exists, the whole exercise of forming universals through thematic induction becomes futile, as the notion of *ʿumūm* would then depend on textual proofs. Furthermore, in the *Sharīʿah* one finds many instances of particularization whereby some cases are excluded from the general statement under which they were subsumed. Thus, the whole idea of forming universals based on particulars collapses (al-Shāṭibī, 1996, vol. 2, pp. 233, 267-268).

To answer the first objection al-Shāṭibī maintains that from an epistemological point of view, there is no difference between *sharʿiyyāt* which depend on convention (*waḍʿ*) and authority, and *ʿaqliyyāt*, which depend on rational and logical necessity. Both are susceptible to the inductive method, and equally allow for the formation of universals. This is supported by the established intellectual tradition of the earlier generations of Muslim scholars who acquired it from their understanding of the spirit and dispositions of the sources of the *Sharīʿah*. Regarding the second objection, he argues that we do not engage in the formation of a universal in any case, based on the general meaning shared by any multiplicity of particulars; rather, we do so only when we realize that *differentiae* are not considered. Moreover, if *differentiae* are to be considered in absolute terms, then analogical reasoning must be abolished as one of the major proofs in Islamic jurisprudence, and we know that this is not the case. *Differentiae*, therefore, do not affect the construction of universals on the basis of general meaning shared by particulars (al-Shāṭibī, 1996, vol. 1, p. 70, vol. 2, p. 269; Jughaym, 2002).

The primacy and thematic unity of the Qurʾān

The foregoing discussion was meant to bring into focus the main thrust behind al-Shāṭibī's attempt to reconstruct *uṣūl al-fiqh*. Thus, for him, *Maqāṣid al-Sharīʿah* stands as the unifying central theme of Islamic legal theory. An important epistemological and methodological aspect following from this drive deserves more attention here. It concerns the relationship among the *sūrahs* of the Qurʾān. This is of special significance to the main thesis of this article; which mainly asserts that al-Shāṭibī was a precursor of the contemporary notion of thematic interpretation of the Qurʾān. According to Hallaq (1991, pp. 71-72), al-Shāṭibī's view of the Qurʾān transcends the boundaries within which it had been confined by the jurists, thus making him "closer to the doctrine of the exegetes than that of fellow legal scholars." Without going into a detailed analysis of al-Shāṭibī's Qurʾānic hermeneutics, our brief discussion of his inductive thematic method for inferring *Sharīʿah* universals enables us to realize the overall orientation of that hermeneutics. What matters most for us in this study is to see how the aforementioned issue has been addressed in *al-Muwāfaqāt*.

At the outset of his discussion of the *adillah* (the *Sharīʿah* legal-proof sources), al-Shāṭibī (1996, vol. 2, pp. 36-38, 309) expresses his

disinterest in discussing all issues usually discussed by scholars of *uṣūl al-fiqh*, and especially those related to *ijmāʿ* (juristic consensus) and *raʾy* (exertion of personal opinion in *ijtihād*), as earlier scholars had already dealt with them satisfactorily. He chose instead to expand his viewpoint on how the Qurʾān and the *Sunnah* should be approached in a *maqāṣid*-based legal theory, both in terms of conceptualizing the status of each of them and of the methodology required to interpret them. In what follows, we shall focus on what he had to say regarding the Qurʾān, leaving aside his insights concerning the *Sunnah* as they lie beyond our purpose here.

