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MAQĀṢID AL-SHARĪʿAH: MEANING, SCOPE AND RAMIFICATIONS

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Abstract

This paper presents a prelude, an overview that sheds light on the theoretical underpinnings and historical development of the concept of maqāṣid al-Sharīʿah in the context of Islamic legal theory (ʿilm uṣūl al-fiqh) which touches on methodological and epistemological issues. The bulk of this essay then undertakes a relatively detailed analysis and explication of the substance, content and dimensions of maqāṣid al-Sharīʿah with the clear intention to highlight the relationship of the idea of maqāṣid to the issue of human nature and its bearing on the question of values. It reflects on the general import and ramifications of maqāṣid al-Sharīʿah with regard human life and development in their complex and multifaceted nature.

Introduction

Over the last three to four decades the term *maqāṣid al-Sharīʿah* has become, so to speak, a catchword in many academic and intellectual circles in the Muslim world and beyond. It is a phenomenon that reflects a growing interest in the study of an important aspect of the theoretical and historical development of Islamic jurisprudence irrespective of its different schools. This aspect has to do with the philosophy and values informing and underpinning the legal rules and injunctions of Islam, be they explicitly spelled out in its scriptural sources (i.e. The Qur'an and Prophetic Traditions) or

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inferred from those sources and formulated by Muslim scholars and jurists through interpretative and discursive processes and methodological tools that are usually expressed by the nomenclature of *ijtihad*, for which purpose the discipline of *'ilm uṣūl al-fiqh* emerged and crystallized over the centuries.

Etymologically and literally speaking, the term *maqāṣid al-Sharī'ah* refers to the intents and goals (*maqāṣid,* sing., *maqṣad* or *maqṣid*) of the way (*sharī'ah*) instituted by God, the Law-Giver (*al-Shāri'*), through the Qur'anic revelation and its supplement, the Prophet's sayings. In a broad technical sense, this term stands for the body of goals and ends underlying the textual corpus with legal purport in the Qur'an and Prophetic Traditions, known as *āyāt* and *aḥādīth al-aḥkām*, and whose realization is meant to be achieved by the human agents (*mukallafīn*) through their obedience to, and implementation of, the commands and rules enshrined in that corpus. Regardless of their size, this category of Qur'anic verses and Prophetic traditions have been the focus of study of Muslim jurists (*fuqahā'*) and legal theorists (*uṣūliyyūn*) throughout the ages in the different schools of Islamic jurisprudence, thus constituting the textual core around which their juridical reflections, inferences, formulations and disputations all revolve.

The aim of this paper is threefold. Firstly, and as a prelude, an overview sheds light on the theoretical underpinnings and historical development of the concept of *maqāṣid al-Sharī'ah* in the context of Islamic legal theory (*'ilm uṣūl al-fiqh*). This overview touches on methodological and epistemological issues. Secondly, and this constitutes the bulk of this essay, a relatively detailed analysis and explication of the substance, content and dimensions of *maqāṣid al-Sharī'ah* is then undertaken. This undertaking has been carried out with clear intention to highlight the relationship of the idea of *maqāṣid* to the issue of human nature and its bearing on the question of values. Thirdly, the chapter reflects on the general import and ramifications of *maqāṣid al-Sharī'ah* with regard human life and development in their complex and multifaceted nature.

A conscious and intended objective has clearly informed the presentation and discussion all through: to disentangle the notion of *maqāṣid al-Sharī'ah* from its original and immediate jurisprudential

context and to free it from any narrow legalistic conception so as to connect it to a wider vision of human interests and values that is anchored in the Qur'anic worldview, though immediate citation of Qur'anic verses has been kept to a minimum. It is believed that such an approach to, and mode of reflection on, *maqāṣid al-Sharīʿah* opens new vistas of thought and enables the mind to explore new and more promising intellectual horizons in dealing with the problem of human society and civilization.

Likewise, the paper is mainly of a conceptual nature aimed at elucidating *maqāṣid al-Sharīʿah* seen as a major and crucial development in Islamic thought in general and Islamic jurisprudence in particular, without keeping its significance and bearing confined to the legal domain in its technical narrow sense. Its ultimate purpose is to pinpoint some of the intellectual opportunities it promises in terms of rethinking many of the pressing and enduring socio-cultural, political, and economic issues of our age, at least as Muslims and Muslim societies are concerned. Accordingly, it will not be as much concerned with providing an exhaustive exposition of the views and ideas of the many individual scholars who contributed in different ways to the development of the idea of *maqāṣid al-Sharīʿah* as with tracing out its overall historical development, its basic structure as well as its epistemological foundations and their intellectual ramifications and practical implications.

Maqāṣid al-Sharīʿah: Theoretical and Methodological Origins

The Qur'an is characterized by an emphatically engaging discourse calling upon humans to use their minds and reflect upon its verses as well as to ponder on the different phenomena of nature and the universe, all of which being signs and indicators (*āyāt*) of God's wisdom in the two books of Creation and Revelation. While the book of Creation abounds with what human beings need for their material and non-material nourishment and sustenance throughout the different stages of their worldly existence, that of Revelation provides them with the required values and rules for guidance in all spheres of life, so that they may live a balanced good life materially and spiritually, individually and collectively.

As the word of God, the Qur'an, however, is not merely

prescriptive, in the sense that it is only concerned with enunciating commandments and instituting rules to govern human behaviour and regulate people's relationships and dealings. It in fact abounds with descriptive statements about a multitudes of facts, phenomena and processes relating to man, nature and the cosmos, in such ways that they outnumber its prescriptive statements, be they of explicit or implicit legal import. The purpose of such descriptive statements is not simply to bring specific empirical information to the human consciousness about what is being described (which is the object of natural-physical and human-social sciences) and to direct it to its pragmatic usefulness and cultural significance. Most importantly, these descriptions are meant to awaken the intellect to the wisdom and purposeful existence of those phenomena and facts as well as their causal connections. The Qur'an thus invites the human mind to study such phenomena and facts in order to know their characteristics and connections, discover the laws governing them, fathom their reality and underlying wisdom, and realize their moral and spiritual significance and implications, in as much as this is within human power. In like manner, the Qur'an establishes an essential bond between the two books of Creation and Revelation whose messages are intended for the benefit and good of mankind, God's trustee and vicegerent on earth. This is clearly epitomized by the fact that in many different contexts we find the Qur'anic discourse engaged in a multidirectional movement embracing various matters of moral, legal, spiritual, physical and historical nature, thus bringing to light their ultimate and fundamental interconnectedness in different ways and for specific purposes.[2]

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[2] Muhammad Baqir al-Sadr, *Mawsū'at al-Imām al-Shahīd al-Sayyid Muḥammad Bḥqir al-Ṣadr* (Qom, Iran: Markaz al-Abḥāth wa'l-Dirāsāt al-Takhaṣṣuṣiyyah li'l-Shahīd al-Ṣadr, 1421H), vols. 5 & 19, 45-187; Mohamed Osman Nagaty, *al-Qur'ā'n wa-Ilm al-Nafs* (Cairo: Dār al-Shurūq, 1421/2001), 71-263; Fazlur Rahman, *Major Themes of the Qur'an* (Chicago & London: The University of Chicago Press, 2009), 17-79; Eligani Abdelgader Hamid, *Mushkilat al-Faqr: Muqaddimāt fī Uṣūl al-Iqtiṣād al-Siyāsī fi'l-Islām* (Khartoum: Institute of Research and Social Studies, 1994), 13-38; Eltigani Abdelgader Hamid, "al-Tafsīr al-Ta'wīlī wa ʿIlm al-Siyāsah: Dirāsah fi'l-Mafhūm al-Qur'ānī wa'l-Mutaghayyir al-Siyāsī", *Islāmiyat al-Ma'rifah*, Vol. 3, No. 10 (1418/1997): 55-71 & 80-89; Muzaffar Iqbal, *Islam and Science* (Hampshire, England: Ashgate Publishing Limited, 2002), 29-38;

The idea of the relationship between Creation and Revelation has attracted the attention of many Muslim scholars of different disciplinary backgrounds. To give an example, it has been beautifully expressed by Abū al-Ḥasan al-ʿŌmirī (d. 381/992), an eminent Muslim philosopher of the 4th/10th century. As he put it,

> Just as God has provided for mankind the sources of nutrition (*uṣūl al-aghdhiyah*) and inspired them with the means to distinguish amongst them in order to extract what is suitable and beneficial to them, so too He has instituted for them in matters of religion comprehensive principles (*uṣūl jāmiʿah*) and endowed them with sound minds to subsume particular issues under those principles.[3]

An important idea informing this statement is that knowledge of the Creation and natural phenomena goes hand in hand with that of Revelation, and that the two types of knowledge are necessary and complement each other in an essential manner so as to provide the framework and means for fulfilling the different needs of human beings in their life journey in this world. This parallelism, indeed convergence, between creation and revelation was later taken up by the Ḥanbalī legal theorist and jurist Ibn ʿAqīl almost literally, the only difference being that he provides a detailed explanation and cites illustrative examples. He did so in conjunction with his discussion of *ijtihād* and *qiyās* as being a divine test to human beings to apply their minds in order to investigate the texts of Revelation and fathom the causes and purposes of its commands. As he said, God has divided human worldly benefits (*manāfiʿ dunyawiyyah*) into two categories without which human needs and well-being cannot be attained. The first category consists of necessary universals (*kulliyyāt*) which He has taken care of and which humans have no

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Mahdi Golshani, *The Holy Qur'an and the Sciences of Nature: A Theological Reflection* (New York: Global Scholarly Publication, 2003), 117-317; Hassan bin Saleh al-Humayed, *Sunan Allāh fi'l-Umam min khilāl Ōyāt al-Qur'ān al-Karīm* (Riyadh: Dār al-Faḍīlah, 1432/2011), 15-552.

[3] Abū al-Ḥasan al-ʿŌmirī, *al-Iʿlām bi-Manāqib al-Islām*, ed. Ahmad Abdelhamid Ghurab (Riyadh: Mu'assassat al-Aṣālah, 1408/1988), 116.

way of acquiring or causing their effects, such as the creation of winds, clouds and animals for different purposes. These are similar to the texts of Revelation. The second category consists of particulars (*juz'iyyāt*) which God has entrusted human beings to extract and acquire by exercising their natural talents and innate intellectual powers through such activities as cultivation, harvest, carving, building homes, weaving clothes, preparing nutritious foods and extracting medicines.

> Likewise, He has combined for them the two blessings (*al-niʿmatayn*): the greater blessing which He undertook Himself, and the lesser blessing whose pursuit He has assigned to them and inspired them to attain by virtue of [their] inborn natural disposition and by means of the fine talents He has endowed them with.[4]

Motivated by that call and inspired by this spirit, Muslim scholars generally and legal theorists and jurists in particular applied their intellectual acumen to the Qur'anic and Prophetic legal corpus in order to comprehend the types of legal commands and rules (*aḥkām*) enshrined therein, uncover their underlying *ratio legis* and causes (*'ilal*), and grasp the wise purposes (*ḥikam*) and goals (*aghrāḍ/maqāṣid/ghāyāt*) intended by their legislation. Put differently, aside from knowing the different categories of the legislative commands and rules instituted in the Qur'an and elaborated by the Prophet in terms of prescriptions, proscriptions and what lies in between,[5] Muslim scholars were most importantly seeking to understand the causality and purposefulness of those rules and commands. This pursuit revolved around what is theologically and juristically known as the issue of ratiocination and causation (*taʿlīl*). Notwithstanding the theological disagreement on the

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[4] Abū al-Wafāʾ ʿAlī bin ʿAqīl bin Muḥammad Ibn ʿAqīl, *al-Wāḍiḥ fī Uṣūl al-Fiqh*, ed. *George Makdisi* (Beirut-Wiesbaden: Franz Sreiner Verlag GMBH, 2002), vol. 4/2, 367.

[5] Reference is here made to what is known in Islamic jurisprudence as the *ḥukm taklīfī* (normative or prescriptive command) which consists of five categories according to the majority of scholars; namely, obligatory (*wājib*), forbidden (*maḥẓūur/muḥarram*), recommended (*mandūb*), disapproved (*makrūh*), and neutral or originally permissible (*mubāḥ*).

purposefulness and causality in Divine acts and commands, the theory of *taʿlīl* in Islamic legal theory was crucial in laying out the basis and framework for analogical reasoning and inference (*qiyās*) which constitutes a major tool of *ijtihād* in Islamic legal methodology, whereby the legal precepts laid down by the Sharīʿah are extended and applied to new cases and situations based on the common *ratio legis* they share with the original cases which are textually established by the scriptural sources of the Sharīʿah.[6] [7].

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[6] Abū ʿAbd Allāh Muḥammad bin ʿAlī al-Ḥakīm al-Tirmidhi, *Kitāb Ithbāt al-ʿIlal*, ed. Khalid Zahri (Rabat, Morocco: Faculty of Letters and Human Sciences, 1998), 76-243; Aḥmad bin ʿAlī al-Rāzī al-Jaṣṣāṣ, *al-Fuṣūl fī al-Uṣūl*, ed. Ajil Jassem al-Nashmi (Kuwait: Minsitry of Awqāf and Islamic Affqirs, 2nd edn., 1414/1994), 7-220; al-qāḍī Abū al-Ḥusayn ʿAbd al-Jabbār al-Asadābādī, *al-Mughnī fī Abwāb al-Tawḥḥīd waʾl-ʿAdl*, ed. Taha Hussain et al. (Cairo: al-Dār al-Miṣriyyah liʾl-Taʾlīf waʾl-Tarjamah, 1378-1384), 277-335; Abū al-Ḥusayn Muḥammad ibn ʿAlī ibn al-Ṭayyib al-Baṣrī, *Kitāb al-Muʿtamad fī Uṣūl al-Fiqh*, ed. Muhammad Hamidullah *et al.* (Damascus: Institut Français de Damas, 1964), 690-835; Abū Ḥāmid Muḥammad bin Muḥammad bin Muḥammad al-Ghazālī, *Shifāʾ al-Ghalīl fī Bayān al-Shabah waʾl-Mukhīl mwa-Masālik al-Taʿlīl*, ed. Hamad al-Kubaysi (Baghdad: Maṭbaʿat al-Irshād, 1390/1971), 23-194 & 456-679; Fakhr al-Dīn Muḥammad bin ʿUmar bin al-Ḥusayn al-Rāzī, *al-Maḥṣūl min ʿIlm al-Uṣūl*, ed. Taha Jabir al-Alwani (Beirut: Muʾssassat al-Risālah 1412/1992), vol 5, 232-376; Muhammad Mustafa Shalabi, *Taʿlīl al-Aḥkām* (Cairo: Dār al-Salām, 1438/2017), 31-171; Muhamad al-Tahir Ibn Ashur, *Uṣūl al-Niẓām al-Ijtmāʿī fiʾl-Islām* (Amman: Dār al-Nafaes, 2001), 379-81; Muhamad al-Tahir Ibn Ashur, *Treatise on Maqāṣid al-Sharīʿah*, translated from the Arabic and annotated by Mohamed El-Tahir El-Mesawi (London-Washington: The International Institute of Islamic Thought, IIIT,1427/2006), 26-29 & 60-67; Abdul-Hakim Abdul-Rahman Asaad al-Saadi, *Mabāḥith al-ʿIllah fiʾl-Qiyās ʿinda al-Uṣūliyyīn* (Beirut: Dar al-Bashāʾir al-Islāmiyyah, 1421/2000), 67-524; Salem Yafout, *Ḥafriyyāt al-Maʿrifah al-ʿArabiyyah al-Islāmiyyah: al-Taʿlīl al-Fiqhī* (Beirut: Dār al-Ṭalʿah, 1990), 47-159; Wael B. Hallaq, "The Primacy of the Qurʾan in al-Shāṭibī's Legal Theory," in Wael B. Hallaq & Donald P. Little, eds., *Islamic Studies Presented to Charles Adams* (Leiden-New York-København-Köln: E.J. Brill, 1991), 83-90; Ahmad al-Raysuni, *Imam al-Shāṭibī's Theory of the Higher Objectives and Intents of Islamic Law*, translate from the Arabic by Nancy Roberts (London-Washington, The International Institute of Islamic Thought, IIIT, 1426AH/2005CE), 169-222; Buthaina al-Jlassi, *al-Qiyās Aṣlan min Uṣūl al-Fiqh ilā Ḥudūd al-Qarn al-Thāmin liʾl-Hijrah* (Beirut: Dār al-Kutub al-ʿIlmiyyah, 2011), 248-288; Abdennour Baza, *Naẓariyat al-Taʿlīl fiʾl-Fikrayn al-Kalāmī waʾl-Uṣūlī* (Herndon, Virginia: The International Institute of Islamic Thought, 1432/2011), 36-149; Rami Koujah, "Divine Purposiveness and its Implications in Legal Theory: The Interplay of Kalām

With the exception of minority trends rejecting analogy in Islamic jurisprudence together with its anchoring principle of ratiocination, the majority of Muslim jurists embraced both, no matter what qualifications some would require therefor. Without ratiocination, so it is argued, we fall into a literalist stance that would miss the wisdom, depth and richness of meaning of the Qurʾanic and Prophetic discourses as well as the rationality and purposefulness of the legislations instituted therein. In line with this fundamental premise, scholars made statements and developed formulations so as to circumscribe the goals and objectives of the Sharīʿah. Thus, Abū Bakr al-Qaffāl al-Shāshī (d. 365H), sketching out the theoretical framework guiding his treatise on substantive Islamic law (*fiqh/furūʿ*), asserted that the rules of the Sharīʿah concerning the different domains of human life are all rational and goal-oriented; otherwise, they would run counter to wisdom and that which is good and beneficial. This is because God, out of care and mercy for human beings, has willed to promote their good and well-being and to protect them from evil and harm.[8] According to Abū al-Ḥasan al-ʿÓmirī, a philosopher who studied Islamic theology and jurisprudence with al-Shāshī, the virtues of Islam (*manāqib*) and the underlying wisdom of its legal precepts reside in one fundamental aspect reflecting the all-encompassing character of its teachings from which the magnanimity and balance of its commands and rules all flow. This aspect lies in the fact that Islam's legal precepts are suitable to human nature by virtue of their being intended for the universal and total good (*maṣlaḥah kulliyyah*) of human beings

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and Uṣūl al-Fiqh," *Islamic Law and Society*, Vol. 24, No. 3 (2016): 171-210; Ahmed al-Tayyib, *Ḥadith fiʾl-ʿIlal waʾl-Maqāṣid* (Cairo: Mashyakhat al-Azhar, 1440/2019), 11-38.

[7] It is worth noting that Shalabi's work provides the most comprehensive, systematic and profound intellectual and historical account, to be found in one single monograph, of the subject of *taʿlīl* in its scriptural, theological and legal dimensions. Though written more than seven decades ago, it remains indisputably unmatched. On the hand, Yafout's study thereof has lucidly and profoundly addressed it from the epistemological point of view, thus complementing Shalabi's pioneering work.