To start with, al-Shāṭibī seems to have been as equally uncomfortable with the way legal theorists conceived the status of the Qurʾān as a source of legal rulings and commands as with the methodology they devised for interpreting its verses. In their formulations, the amplitude of the Qurʾān had been reduced to a set of legal statements from which legal rulings would be derived. This is mostly reflected in their debate over the number of the verses with legal import or *āyāt aḥkām*. Of the more than six thousand verses of the Qurʾān barely five hundred are considered as *āyāt aḥkām*, the knowledge of which is required for the jurist. Moreover, only verses revealed in Madīnah are to be included in this category. This is for the perceived reason that it was during the Madīnan period that the Qurʾān began legislating on practical matters and laying down rules and laws to regulate individual and collective life (abu Zahrah, 1997; al-Ghazālī, 1997, vol. 2; al-Khudari, 1983). This might imply that the rest of the Qurʾānic verses are irrelevant to the enterprise of the jurist, or at least have no direct bearing on legal inquiry. Thus, an atomistic approach to the Qurʾān may be said to have permeated *uṣūl al-fiqh* (Shams al-Din, 1999).

To rectify this situation, al-Shāṭibī (1996, vol. 2, pp. 309, 331-332, 335) emphasizes the Qurʾān as "the absolute and all-inclusive source of the *Sharīʿah*, the mainstay of the Muslim community, the wellspring of wisdom, the paradigm of the message [of Islam], etc." Accordingly, he insists that it is incumbent upon anyone seeking to know the universal foundations (*kulliyyāt*) of the *Sharīʿah* and aspiring to understand its intentions and associate oneself with its people to take it as his "intimate companion day and night". This is because the abovementioned *Sharīʿah* universals have been emphasized in the Qurʾān in the most perfect manner. He further argues that no single issue would occur that

cannot be traced back to a general rule or a universal principle laid down in the Qurʾān.

Al-Shāṭibī's (1996, vol. 1, pp. 368-371, 414-434) strong emphasis on the completeness, self-sufficiency and comprehensiveness of the Qurʾān is only paralleled by his emphasis on the manner in which the relationship between its verses should be perceived. For him, the proper way to comprehend the Qurʾānic discourse is to approach its verses in their chronological sequence and interrelatedness as an integral whole. Madīnan revelations must be seen as a continuation and elaboration of Makkan ones. Similarly, later revelations in each category must be seen as confirmation, prolongation or elaboration of those preceding them. According to al-Shāṭibī's analysis, there is within the Qurʾān a thematic continuity and unity which flows, generally speaking, according to the chronological order of revelations from the most fundamental and universal to the most particular and less fundamental. Confining legal inquiry to *āyāt al-aḥkām,* which are exclusively Madīnan revelations, would simply mean losing sight of the foundations and universals of the *Sharīʿah* laid down in the Makkan revelations. To illustrate how the thematic continuity and interrelatedness in the Qurʾān is manifested, he examined (al-Shāṭibī, 1996, vol. 2, pp. 369-370, 375-381; Hallaq, 1991, 1999) the two long *sūrahs* of *al-Anʿām* (Cattle) and *al-Baqarah* (Cow).

As a Makkan revelation, the first *sūrah* laid down the foundations of faith and belief; and it was on this basis that Muslim theologians worked out their thought systems, beginning with the affirmation of the existence of the Necessary Being to the issue of *imāmah* or political rule. According to al-Shāṭibī, when we examine it closely by following his suggested approach, we will realize that it also provides the foundations and universal principles of the *Sharīʿah* understood as a comprehensive code of life. Likewise, it enunciates essential commandments pertaining to ascribing divinity to none other than God, the sanctity of human life and economic property, goodness to parents, protection of children, observing justice and equity in economic and social dealings, in addition to avoiding shameful deeds whether openly or secretly. All these are laid out in the context of an exposition of the Qurʾānic view of the universe as well as of human history and the place of Revelation and prophethood in it. Undermining or ignoring one of those principles and foundations may result in damage to the entire Islamic legal system or at least the demolition of one of its universals.