[8] Abū Bakr Muḥammad bin ʿAlī bin Ismāʿīl bin al-Shāshī (known as al-Qaffāl al-Kabīr), *Maḥāsin al-Sharīʿah fīi Furūʿ al-Shāfiʿiyyah*, annotated by Mohamed Ali Samak (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1428/2007), 25-35.

rooted in the original dignity conferred upon them by their Creator.[9]

Such was the essential philosophical view that guided most of subsequent legal theorists and jurists who had to offer something substantial in the theorizing and elaboration on the nature, characteristics and purposes of the Sharīʿah as a divinely prescribed way of life encompassing an ethico-legal system. Their deliberations on the issue of *taʾlīl* and other related concepts (i.e., *ʾillah*, *manāṭ*, *ḥikmah*, *malāk*, etc.) eventually crystallized through the concept of *munāsabah* (suitability, appropriateness, relevance), thus giving rise to the idea of *maqāṣid al-Sharīʿah*. Though ranking down in the order of the methods devised by *uṣūl al-fiqh* scholars for identifying the occasioning factors and underlying causes (*ʾilal*) of the Sharīʿah injunctions (known as *masālik al-ʾillah*), the method of *munāsabah* has over time acquired special importance and significance for the conceptualization of the intents and purposes of the Sharīʿah as an ethico-juridical system. Let us elaborate this point a little bit more. *Munāsabah* or suitability concerns specifically the issue of the cause, *ratio legis* or *ratio decidendi* (*ʾillah*), on the basis of which a Sharīʿah injunction or command (*ḥukm*) is promulgated, irrespective of the ontological status of that cause.[10] Being an attribute or feature (*waṣf*) of the subject matter of the command (*mawḍūʾ al-ḥukm*, i.e., a human act or something related thereto), the effective cause has to fulfil a number of conditions. One of those conditions is that the attribute must be suitable (*munāsib*) for associating the *ḥukm* with it. This means that basing the *hukm* on that feature is agreeable to reason, in the sense that there is an appropriate relationship between the *hukm* and its cause which the human mind can comprehend.[11]

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[9] Abū al-Ḥasan al-ʿÓmirī, *al-Iʿlām bi-Manāqib al-Islām*, 95-150; Abū al-Ḥasan al-ʿÓmirī, *Arbaʿ Rasāʾil Falsafiyyah*, ed. Saeed al-Ghanimi (Tunis-Beirut: Dār al-Tanwīr, 2015), 182-213; Shāh Walī Allāh al-Dihlawī, *Ḥujjat Allāh al-Bālighah*, Vol. 1, ed. Mohammad Taʿmah Halabi (Beirut: Dār al-Maʿrifah, 1425/2004), 159-161.

[10] Reference is here made the dispute among Muslim theologians and legal theorists on whether the *ʾillah* of a Sharīʿah rule necessitates the latter by its very nature or is only an indicator thereof.

[11] Ala al-Din Shams al-Nazar Abu Bakr Muhammad bin Ahmad al-Samarqandi, *Mīzān al-Uṣūl fī Natāʾij al-ʿUqūl*, ed. Mohammed Zaki Abd al-Barr (Doha: Maṭābiʿ al-Dawḥa, 1404/1984), 573-609; Imām al-Ḥaramayn Abū al-Maʿālī ʿAbd al-Malik

A famous classical example can illustrate this well. If someone were to claim that the consumption of wine (*khamr*) is because of the latter's colour, smell, liquidity or the material from which it is extracted, the human intelligence cannot see any reasonable relationship between these properties and the prohibition of wine drinking. In other words, none of them fulfils the requirement of suitability and therefore cannot be considered as the *'illah* for the prohibition of wine drinking. However, when we say that intoxication (*iskār*), which is the effect of wine on the drinker's

ibn ʿAbd Allāh ibn Yūsuf al-Juwaynī, *al-Burhān fī Uṣūl al-Fiqh*, ed. Abdullah al-Naybali *et al.* (Beirut: Dār al-Bashā'ir al-Islāmiyyah/Makkah al-Mukarramah, 1417/1996), 154-227 & 245-280; Imām al-Ḥaramayn Abū al-Maʿālī ʿAbd al-Malik ibn ʿAbd Allāh ibn Yūsuf al-Juwaynī, *Kitāb al-Talkhīṣ fī Uṣūl al-Fiqh*, ed. Abdul Azim Mahmud al-Deeb (al-Mansourah, Egypt: Dār al-Wafā', 1412/1992), 743-781 & 787-799; Abū Bakr Muḥammad bin Aḥmad bin Abī Shal al-Sarakhsī, *Uṣūl al-Sarakhsī*, ed. Abu al-Wafa' al-Afghani (Hyerabad Deccan: Lajnat Iḥyā' al-Maʿārif al-ʿUthmāniyyah, n. d.), 144-150 & 176-186; Ghazālī, *Shifā' al-Ghalīl fī Bayān*, 142-212; Abū Ḥāmid Muḥammad bin Muḥammad bin Muḥammad al-Ghazālī, *al-Mustaṣfā min 'Ilm al-Uṣūl*, ed. Mohammad Sulayman al-Ashqar (Beirut: Mu'assat al-Risālah, 1417/1997), 306-314; Muhammad bin Muhammad Barawi, *al-Muqtaraḥ fi'l-Muṣṭalaḥ*, ed. Sharifah bint Ali bin Sulayman al-Hushani (Beirut/Riyadh-Damascus: Dār al-Warrāq, 1424/2004), 172-182; Rāzī, *al-Maḥṣūl min 'Ilm al-Uṣūl*, 157-171; ʿAlī bin Muḥammad al-Ómidī, *al-Iḥkām fī Uṣūl al-Aḥkām*, annotated by Abdul Razaq Afifi (Riyadh: Dār al-Ṣamīʿī, 1424/2003), 338-369; Shalabi, *Ta'līl al-Aḥkām*, 257-293; Saadi, *Mabāḥith al-'Illah fi'l-Qiyās*, 390-442; Yafout, *Ḥafriyyāt al-Maʿrifah,* 109-116 & 174-185; Hallaq, "The Primacy of the Qur'an", 88-89 & 112-113; Khalid Zahri, Taʿlīl *al-Sharīʿah bayna al-Sunnah wa al-Shīʿah* (Beirut: Dār al-Hādī, 1424/2003), 27-234; Noureddine bin Mokhtar al-Khadmi, *al-Munāsabah al-Sharʿiyyah wa-Taṭbīqātuhā al-Muʿāṣirah* (Herndon, USA: The International Institute of Islamic Thought / Beirut: Dar Ibn Hazm, 1427/2006), 31-232; Mohamed El-Tahir El-Mesawi, "Maqāṣid al-Sharīʿah and the Human Scio-Ethical Order" (Ph.D. Thesis, International Islamic University Malaysia, 2003), 45-57; Mohamed El-Tahir El-Mesawi, "al-Taʿīl wa'l-Munāsabah wa'l-Maṣlaḥah: Baḥth fī Baʿḍ al-Mafāhīm al-Ta'sīsiyyah li-Maqāṣid al-Sharīʿah", *Islāmiyyat al-Maʿrifah*, vol. 13, vol. 52 (1429/2008): 15-24; Bernard G. Weiss, "Covenant and Law in Islam," in Edwin B. Firmage, Bernard G. Weiss & John W. Welsh, eds., *Religion and Law: Biblical-Judaic and Islamic Perspectives* (Winona Lake, IN: Eisenbrauns Publishers and Booksellers, 1990), 598-603; Anver M. Emon, *Islamic Natural Law Theories* (Oxford, UK: Oxford University Press, Year: 2010), 125-158; Baza, *Naẓariyat al-Taʿīlil fi'l-Fikrayn*, 103-133; Ahmed al-Tayyib, *Ḥadith fi'l-'Ilal wa'l-Maqāṣid*, 97-154.

mind, is the *'illah* of prohibition then one can easily realize the suitability of this feature to be the ground for the rule in question. This suitability becomes more evident and compelling when we further reflect on the purpose underlying the prohibition and find that it aims at the protection of the intellect (*ḥifẓ al-ʿaql*), considering the fact that consumption of intoxicating beverages is detrimental to the mind and affects human rationality and conduct. That is, the *munāsabah* of the *'illah* to the Sharīʿah rule reflects the wisdom (*ḥikmah*) underlying such a rule. The wisdom pertains to the goal/end intended by the Lawgiver in instituting the rule. This objective, in turn, consists of promoting and acquiring something good and beneficial (*maṣlaḥah*) or preventing something evil and harmful (*mafasadah*) or both at the same time.[12] Hence, we read in the Qur'an (2: 219),

> They will ask thee about intoxicants and games of chance. Say: "In both there is great evil as well as some benefit for people; but the evil which they cause is greater than the benefit which they bring."

As can be seen in the above-cited verse, the Qur'an adopts a clearly realistic approach whereby it does not deprive intoxicants and gambling from having any positive aspects and bringing about benefits to human beings, but it points out that such benefits are outweighed by the harms and evils involved therein. Hence it leaves it to human rationality and sense of good and evil to decide which course of action to take depending on man's wise assessment of the pros and cons.

Likewise, the essential meaning of *munāsib* and *munāsabah* revolves around the idea of what is good, beneficial and agreeable in such a way that when the *ḥukm* is attributed to it, it is proven to be sound and orderly in the sight of human reason. While the adjective *munāsib* refers to that which is agreeable, the term *munāsabah* has to do with the kind of relationship between the Sharīʿah rule and its underlying cause or *'illah*. Hence, the principle of suitability has been described as being the bedrock of analogical reasoning on which the

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[12] Al-Ghazālī, *Shifāʾ al-Ghalīl fī Bayān*, 142-212; Weiss, "Covenant and Law in Islam", 66-87.

latter's lucidity and ambiguity both depend.[13] But the meaning and bearing of the concept of *munāsib* and *munāsabah* were not to be restricted to what has just been said, though this was a matter of almost universal consensus among mainstream juristic schools. Rather, it has been given wider and deeper scope going beyond its juristic connotation. To start with, Fakhr al-Dīn al-Rāzī (d. 606/1209) looked at the notion of *munāsabah* from a wider perspective considering it more than just one criterion or method to identify and ascertain the *'illah*. For him, in addition to its centrality and primacy over all other *masālik al-'illah* whether they are explicitly stated by the textual sources of the Sharīʿah or inferred through interpretation, *munāsabah* constitutes an integrated theory of ratiocination (*taʿlīl*), thus providing the basis for the causality of the *'illah* (*al-munāsabah 'illatun li-'illiyat al-'illah*). Likewise, it entails whatever leads to attaining (*taḥṣīl*) as well as retaining (*ibqāʾ*) that which is agreeable to human beings, thus consisting of bringing about benefit (*manfaʿah*) and averting harm (*maḍarrah*), all of which revolve around human good in this life and in the hereafter. Najm al-Dīn al-Ṭūfī (d. 716/1316), a Ḥanbalī scholar, took a step further in his conceptualization of *munāsabah*. In his view, it is not only the pivot of the Sharīʿah which is based on the consideration of what is good and beneficial (*maṣlaḥah*) to human beings in a way that is comprehensible by reason. Rather, it is more so for all the realms of existence, as no existent can be perceived without rational appropriateness (*munāsabah 'aqliyyah*) determining its status and relationships with other existents. Before al-Rāzi and al-Ṭūfī, al-Barawī, a less known Shāfiʿī scholar, argued that there is no true *'illah* in the Sharīʿah except that which is certainly suitable or that which has a high likelihood to be suitable.[14]

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[13] Badr al-Dīn Muḥammad bin Bahādur bin ʿAbd Allāh Zarkashī, *al-Baḥr al-Muḥīṭ fī Uṣūl al-Fiqh*, ed. Abdul-Qadir Abdullah al-Ani et al. (Kuwait: Ministry of Awqaf and Islamic Affairs, 1413/1992), 206; Muḥammad bin ʿAlī al-Shawkānī, *Irshād al-Fuḥūl ilā Taḥqīq al-Ḥaqq min 'Ilm al-Uṣūl*, ed. Abu Hafs Sami bin al-Arabi al-Athari (Riyadh: Dār al-Faḍīlah, 1421/2000), 897-908.

[14] al-Rāzī, *al-Maḥṣūl min 'Ilm al-Uṣūl*, 157-180; Najm al-Dīn Abū al-Rabīʿ Sulaymān bin ʿAbd al-Qawīy bin ʿAbd al-Karīm bin Saʿīd al-Ṭūfī, *Sharḥ Mukhtaṣar al-Rawḍah*, ed. Abdullah bin Abdul Mohsen al-Turki (Beirut: Muʾassassat al-Risālah, 1419/1998), 382; al-Barawi, *Muqtaraḥ fi'l-Muṣṭalaḥ*, 176-177; Emon, *Islamic Natural Law Theories*, 145-146 & 158-165.

The foregoing exposition makes it clear that *munāsabah* served as the unifying principle of different aspects and issues of *taʿlīl* and *qiyās* which otherwise would remain unrelated, if not overtly in conflict with each other.[15] In fact, as clearly intimated by al-Ṭūfī, rational suitability between things is a universal phenomenon concerning the reals of both Revelation and Creation. As argued by many Muslim scholars, in the context of this universal wisdom and order everything is put in its right or proper place to serve a specific purpose or purposes in accordance with its intrinsic properties.[16] Regardless of whether or not human beings attain cognition of that wisdom in its manifold manifestations in and around them in the wider universe, it bespeaks a teleology underlying both realms. Balance and justice constitute a crucial aspect of the divine wisdom just mentioned, and apply to both Creation and Revelation. It is telling that, as far as the immediate context of the present discourse is concerned, the Qur'an (57: 25) has stated that the ultimate purpose of God's sending prophets with the Book (*Kitāb*) and Balance (*Mīzān*) is for human beings to behave with equity and uphold justice.[17] As

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[15] El-Mesawi, "al-Taʿīl wa'l-Munāsabah wa'l-Maṣlaḥah", 24-33.

[16] Abū Manṣūr Muḍammad bin Muḥammad bin Maḥmūd al-Māturīdī, *Kitāb al-Tawḥīd*, ed. Bekir Topaloglu & Muhammad Aruçi (Beirut: Dar Sader / Istanbul: Maktabat al-Irshad, 1428/2007), 102, 164, 166-168, 175-181, 192-193 & 244-246; Imām al-Ghazālī, *Majmūʿat Rasāʾil al-Imām al-Ghazālī*, ed. Yusuf Ibarhim Saloum (Beirut: Dār al-Maʿrifah, 1433/2012), 13-55; Sirāj al-Dīn Maḥmūd ibn Abī Bakr al-Armawī, *al-Taḥṣīl mina'l-Maḥṣūl*, ed. Abdulhamid Ali Abu Zunayd (Beirut: Mu'assassat al-Risālah, 1408/1988), 195-201; Abū ʿAbd Allāh Muḥammad bin Abī Bakr bin Ayyūb Ibn Qayyim al-Jawziyyah, *Miftāḥ Dār al-Saʿādah wa-Manshūr al-ʿIlm aw'l-Irādah*, ed. Abderrhman bin Hassan bin Qa'id (Makkah al-Mukarramah: Dār ʿÓlam al-Fawāʾid, 1432H), 521-1176; Allal al-Fasi, *Maqāṣid al-Sharīʿah wa-Makārimuhā*, ed. Ismail Hassani (Cairo: Dār al-Salām, 1432/2011), 111.

[17] Thus we read in surah *al-Ḥadīd* (Q., 57: 25):
Indeed, [even aforetime] did We send forth Our apostles with all evidence of [this] truth; and through them We bestowed revelation from on high, and [thus gave you] a balance [wherewith to weigh right and wrong], so that men might behave with equity; and We bestowed [upon you] from on high [the ability to make use of] iron, in which there is awesome power as well as [a source of] benefits for man: and [all this was given to you] so that God might mark out those who would stand up for him and His Apostle,43 even though He [Himself] is beyond the reach of human perception. (Muhammad Asad, *The Message of the Qur'an*)

Ramon Harvey has recently argued, rather than conceiving of divergence or conflict between the knowledge received through Revelation and that acquired by reason when applied to the phenomenal world, Islamic epistemology and meta-ethics integrate both kinds of knowledge in such a way as would enable human beings to grasp the universal truths and values couched therein, albeit in different types of language, but all undoubtedly serving human good and well-being.[18]

It becomes abundantly clear from the foregoing exposition that in its legislation for human life the Qur'an appeals to man's reason and innate disposition to make sound judgements in dealing with things, and bases its judgements and commands on rational grounds not on mere arbitrariness of authority. This is a reflection of its regard to, and valuation of, the human being's capability and qualification to the position of trusteeship (*amānah*) and stewardship (*khilāfah*) on earth to which mankind has been raised in contradistinction to all other animal species by virtue of an absolute divine decree. It is most probably due to this essential feature of the agreeabilty of Islamic teachings with reason and suitability to human nature and condition as elaborated by Muslim scholars out of their inquisitive reflection on the Qur'anic and Prophetic discourses, that some authors have gone as far as to speak of 'natural law theories' in Islamic jurisprudence. But, of course, such statements need to be qualified by the fact that Revelation is the final arbiter in the Islamic context no matter what nature and reason can teach, especially as far as the normative aspect is concerned. This matter is agreed upon among the different theological and juristic schools, including the Muʿtazilites who are sometimes branded as extreme rationalists in the Islamic intellectual tradition. It is no wonder that this should be the case as reason and

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Compare Haleem's translation:

We sent Our messengers with clear signs, the Scripture and the Balance, so that people could uphold justice: We also sent iron, with its mighty strength and many uses for mankind, so that God could mark out those who would help Him and His messengers though they cannot see Him. Truly God is powerful, almighty. (Muhhammad A. S. Haleem, *The Qur'an*)

[18] Ramon Harvey, *The Qur'an and the Just Society* (Edinburgh: Edinburgh University Press, 2018), 9-43; Ahmad al-Raysuni, *Imam al-Shāṭibī's Theory of the Higher Objectives*, 222.

rationality in Islam operate "within a context of meaning and significance that goes beyond the internal workings of the individual human mind," and are informed by "a matrix of thinking wider than calculative and discursive rationality" and instrumental reason "can account for".[19]

Maqāṣid al-Sharīʿah: Content and Taxonomy

Muslim legal theorists looked at the concept of *munāsib* from various angles and classified it according to different, though interrelated, criteria whose details are beyond our purpose here. One, in fact the first, consideration is that classification is of immediate relevance to the present discussion, for which reason we shall take it as our point of departure. This concerns the categorization of *munāsib* as real (*ḥaqīqī*) in opposition to what is spurious (*iqnāʿī*).[20] This has to do with the *maṣāliḥ* or benefits intended by the legislation of the Sharīʿah in respect of their strength and impact in human life and existence, which gave rise to the classification of those benefits into the well-known descending hierarchical order, as we shall see below.