Besides confirming the universal values and overarching principles established in the *sūrah* of the Cattle relating to the preservation of religion, life, intellect, progeny and property, the *sūrah* of the Cow, one of the earliest Madīnan revelations, provides details pertaining to the different forms of human acts, including things such as devotional rituals, diet, marriage, commercial transactions and crime. Accordingly, what was revealed in Madīnah subsequent to this *sūrah* must be seen in its light, just as what was revealed in Makkah after the *sūrah* of the Cattle must be viewed in the light of the latter. This, al-Shāṭibī insists, is a general phenomenon characterizing the entirety of the verses of the Qurʾān in their interrelatedness. Any attempt at a proper understanding of God's Word must take this fact as the guiding truth in Qurʾān exegesis.

Besides developing a coherent methodology for the understanding of the Qurʾān, al-Shāṭibī's hermeneutic views as analyzed above also aimed at overcoming two conflicting positions towards the textual sources of the *Sharīʿah*. On the one hand, among the mystics one found the extremist view of the Bāṭinīs advocating esoteric knowledge acquired through mystic visions and inspirations which transgressed the canons of reason and violated the established rules of language. For them, the way to knowing the Lawgiver's intent lies beyond the linguistic structure of Revelation. This position violates the rational and linguistic norms of understanding and communication. It amounted to merely following one's vagaries being superimposed on the Qurʾān. On the other hand, the Ẓāhirīs confined the means to knowing that intent to the literal level and apparent meaning of the Qurʾānic text, therefore rejecting any attempt at discovering the inner meanings and deeper purposes underlying the *Sharīʿah* commands and reflecting its sublime values (al-Shāṭibī, 1996, vol. 2, pp. 546-566, vol. 1, pp. 666-667). Both positions, al-Shāṭibī explains, are inimical to a sound understanding of the *Sharīʿah*. They "stand opposite to reasonable, moderate, and middle-of-the-road interpretations" (Hallaq, 1991, p. 75). In this balanced approach, "the *Sharīʿah* runs in a consistent, systematic manner allowing for no discrepancy or contradiction;" likewise, all kinds of violation of the text and its deeper meanings are avoided (al-Shāṭibī, 1996, vol. 2, pp. 667-673).

Two principles seem to inform al-Shāṭibī's methodology for understanding the Qurʾān (al-Shāṭibī, 1996, vol. 2, pp. 372, 381). The first is that "discourse is not meant for mere comprehension of its words

(ʿ*ibārah*), but for grasping what is expressed and intended [by it]". Words and expressions are just means to realizing the intent or purpose of discourse. This is a fact that every sound-minded person must behold. The second principle is that the real meanings of many verses in the Qurʾān may not be truly understood except through reference to other verses. In other words, Qurʾānic verses "depend on one another for their understanding" because the Qurʾān constitutes "one single coherent discourse." Hence, the dictum, "the Qurʾān explicates the Qurʾān" (al-Farahi, 2008; al-Qaradawi, 2000; Ibn Taymiyyah, 1992).

One important goal sought by al-Shāṭibī in basing his study of the *Sharīʿah* on inductive inference was to attain certainty in establishing the universal objectives and anchoring principles embodying its eternal values. It follows that once something has been found to constitute part of those objectives and principles, such a thing would not be subject to abrogation whatever the circumstances might be. This is for the reason that abrogation does not occur in the universal rules of the *ḍarūriyyāt*, *ḥājiyyāt* and *taḥsīniyyāt*. Likewise, all that leads to the preservation and enhancement of the five universal necessities is grounded in conclusive evidence deriving from thematic inference that denotes certainty. Yet, this does not exclude abrogation in some particulars of those universals. Abrogation of such particulars, though, itself occurs as another way to preserving the universals. It would be absurd, al-Shāṭibī believes, if abrogation occurs to the *Sharīʿah* universals since they are considered to be "observed in every religious community, even though the ways of preserving them might be different from one community to another" (al-Shāṭibī, 1996, vol. 2, 109). To further support this point, al-Shāṭibī invokes the following two verses:

> In matters of *dīn*, He has ordained for you that which He had enjoined upon Noah – and which We gave thee [Muhammad] insight through revelation – as well as that which We had enjoined upon Abraham, and Moses, and Jesus: Steadfastly uphold the [true] faith, and do not break up your unity therein (Qurʾān, 42:13).
>
> And now, although the unbelievers may choose to deny these truths (i.e. *the manifestations of God's oneness and of the revelation of His will through the prophets*), [know that] We have entrusted them to people who will never refuse to

> acknowledge them – to those who God has guided. Follow then their guidance (Qurʾān, 6:89-90).