As far as the history of *uṣūl al-fiqh* can teach us, the Ashʿarī-Shāfiʿī theologian and jurist Abū al-Maʿālī al-Juwaynī (d. 478/1085) was probably the first to provide a systematic articulation of *maqāṣid al-Sharīʿah* in his typology of the *rationes legis* underlying the Sharīʿah commands in accordance with the order just mentioned. Three levels constitute, in al-Juwaynī's typology, the main categories of *maṣlaḥah* contemplated by those commands. The first level consists of things that are universally vital (*ḍarūrah ḥāqqah*) as they concern the foundation of the well-being of the entire society individually and collectively. Without them, human society cannot exist and survive. The law of retribution (*qiṣāṣ*), for

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[19] Ibrahim Kalin, *Reason and Rationality in the Qur'an* (Amman: The Royal Aal Al-Bayt Institute for Islamic Thought, 2012), 1; Mohammad Taqi al-Modarresi, *al-Tashrīʿ al-Islāmī: Manāhijhu wa-Maqāṣduh* (Teheran: Entesharat Modarresi, 1413-1415H), vol 1, 57-80.

[20] Ghazālī, *Shifāʾ al-Ghalīl fī Bayān*, 172; al-Rāzī, *al-Maḥṣūl min ʿIlm al-Uṣūl*, Vol. 5, 159; Zarkashī, *al-Baḥr al-Muḥīṭ fī Uṣūl al-Fiqh*, Vol. 5, 208-213; Imran Ahsan Khan Nyazee, *Theories of Islamic Law: The Methodology of Ijtihād* (Kuala Lumpur: Islamic Book Trust, 2002), 216-220.

instance, is aimed at protecting human lives against aggression and violation. The second level relates to public needs (*ḥājah ʿāmmah*), meaning things that are needed by the society in general, but not necessarily by each and every individual. However, where matters falling under this category are neglected altogether or insufficiently taken care of, the society as a whole would suffer from hardship, and harm would affect the general public. For example, if sales and hires are not sanctioned and easily accessible, much difficulty would befall people's lives as none can afford to fulfil their needs on their own. The third level involves neither a universal vital necessity nor a general public need. Rather, it consists of recommendable things which bring ease, comfort, sophistication, refinement and beauty to human life, hence their name *makrumāt*. In fact all that comes under the second and third levels constitutes a protective layer as well as a means to what stands above it. These three categories of *maṣlaḥah* are, according to al-Juwaynī, universal and comprehensive genres that constitute general principles susceptible to analogical inference and extension in dealing with new cases and emerging situations that are not textually covered by the Sharīʿah, thus encompassing all particular cases and specific details of human good in all spheres of life.[21]

Building on al-Juwaynī's classification, the contribution of al-Ghazālī's (d. 505/1111) consisted of a more systematic theoretical articulation and methodological refinement, especially in his *Shifāʾ* and *Mustaṣfā*. His contribution can mainly be seen in the taxonomy he offered as to the components of the first category. In his view, the ultimate purpose of the Divine law (*Sharʿ*) with regard to humans consists of the realization and protection of five necessary things, namely religion, life, intellect, progeny and property. Anything that leads to the preservation and promotion of these five things constitutes a *maṣlaḥah* that has to be pursued, and whatever causes the undermining or omission thereof is a *mafsadah* (harm), the

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[21] al-Juwaynī, *Kitāb al-Talkhīṣ fī Uṣūl al-Fiqh*, Vol. 2, 602-604; Imām al-Ḥaramayn Abū al-Maʿālī ʿAbd al-Malik ibn ʿAbd Allāh ibn Yūsuf al-Naysābūrī al-Juwaynī, *al-Ghiyāthī: Ghiyāth al-Umam fī Iltiyāth al-Úulam,* ed. Abdul Azim Mahmud al-Deeb (Jeddah: Dār al-Minhāj, 1432/2011), 529-548; El-Mesawi, "Maqāṣid al-Sharīʿah and the Human Scio-Ethical Order", 58-60.

aversion of which is a *maṣlaḥah*. For al-Ghazālī, these five principal matters are necessary universals (*kulliyyāt ḍarūriyyah*) which make up the cardinal values of human life throughout all times and climes, and whose protection and enhancement is the ultimate goal of any legal system meant for the good and well-being of mankind. To him no human community can be imagined that is devoid of, and does not care about, them. From the epistemological point of view, they are the object of certain and compelling knowledge in such a way that the human mind would readily and intuitively comprehend them and realize their importance even without the teaching of Revelation. These necessities are consolidated and complemented by the two categories of needs (*ḥājiyyāt*) and improvements or embellishments (*taḥsīnīyyāt*) which include a wide range of values pertaining to things that fulfil what we may describe as second and third order needs in human life and existence. In fact, al-Ghazālī's theorization does not stop at this general taxonomy of the goals of the Sharīʿah all of which come under the purview of the suitability principle. He further elucidates that in each of the categories of *maṣlaḥah* just mentioned there is a core as well as ancillaries and supplements to that core which only the test of practical life and implementation can bring to bear.[22]

Initiated by al-Juwaynī[23] and consolidated by al-Ghazālī, the above taxonomy of the objectives of the Sharīʿah as decreed by the Lawgiver (*al-Shāriʿ*) for the well-being of mankind has been accepted almost wholly by subsequent Muslim jurisprudents and scholars from different disciplines as a fundamental framework till today, the main difference being in elaborating its theoretical and

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[22] Ghazālī, *Shifāʾ al-Ghalīl fī Bayān*, 159-175; al-Ghazālī, *al-Mustaṣfā min ʾIlm al-Uṣūl* , Vol. 1, 416-419; Nyazee, *Theories of Islamic Law: The Methodology of Ijtihād*, 195-230; El-Mesawi, "Maqāṣid al-Sharīʿah and the Human Scio-Ethical Order", 60-64.

[23] Attributing the initiation of this taxonomy to al-Juywaynī is by virtue of looking into the matter from the perspective of *uṣūl al-fiqh*. Otherwise, we only too well know that the philosopher Abū al-Ḥasan al-ʿÓmirī (*al-Iʾlām bi-Manāqib al-Islām*, 121-125) had preceded him in enumerating clearly some of the universal necessities (*darūriyyāt*) which, according to him, constitute the pillars (*arkān*) of all religions and which Islam specifically took care of their protection and promotion by instituting a set of penal rules (*mazājir*).

methodological implications and working out its practical and pragmatic details. It is worth mentioning here that the necessary universals as articulated by Muslim legal theorists and jurists are not the result of mere intellectual or rational speculation, but are rather abstracted from multiple legal precepts and juristic details through an inductive-thematic reading of the Sharīʿah, hence their epistemological status as a matter of certain knowledge. It was the Andalusian Abū Isḥāq al-Shāṭibī who actually made what may be described as a radical reformulation of the idea of *maqāṣid al-Sharīʿah* by epistemologically and methodologically grounding it in a sophisticated theory of induction, thus transcending an atomistic approach to the textual sources of the Sharīʿah that prevailed for centuries amongst legal theorists. The latter mostly based their argument on the necessity of the five universals on the fact that specific penalties have been legislated to safeguard them from violation, such as just retribution for homicide, cutting of the hand for theft, flogging for adultery, etc. For al-Shāṭibī and like-minded scholars especially in the modern era, the evidence for the necessity and universality of the five cardinal values mentioned above does not consist of just a few scriptural statements stipulating this or that kind of punishment for their violation. Instead, it lies in the multiplicity of Qurʾanic texts and Prophetic statements covering different aspects and particular details of human life and converging to produce indisputable knowledge of them.[24]

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[24] Abū Isḥāq Ibrāhīm bin Mūsā al-Shāṭibī, *al-Muwāfaqāt fī Uṣūl al-Sharīʿah,* ed. Abdullah Draz (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1422/2001), Vol. 1, 29, 35-36, 70-71, 325 & Vol. 2, 264-268; also, Ibn Ashur, *Treatise on Maqāṣid al-Sharīʿah*, 13-20; Fahmi Mohammed Alwan, *al-Qiyam al-Ḍarūriyyah wa-Maqāṣid al-Tashrīʿal-Islāmī: al-Shāṭibī wa-Maqāṣid al-Sharīʿah* (Cairo: al-Hayʾah al-Miṣriyyah al-ʿÓmmah liʾl-Kitāb, 1989), 61-89; al-Raysuni, *Imam al-Shāṭibī's Theory of the Higher Objectives*, 282-287; Hallaq, "The Primacy of the Qurʾan", 69-90; Abdelmajid al-Najjar, *Khilāfat al-Insān bayna al-Waḥy waʾl-ʿAql* (Herndon, Virginia: The International Institute of Islamic Thought, 1413/1993), 139-161; Mohamed El-Tahir El-Mesawi, "From al-Shāṭibī's legal Hermeneutics to Thematic Exegesis of the Qurʾān", *Intellectual Discourse,* Vol. 20, No. 2 (2012): 194-207; Naamane Jughaym, *Ṭuruq al-Kashf ʿan Maqāṣid al-Shāriʿ* (Amman: Dar al-Nafaes, 1435/2014), 241-332; *cf.* Mohammed Ali Ayazi, *Fiqh al-Qurʾān: al-Mabādiʾ al-Naẓariyyah li-Dirāsat Óyāt al-Aḥkām*, Vol. 2 (Beirut: Center of Civilization for the Development of Islamic Thought, 2013), 471-500.

The foregoing exposition makes it sufficiently clear that the concept of *maṣlaḥah* lies at the heart of the theory of *maqāṣid al-Sharīʿah*, usually associated explicitly or implicitly with its opposite *mafsadah*. Though the meaning of this concept might appear to be self-evident at first sight, it however calls for clarification, as it has been a subject of dispute among Muslim jurists and legal theorists until today. Regardless of linguistic and philological considerations[25] on the term and no matter how different the juristic articulations of its meaning might be, the fact remains that there is a solid core towards which the different conceptions converge. It is a matter of fact, as al-Ghazālī put it, that human beings strive to attain goals pertaining to their well-being (*ṣalāḥ*) by seeking benefit (*jalb al-manfaʿah*) and averting harm (*dafʿ al-maḍarrah*).[26] As explained by al-Rāzī, *manfaʿah* consists of pleasure (*ladhdhah*) or what brings it about, and *maḍarrah* consists of pain (*alam*) or what causes it. This might come under the orbit of suitability in the sense that it is relevant and agreeable to human beings; yet, according to al-Rāzī, pleasure and pain cannot be subjected to precise definition due to their being the most apparent to human beings who naturally and necessarily distinguish between the two of them as well as both of them from other kinds of emotions.[27] However, for al-Ghazālī and al-Rāzī as well as other scholars before and after them, this is not a sufficient criterion for defining *maṣlaḥah* and establishing its validity, not only because of the difficulty of circumventing the meaning of pleasure and pain by precise terms, but also due to their subjectivity. Hence, their realization varies from one person to another as a result of different factors that come into play in the human experience. Therefore, higher and impersonal criteria are required in order to validate this concept, delimit its meaning and scope and determine and regulate its practical implications. Such criteria can be sought in none other than the Lawgiver's higher objectives in instituting the Sharīʿah, whereby *maṣlaḥah* has to be in

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[25] Allusion is made here to the debate among Muslim scholars on the issue of whether or not Revelation transposes the vocabulary it uses from its lexical original meaning to a new or technical meaning.

[26] al-Ghazālī, *al-Mustaṣfā min ʿIlm al-Uṣūl*, Vol. 1, 416.

[27] al-Rāzī, *al-Maḥṣūl min ʿIlm al-Uṣūl*, Vol. 5, 158.

harmony with, consolidate and promote the five universal necessities and cardinal values of religion, life, intellect, progeny and property (or wealth) as well as to be in tune with the general spirit running through the entire texture of Islamic teachings. For this, al-Ghazālī made it clear that since these five necessities constitute the fundamentals or pillars (*uṣūl*) of human society as envisioned by the Sharīʿah, *maṣlaḥah* has accordingly to be conceived as "whatever ensures the safeguarding (*ḥifẓ*) of these five fundamentals," while "anything which causes the omission of these fundamentals is a *mafsadah* and its removal is a *maṣlaḥah*".[28]

It was in this spirit that al-Shāṭibī dedicated a considerable effort to the purposes of the Lawgiver as well as those of the human subject (*mukallaf*) to demonstrate the relationship between the two kinds of purposes in which respect the *mukallaf* is expected to subject his/her will to that of the Lawgiver while pursuing his/her well-being goals. In al-Shāṭibī's thinking, this is part of the essential logic behind the promulgation of the Sharīʿah according to which the Lawgiver intends to deliver human beings from their whims and caprices (*hawā*) and bring them under the authority of the Sharīʿah. So, they become servants of God by their free choice (*ikhtiyār*) just as they are already His servants by necessity (*iḍṭirār*)[29], by virtue of their being subject to the laws governing their creation and physical constitution and structure. In fact, it is here that the subject's intention is paramount and decisive in shaping the goals and consequences of his/her endeavours and deeds, be it in acts of devotional worship like ritual prayer, or in life's mundane matters pertaining to the fulfilment of physical and non-physical needs, such as financial dealings. Considering the interrelatedness of the five

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[28] al-Ghazālī, *al-Mustaṣfā min ʿIlm al- Uṣūl*, 417; *cf.* al-Shāṭibī, *al-Muwāfaqāt fī Uṣūl al-Sharīʿah,* Vol. 1, 13-19.

[29] In the Islamic worldview and cosmology, submission to the will of God is twofold. On the one hand, human beings are by nature and necessity subject to the physical laws governing all created beings irrespective of their will and choice, whence the idea of the Divine creational will (*irādah takwīniyyah*). On the other hand, there is the Divine legislative will (*irādah tashrīʿiyyah*) to which they are called to submit themselves freely and by choice, hence being responsible for their obedience and disobedience, as it pertains to their capacity as free and wilful moral and social agents.

universal necessities as reflecting and embodying the multidimensional character of human life and existence, it appears from al-Shāṭibī's analysis that *maṣlaḥah* has to be conceived in a normative and comprehensive manner encompassing the physical, biological, spiritual and moral needs of human beings in this world, while at the same time taking account of their ultimate goal of salvation and bliss in the Hereafter. Likewise, human desires and likes and dislikes, let alone their whims and caprices (*ahwā'*), cannot be the final arbiter on what interest and need must be about.[30] Taking stock of the insights expressed by a long chain of predecessors, notably al-Ghazālī and al-Shāṭibī, Ibn Ahsur proposed a more precise, yet comprehensive, definition of maṣlaḥah in the context of his project of developing the study of maqāṣid al-Sharīʿah as an independent discipline, with special focus on the part of the Sharīʿah constituting the general law of society or the public order.[31] This he made based on a semantic analysis of the term taking account of its morphological form (mafʿalah) indicating intensity of the meaning from which that form is derived. Accordingly, he suggests that maṣlaḥah can be defined as being "an attribute of the act (fiʿl) whereby righteousness and goodness (ṣalāḥ) takes place, that is to say utility and benefit (nafʿ), always or mostly for the pubic or the individuals." Hence, maṣlaḥah may be absolute and regular all through, as it may be predominant in most of the cases, for the general public as well as for individuals. By the same token, mafsadah, being the opposite of maṣlaḥah, is "an attribute of the act whereby corruption or harm happens always or mostly to the pubic or to individuals." This understanding of maṣlaḥah entails that it is of two kinds: public and private. Public interest (maṣlaḥah ʿāmmah) concerns what is beneficial and useful to the whole society or most of the people, thus it does not relate to individuals in so far as they are part of the whole society; whereas private interest (maṣlaḥah

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[30] al-Shāṭibī, *al-Muwāfaqāt fī Uṣūl al-Sharīʿah*, Vol. 1, 7-296; al-Raysuni, *Imam al-Shāṭibī's Theory of the Higher Objectives*, 106-168; Abderrahman Ibrahim al-Kaylani, *Qawāʾid al-Maqāṣid ʿinda al-Imām al-Shāṭibī* (Amman: The International Institute of Islamic Thought / Damascus: Dar al-Fikr, 1421/2000), 359-461; also see, Omar Sulayman al-Ashqar, *Maqāṣid al-Mukallafin fima Yutabbadu bi li-Rabb al-ʿÓlamīn* (Kuwait: Maktabat al-Falāḥ, 1402/1981).

[31] Ibn Ashur, *Treatise on Maqāṣid al-Sharīʿah*, xxii, xxiv.

khāṣṣah) includes anything that benefits individuals as such. However, the latter kind of maṣlaḥah is not totally dissociated from the former, for it "is concerned with the righteousness and goodness of the individuals' acts as a means to the righteousness and well-being of the whole society to which they belong," though primarily concerned with the individuals. Whatever the meaning and kinds of maṣlaḥah, the crux of the matter for Ibn Ashur is that since the ultimate purpose of the Sharīʿah is to "preserve the well-being and order of the world," it "has surrounded the vital and invariable interests of human beings" revolving around the five universal necessities "with permanent means of protection even in situations where there is apparently no benefit."[32] To bring this point home, he invites us to ponder the extreme case of a person whose condition has combined elements of both helplessness and hopelessness, namely ignorance, destitution, senility and severe disease. Yet,

> The life of such a person is sanctified and must be protected for the sake of preserving human life. This is because the well-being of society and preservation of the order of the world depend on the sanctity and protection of human souls under all circumstances. At the same time, the Sharīʿah teaches patience and forbearance in the face of severe calamities that might befall some people. In this way, it aims at preventing indifference and selfishness from permeating people's minds in dealing with human life and to protect the vulnerable from people's varying and conflicting considerations that might lead to breaching and undermining the order of the world. By insisting on the protection of human life and emphasizing its sanctity, the Sharīʿah envisages safeguarding human beings from being subjugated to people's vagaries as well as from their own whims and vain desires. It thus aims at protecting the order of the world from being easily undermined at its human foundations.[33]

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[32] Ibn Ashur, *Treatise on Maqāṣid al-Sharīʿah*, 96-98.
[33] Ibid., 98-99.

Due to the multifaceted and dynamic nature of *maṣlaḥah* and its opposite *mafsadah* and their complex forms obtained in real-life situations and under varying circumstances, especially in relation to the mundane arenas of life, Muslim legal theorists and jurists laboured to map out the terrain by developing a whole area of study consisting of the subject of juridical maxims (*al-qawāʿid al-fiqhiyyah*). Standing in between *uṣūl al-fiqh* (legal theory and methodology) and *fiqh* (substantive law), this sub-discipline provides not only what most of its proponents see as the means to circumscribing the ever-increasing body of particular cases (*juzʾiyyāt*) so as to bring them within the fold of general rules.[34] Most importantly, the 'science of juridical maxims' (*ʿilm al-qawāʿid al-fiqhiyyah*) offers, as can be grasped from al-Qarāfī's (d. 684H/1285CE) intimation, a sophisticated apparatus imbibed with the wisdom of the Sharīʿah that enables the scholars to tackle competing and conflicting instances of *maṣlaḥah* and/or *mafsadah*.[35] In articulating his ideas on this sub-discipline al-Qarāfī was actually mirroring and developing what his teacher ʿIzz al-Dīn ibn ʿAbd al-Salām had laid down in his chef-d'oeuvre *Qawāʿid al-Aḥkām*. Next to al-Juwaynī's *al-Ghiyyāthī* which breathes *maqāṣid* throughout (2011)*, this work can easily be considered as the most elaborate treatise on *maqāṣid al-Sharīʿah* prior to al-Shāṭibī where a considerable effort is devoted to the issue of ends and means and related rules governing human beings' pursuit of their goals and interests in consonance with the Lawgiver's purpose in promulgating the Sharīʿah.[36]

The tackling of competing and conflicting instances of *maṣlaḥah* and its opposite is to be carried out according to a scale of priorities of both ends and means depending on the suitability and efficiency of the latter in leading to the former, while keeping in mind the overall vision of human life and society as expressed by the five universals, with attention being given not only to the efficacy of

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[34] Ba-Hossain, 17-39 & *passim*; *cf.* Zakariyah, 24-59.