The first verse refers to common universal truths, which all God's messengers have conveyed to mankind through the different revelations entrusted to them. The term "*dīn*" in it refers to "religion in its generic sense", including Islam and all revealed religions which came before it. As for the commonality or sameness of such religions, it pertains to their identity in "the fundamentals of faith as regards the necessary attributes of God and the principles of the Law as pertaining to the universals of legislation. Most important in this is the oneness of God, and the things following it, especially the five necessary universals and the *ḥājiyyāt*, without which the human order would be unable to stand upright and function properly." With its purpose being to describe the originality and uprightness of Islam, the verse may be understood to mean that God has ordained for mankind "The original religion with which He sent Noah in the old times, Muhammad in later times, and those in between" (Asad, 2011; Ibn ʿAshur, 1997, vol. 12/25, pp. 50-51).

The second verse concludes a detailed exposition of the careers of God's messengers prior to Prophet Muhammad, such as Noah, Abraham, Joseph, Moses and Jesus (Qurʾān, 6:74-90). Their guidance –which Muhammad was enjoined to follow– thereby consists of what pertains to "the fundamentals of the laws (*uṣūl al-sharāʾiʿ*) as well as purification of the self and good morality." Hence, the guidance referred to in the verse concerns the fundamentals of religious faith and foundations of ethics and legislation on which different laws concur (Ibn ʿAshur, 1997, vol. 4/7, p. 357). Emphasizing the unchanging sameness of the spiritual and moral principles underlying all revealed religions, these and other similar verses refer "to the ecumenical unity of all religions based on belief in the One God, notwithstanding all the differences with regard to the specific statutes and practices enjoined for the benefit of the various communities in accordance with their [time-bound] conditions" (Asad, 2011, pp. 885-886).

Al-Shāṭibī's argument on the non-abrogation of the *Sharīʿah* universals does not simply depend upon thematic inference from the textual sources of Revelation. Rather, it also rests on the history of human thought and experience. That is, since the *Sharīʿah* contemplates the good and well-being of humanity, it is characteristic of Islamic

legislation to be concerned about emphasizing meanings that are intelligible to the human mind by highlighting the causes and wise purposes behind its commands, especially in customary affairs of life. This is by virture of the fact that the consideration of rational meanings was widespread among humans even during times when no Divine revelation was available; thus rational and thinking people "relied on it for attaining human well-being and benefits." In so doing, they applied the universal meanings of those *maṣāliḥ* in such a way that they generally led to the desired results, notwithstanding the fact that they were defective in many details. The *Sharīʿah* then was revealed to rectify the situation and to perfect the realization of human well-being in such a way that its details would run according to "their established fundamental principles" (al-Shāṭibī, 1996, vol. 1, pp. 590-59, 352-353). Likewise, the *Sharīʿah* values are in essence "something innate within humans, and so, universal across denominational lines" (Reinhart, 2005, p. 5); hence, the congruence of Qurʾānic commands with man's capacity not only to know good from evil, but also to perceive matters and distinguish between them accordingly.