[35] Qarāfī, vol. 1, 70-73.

[36] ʿIzz al-Dīn ʿAbd al-ʿAzīz Ibn ʿAbd al-Salām, *al-Qawāʿid al-Kubrā: Qawāʿid al-Aḥkām fī Iṣlāḥ al-Anām,* Vol. 1, ed. Nazih Kamal Hammad & Othman Jomaah Damiriyya (Damascus: Dār al-Qalam, 1421/2000), 5-14.

means but also to their legitimacy, as the Sharīʿah does not condone the end-justifies-the-means dictum in any absolute unqualified fashion.[37] This explains why the question of *maṣlaḥah* in Islam has preoccupied many modern Muslim scholars to further elucidate its meaning and scope, explicate its underpinnings, and work out the criteria governing its consideration in real life contexts and situations, with a clear objective to distinguishing it from modern Western theories of utility.[38]

Maqāṣid al-Sharīʿah: Ramifications and Implications

An important lesson that can be drawn from Muslim scholars' reflections on *maṣlaḥah* in their theorization on the goals of the Sharīʿah imposes itself on the mind. They clearly appear to have been in search of a normative understanding and articulation of utility. As Bagby has described it, their conception of *maṣlaḥah* is "a type of utilitarianism that is universal (not egocentric), ideal (not hedonistic), and rule-based (not act-based)".[39] It is a utilitarianism which is both realistic and normative; while it recognizes human physical and biological needs, it does not only legitimates their pursuit and fulfilment, but also sublimates them and celebrates their satisfaction as a matter of self-gratification as well as worship and gratefulness to

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[37] Ibn ʿAbd al-Salām, *al-Qawāʿid al-Kubrā*, Vol. 1, 26-101 & *passim;* Ibn Ashur, *Treatise on Maqāṣid al-Sharīʿah*, 229-237; Mustafa bin Karamat Allah Makhdoum, *Qawāʿid al-Wasāʾil fī al-Sharīʿah al-Islāmiyyah* (Riyadh: Dār Ishbīliyā, 1420/1999), 69-515; Oum Naʾil Bourkani, *Fiqh al-Wasāʾil fiʾl-Sharīʿah al-Islāmiyyah* (Doha: Waqfiyat al-Shaykh Ali bin Abdullah Ól Thānī lilʾ-Maʿlumāt waʾl-Dirāsāt, 1428/2007), 25-158.

[38] Mohammad Saeed Ramadan al-Bouti, *Dawābiṭ al-Maṣlaḥah fiʾl-Sharīʿah al-Islāmiyyah* (Beirut: Muʾassassat al-Risālah, 1393/1973), 23-70 & 115-324; Hussain Hamid Hassan, *Fiqh al-Maṣlaḥah wa-Taṭbīqātuhā al-Muʿāṣirah* (Jeddah: Islamic Institute of Research and Training, 1414/1993), 14-71; Ramdan A. A. Mabrouk Mohammad Lakhmi, *al-Taʿlīl biʾl-Maṣlaḥah ʿinda al-Uṣūliyyīn* (Cairo: Dār al-Hudā, 1407/1987), 71-179; Mohammad Ahmed Bourkab, *al-Maṣāliḥ al-Mursalah wa-Atharuhā fī Murūnat al-Fiqh al-Islāmī* (Dubai: Dār al-Buḥūth al-Islāmiyyah wa Iḥyāʾ al-Turāth, 1423/2002), 23-69; Abdennour Baza, *Maṣāliḥ al-Insān: Muqārabah Maqāṣidiyyah* (Herndon, Virginia: The International Institute of Islamic Thought, 1429/2008), 31-64 & 383-432).

[39] Ihsan Abdul-Wajid Bagby, "Utility in Classical Islamic Law: The Concept of Maṣlaḥah in Uṣūl al-Fiqh", (Ph.D. thesis, the University of Michigan, 1986), 43.

God, the Creator, who has bestowed upon human beings the means of fulfilling those needs. This Islamic utilitarianism, so to speak, is neither reductionist nor exclusive in dealing with the human condition and needs. It is a kind of utilitarianism that does not split human life into conflicting segments and compartments or irreconcilable poles; it neither bifurcates the human self into mutually exclusive material and non-material (spiritual) dimensions, nor does it concern itself with fulfilling only part of the needs ensuing from the wholeness of the human being at the expense of the others, let alone to relegate some of those to the margin or suppress them altogether. It is a holistic utilitarianism, one might justifiably say, which recognizes and takes care of all kinds of human needs and interests in a balanced manner that does not pamper the individual at the expense of the community nor does it celebrate the community while crushing the individual. In the context of such normative utilitarianism the needs of the individuals as well as the community and groups are equally attended to according to a balanced scale, both respecting what pertains to this world and the next.

It is significant that in the context of this *maqāṣid*-informed, normative utilitarianism focus is not confined to the cause-effect relationship in the theoretical consideration and practical pursuit of human interests and benefits. Equal, if not more, attention is also paid to consequences and future outcomes (*maʾālāt*) of the human acts as well as the implementation of the Sharīʿah rules and commands in light of the prevailing circumstances of the present, how far remote they might be, even if they span generations, and whatever the probability of their occurrence. Thus, we are in the presence of a conception of utility which transcends individualistic, egocentric and short-sighted immediate conceptions of utility and benefit in order to embrace those of the whole society and its future generations and stretch out beyond ethnic, nationalistic and geographic boundaries so as to be concerned with humanity at large. A realistic, but dynamic, balance has to be maintained between the normative and actual, the individual and society, the private and collective, the physical and spiritual, the present and future.[40]

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[40] al-Shāṭibī, *al-Muwāfaqāt fī Uṣūl al-Sharīʿah,* Vol. 2, 140-152; Abderrahman M. Senouci, *Iʾtibār al-Maʾālat wa-Murāʿāt Natāʾij al-Taṣarrufāt* (Dammam: Dār Ibn

Now, the centrality of the five necessary universals (or universal necessities) and the doctrine of utility entailed thereby do not emanate only from their being the subject matter of the higher goals of the Sharīʿah. It also originates from the fact that they are rooted in the order of things in the realm of creation, wherein mankind occupies a prominent position as God's vicegerent and trustee, thus constituting part and parcel of what many Muslim theologians and legal theorists would call "divine custom" embracing all types of regularities and norms that human reason can discern both in the world of nature and in human society and history, or what the modern scientific mind would call natural and social laws.[41] By the same token, they are rooted in the original human disposition (*fitrah*) as fashioned by the Creator of man and the universe, thereby representing universal human requirements and needs that cut across racial and geographical boundaries and transcend socio-cultural and historical specificities. Likewise, the five universal necessities and their ramifications and complementary layers of needs and improvements reflect or rather embody the multidimensionality of human nature and life both in terms of what is essential and enduring and what is secondary, tertiary and temporary, or even altogether unimportant and ephemeral.[42] In other words, they constitute a common and universal ground for human good and dignity that is profoundly and ontologically rooted in the metaphysical and cosmic order of the world.

The essential relationship between *maqāṣid al-Sharīʿah* and

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al-Jawzī, 1424H), 18-465; Abdelmajid al-Najjar, *al-Shuhūd al-Ḥaḍārī li'l-Ummah al-Islāmiyyah*, vol. 1: Fiqh al-Taḥaḍḍur al-Islāmī (Beirut: Dār al-Gharb al-Islāmī, 2006), 267-282; Ibrahim Bayyoumi Ghanim, *Ishkāliyat Idrāk al-Maṣāliḥ al-Kubrā li'l-Ummah* (London: Furqan Faoundation, 1438/2017), 19-121; Umar al-Jumayli, *Iʿtibār al-Maʾālāt wa-Qaḍāyā al-ʿAṣr* (Beirut: Dār al-Nafaes, 2016), 29-130; Koujah, Rami, "*Maṣlaḥa* as a Normative Claim of Islamic Jurisprudence: The Legal Philosophy of al-ʿIzz b. ʿAbd al-Salām," in Sohaira Z.M. Siddiqui, ed. *Locating the Sharīʿa: Legal Fluidity in Theory, History and Practice* (Leiden/Boston: Brill, 2019), 138-146.

[41] al-Ómidī, *al-Iḥkām fī Uṣūl al-Aḥkām*, Vol. 2, 343; al-Shāṭibī, *al-Muwāfaqāt fī Uṣūl al-Sharīʿah,* Vol. 1, 36-37.