The cognitive certainty and existential universality of the *ḍarūriyyāt*, *ḥājiyyāt* and *taḥsīniyyāt* whose meanings permeate all the domains and textual sources of the *Sharīʿah* do not however imply that they operate in mechanical and deterministic ways that are blind to real situations. In fact, exceptions to general rules do occur in the *Sharīʿah*. That is to say, "since the Lawgiver's intent is to subject human beings to general rules, and since customary matters in God's Norm flow in accordance with what is predominant rather than what is all-inclusive, and because the *Sharīʿah* has been instituted according to such norms, what should then be observed is to apply universal rules in accordance with what is customary and normal rather than perfect and all-inclusive universality." As an example, Divine obligations on human beings are linked to reaching the age of puberty, taking it as the indicator of their attaining sound rational discrimination, which is the basis of obligation in the *Sharīʿah*. Some individuals, however, may attain the stage of rational discrimination before physical puberty, while others may be weak-minded and lacking in rational discrimination even though they have transgressed the age of puberty. Such instances, however, do not undermine the universal rule (al-Shāṭibī, 1996, vol. 2, pp. 5-7, 236-237).

From al-Shāṭibī's thematic induction to Draz's thematic *tafsīr*

As far back as the early 1930s, Muhammad A. Draz, an Azharite teacher, was busy pondering the best way to approach the Qurʾān in his *tafsīr* classes (Draz, 1993, pp. 7-10). A new methodology, he felt, was needed if a proper understanding and effective appreciation of its message was to be attained, without necessarily breaking with scholarly traditions of the forefathers. Mainly concerned with the style and modes of expression of the Qurʾān in conveying its message thus constituting its "linguistic miracle," Draz (1993, pp. 80-142) came to the conclusion that the unity of discourse and coherence of argument were prominent features of the Qurʾān. As he clearly acknowledges, the way for this discovery had been paved by some insightful scholars who examined its *sūrahs* and verses in an integrated holistic manner, and it was al-Shāṭibī who thus articulated it by asserting that:

> Many and numerous may be the issues addressed in a *sūrah*. It remains, nevertheless, a single whole linking its beginning with its end, having an overall objective to which all its parts relate in the same way as sentences expressing a single idea are interrelated. Anyone who wishes to study the structure of a *sūrah* must begin by looking at it as a single whole, just as they must look at the whole idea before considering its details (al-Shāṭibī, 1996*,* vol. 2, pp. 375-376; Draz, 1993, p. 109).

Pointing out that al-Shāṭibī had applied the methodological approach implied by the above *dictum* to *sūrat al-Muʾminūn* (the Believers), Draz (1993, p. 109, 142, 144) observes that students of the Qurʾān are gravely mistaken "when looking at the partial (or immediate) links between two or more adjacent issues, without considering the overall system that applies to the whole *sūrah*." In order to appreciate the richness of the style of the Qurʾān and discover its wealth of meaning, one should take the "unity of each *sūrah*" as an essential tool in that search. By considering its style over a whole *sūrah*, which may include different topics, with different passages revealed on different occasions and varying circumstances, "we will find the consistency of style and the unity of subject matter at their most wonderful." This derives from the fact that despite its characteristically clear sense of word economy, the Qurʾānic discourse maintains "perfect coherence of all its constituent elements and the firm bonding of all its parts which make of it a single unit that cannot be split up."

To demonstrate the validity and usefulness of the unity-of-*sūrah* thesis, Draz (1993, pp. 163-210; El-Mesawi, 2005) undertook to analyze *sūrat al-Baqarah* (The Cow), the longest chapter in the Qurʾān, following nearly the same steps al-Shāṭibī (1996, vol. 2, pp. 377-381) had followed in respect of *sūrat al-Muʾminūn*. One of his main reasons for choosing *sūrat al-Baqarah* was that there was a possibility to discover in it incoherence or discrepancy of style in the narrative due to the variety and large number of topics it covers and the long span of time over which it was revealed. Careful examination, however, revealed it to be "a coherent structure built of main purposes that are rooted in an elaborate system laying down every aspect [of the topics addressed in the *sūrah*], giving it its sections and branches which are then further divided into long and short subdivisions" (Draz, 1993, p. 155).

Much like al-Shāṭibī, thematic unity of the *sūrah* was for Draz only a prelude to a more holistic approach to the Qurʾān as a whole on the basis of handling special topics by examining all relevant material throughout its different chapters, thus shunning the atomistic, piecemeal method which could only lead to inadequate grasp of its meanings. However, they differed on the criteria to be employed in this enterprise. While al-Shāṭibī chose the chronological sequence of revelations as the basis for his thematic analysis, Draz (1983, pp. xv-xvi, xxiii) took the "logical unity" and "coherent structure" of the topics or themes to be studied as his criterion, a concern which was later expressed by Baqir al-Sadr (1990) and Fazlur Rahman (2009). For this purpose, he set out to study the moral teachings of the Qurʾān as a "unified system" linking together the fundamental moral truths expounded throughout its chapters and verses in an attempt to circumscribe the Qurʾānic ethical theory by analytically tracing out its meta-ethical or philosophical foundations, its conceptual framework and its practical manifestations (Draz, 1983, p. xxiii).

For Draz, the thematic approach to interpreting the Qurʾān serves an intellectual and epistemological purpose, namely, that of understanding its teachings on its own terms by not subjecting them to preconceived or pre-existing models, while however endeavouring not to fall into dogmatic self-enclosure, that would prevent comparison and engagement. Such an enterprise was required to meet the intellectual and cultural need of bringing the Qurʾānic perspective to the attention and conscience of humanity, from which "the history of moral doctrines will gain

much in terms of scope, profundity and harmony." Thus, it would enable moral thought "to overcome its old and new difficulties" by providing greater understanding of the human condition and laying the foundation for an enhanced humanism (*humanisme élargi*) so that people of good "will extend their hands for the greater good of humanity" (Draz, 1983, pp. xii-xiii, xxv).

That being the vision which guided Draz in terms of both methodology and purpose, what has been said is deemed sufficient to prove the main thesis that al-Shāṭibī not only paved the way for thematic exegesis, but also inspired at least one of its pioneers in modern times whose contributions have set a model for subsequent scholars, such as Muhammad al-Ghazali (2000) and Muhammad Baqir al-Sadr (Kassār, 1996). It is nonetheless certain that further studies are needed to assess whether the accumulated literature on *tafsīr mawḍūʿī* over the last six decades has resulted in a qualitative breakthrough, effectively laying the ground for what Fazlur Rahman aspired for, namely, a Qurʾān-inspired "Islamic intellectualism" (Rahman, 1982, p. 1).

Conclusion

The central thesis of this article revolves around the epistemological and methodological reform which al-Shāṭibī undertook with respect to *uṣūl al-fiqh*. As we have elaborated, his approach went beyond making mere technical changes to redefine certain terms and concepts throughout the complex structure of this discipline or to widen their scope and refine their meaning. Moreover, he did not content himself with the mere rearranging of materials constituting it, according to new criteria. Nor did he perceive his task as simply adding new terminology or new subjects for discussion. His reform was a complete restructuring of *uṣūl al-fiqh* from a new epistemological and methodological perspective in which *Maqāṣid al-Sharīʿah* constituted not only the unifying theme of its topics and propositions, but also the overwhelming spirit which permeates it throughout and reshapes its entire structure.

Although he attached considerable importance to language and linguistic considerations in understanding the Qurʾānic discourse, he strove to free those considerations from what may be described as the mechanical use thereof, especially by means of his untiring insistence on the intents of the Lawgiver. These intents, as we have seen in our

discussion of his view of the place of the Qurʾān and the methodology needed for its interpretation, may be known only on the basis of a holistic approach to its verses and chapters that transcends the atomistic treatment of it by jurists and exegetes alike.

Building on his Andalusian predecessor, Draz embraced the thematic approach to the interpretation of the Qurʾān from within the field of *tafsīr* and Qurʾānic studies. His work and influence have yet to be critically assessed in light of the intellectual and cultural developments that have taken place in Muslim life, especially in the world of academia.

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