[42] Mohamed El-Hassan Biraima Ibrahim, "al-Dilālāt al-Iṣlāiyyah fi'l-Taqābul wa'l-Tafāʿul bayna Khaṣāʾis al-Nafs al-Bashariyyah wa Kulliyyāt al-Dīn al-Ḍarūriyyah", *Tafakkur,* Vol. 16, No. 1 (1438/2016): 49-76.

human nature pointed out more than once in the preceding discussion was one of the main premises of Ibn Khaldūn's science of human association and civilization (*al-ʿumrān al-basharī wa'l-ijtimāʿ al-insānī*). In his view, by virtue of the fact that humans are social beings driven by nature to live in association so as to fulfill the requirements of their existence and of the survival of their species, all the goals of Sharīʿah commands and rules are actually meant to preserve human civilization (*ʿumrān*) seen as the *sine qua none* condition for their pursuit of that goal.[43] The same idea has been expressed somewhat differently in modern times by Ibn Ashur and al-Fasi who revived the discourse on *maqāṣid al-Sharīʿah* in the mid-twentieth century and pushed it to new intellectual levels. In his well-known treatise on the subject, he made the important onto-epistemic point according to which *maqāṣid al-Sharīʿah* consist of real ideas (*maʿānī ḥaqīqiyyah*) and universal conventional notions (*maʿānī ʿurfiyyah ʿāmmah*) whose conformity with what is good and beneficial is established both by human reason and time-tested experience. They stand in contradistinction from illusions (*wahmiyyāt*) and fancies of imagination (*takhyyulāt*) which have no measure of reality. Thus, they are grounded in the very nature of human beings, whence the Qur'an's (30: 30) description of Islam as the religion of human nature by reason of being in conformity with the original disposition or innate nature (*fiṭrah*) which God has instilled into man.[44]

These ideas and conventions are likewise deeply rooted in the very nature of human beings and constitute an essential part of what Carl Jung considers, in the context of his theory of collective unconscious, as a universal spiritual heritage of mankind that is born anew in the psychological structure of the individual.[45] As such, they converge with the innate dispositions, yearnings and longings of human beings so as to drive them to transcend themselves both in a

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[43] Ibn Khaldun, 43.

[44] Ibn Ashur, *Treatise on Maqāṣid al-Sharīʿah*, 71-86; also Muhamad al-Tahir Ibn Ashur, *Uṣūl al-Niẓām al-Ijtmāʿī fi'l-Islām* (Amman: Dār al-Nafaes, 2001), 52-74; *cf.* El-Mesawi, "Maqāṣid al-Sharīʿah and the Human Scio-Ethical Order", 35-128.

[45] Gary Dorrien, *The World as True Myth: Interpreting Modern Theology* (Louisville, Kentucky: Westminster John Knox Press, 1997), 201-202.

vertical and horizontal sense, thus giving rise to what Shah Wali Allah describes as comprehensive or universal vision (*ray' kullī*).[46] In fact, Ibn Ashur encapsulates the different categories and levels of the goals intended by the various rules and commands of the Sharīʿah in one all-purpose principle (*maqṣad ʿāmm*) which consists of preserving

> the social order of the community and insure its healthy progress by promoting the well-being and righteousness (*ṣalāḥ*) of that which prevails in it, namely, the human species. The well-being and virtue of human beings consist of the soundness of their intellect, the righteousness of their deeds as well as the goodness of the things of the world where they live that are put at their disposal.[47]

In a similar vein, al-Fasi intimates that the overall purpose of the Sharīʿah consists in establishing civilization on earth (*ʿimārat al-arḍ*) through developing the order of coexistence amongst its inhabitants, namely the human beings who have been made vicegerents on it (*mustakhlafīn*). This is attained through:

> [human beings'] realizing what has been charged on them in terms of justice, uprightness, righteousness of thought and action, spreading goodness (*iṣlāḥ*) on earth, extracting its bounties and managing [them] for the benefit of all.[48]

These two statements succinctly summarise the whole ecology of the human condition and civilization as a purposeful endeavour whereby humans carry out their mission and fulfil their vocation as God's appointed trustees and vicegerents on earth so as to actualize the sublime values and pursue the higher goals sanctioned and taught through Revelation and discerned and ascertained by reason. While the social order is taken as the necessary framework and vehicle through which human well-being and progress are to be pursued and

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[46] Dihlawī, *Ḥujjat Allāh al-Bālighah*, Vol. 1, 64-65 & *passim*.

[47] Ibn Ashur, *Treatise on Maqāṣid al-Sharīʿah*, 91.

[48] al-Fasi, *Maqāṣid al-Sharīʿah wa-Makārimuhā*, 151.

attained, its sustainability depends on a tripartite ecology consisting of the soundness of human beings' minds and rationality, the righteousness of their conduct and deeds, and the goodness of the natural world and physical and socio-cultural environment in which they live and on which they depend for their sustenance and the pursuit of their goals and satisfaction of their needs. But it is the human factor that occupies the primary status in this ecology, simply because real agency and volitional efficiency reside with the human beings whose Creator has endowed them with the necessary and sufficient power and means to deal with the things of the world that are already made subservient to them and amenable to meeting their needs, as clearly stated by the Qur'an in different contexts. All this is, in fact, anchored on the two fundamental ideas of original dignity conferred by God on humanity and the primordial covenant with Him, being ever renewed in the essential structure and constitution of each and every individual. Accordingly, in the Islamic world-view, humans have not been thrown into an intractable hostile universe in which they are left to face their fate, but are rather taken care of by a merciful and caring Creator who, as the Qur'an proclaims (42: 12), holds "the keys of the heavens and the earth" and "grants abundant sustenance, or gives it in scant measure, unto whomever He wills".[49]

As indicated in many verses of the Qur'an and elaborated by Muslim scholars over the ages, the trusteeship and stewardship of human beings and their mission to carry out *ʿimārat al-arḍ* is not merely a physical task confined to the material aspects of their life and existence. Indeed, it is a task encompassing intellectual, spiritual and ethical dimensions that endow their existence and actions with meaning and purpose enabling them to transcend egocentrism as well as imprisonment in the immediate point in time and space. As such, they strive to live up to the requirements of truth and in conformity with reality in order to actualize the values of justice and fairness, transparency, compassion, belonging, freedom, responsibility, accountability, trust, forbearance, cooperation, togetherness, altruism, goodness, uprightness, respect, etc. Such values coalesce to safeguard

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[49] Abdelmajid al-Najjar, *Maqāṣid al-Sharīʿah bi-Abʿād Jadīdah* (Beirut: Dār al-Gharb al-Islāmī, 2008), 157-234; Joseph E. B. Lumbard, "Covenant and Covenants in the Qur'an", *Journal of Qur'anic Studies,* Vol. 17, No. 2 (2015): 2-15.

the human self and enhance human dignity and wholeness understood in their dynamic and multifaceted nature both at the level of the individual and community. [50] Paramount among such values are justice, responsibility and accountability.

Being their vocation in this world, *'imārat al-arḍ* in the first place involves meeting the multiple claims of human beings on the resources and bounties the Almighty and All-Merciful Creator has made available for them in the world of nature to fulfil their needs through different forms of use, from the most primitive and immediate ways of consumption to the most scientifically advanced and highly technologized processes of extraction, transformation and engineering. If, in all of this, justice and fairness are obliterated and paid lip service to, and if people behave irresponsibly and are not made accountable for their unjust behaviour and reckless attitudes towards other fellow humans as well as towards the world of nature and its constituents, different kinds of corruption, disorder and harm will undoubtedly befall human society (as the Qur'an clearly teaches us on many occasions, such as Q., 30:30), not least of them economic disparities and destitution, social strife and ecological disorder. In fact, justice in the Sharīʿah ethico-legal system is the pivot and matrix holding together most, if not all, values at the ontological, cosmic and social levels in a relational scheme and order according to which each value

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[50] Dihlawī, *Ḥujjat Allāh al-Bālighah*, vol. 1, 50-60; Abbas Mahmoud al-Aqqad, *al-Insān fi'l-Qur'ān* (Cairo: Dār Nahḍat Miṣr, 2003), 10-26; Faruq Ahmad Dasuqi, *Istikhlāf al-Insān fi'l-Arḍ* (Alexandria: Dḍār al-Daʿwah, n. d.), 85-110; Muhammad Baqir al-Sadr, *Mawsūʿat al-Imām al-Shahīd al-Sayyid Muḥammad Bḥqir al-Ṣadr*, Vol. 5 (Qom, Iran: Markaz al-Abḥāth wa'l-Dirāsāt al-Takhaṣṣuṣiyyah li'l-Shahīd al-Ṣadr, 1421H), 127-140; al-Najjar, *Khilāfat al-Insān bayna al-Waḥy wa'l-ʿAql*, 39-86; al-Najjar, *al-Shuhūd al-Ḥaḍārī li'l-Ummah al-Islāmiyyah*, vol. 1, 45-89 & 127-171; al-Najjar, *Maqāṣid al-Sharīʿah bi-Abʿād Jadīdah*, 84-108; Abdelmajid al-Najjar, "Dawr al-Mujtamaʿ fī Bināʾ al-ʿUmrān Maqṣadan Shaʿriyyan", in Ahmad Zakin Yamani (foreword), *al-Dīn wa'l-Ḥaḍārah: Ḥifẓ al-ʿUmrān Maqṣad Sharʿī* (London: Furqan Foundation, 1440/2018), 129-160; Weiss, "Covenant and Law in Islam", 49-81; al-Fasi, *Maqāṣid al-Sharīʿah wa-Makārimuhā*, 112-114; Marcel A. Boisard, *Humanism in Islam* (Indianapolis, Indiana: American Trust Publications, 1988), 57-95; Wadad Kadi (al-Qadi), "The Primordial Covenant and Human History in the Qur'ān," in *Proceedings of the American Philosophical Society*, Vol. 147, No. 4 (December 2003), 332-338; Lumbard, "Covenant and Covenants in the Qur'an", 4-15.

occupies its proper place and functions in a sensitive and adequate balance with the other values; hence, as stated earlier, the Qur'an's description of the mission of the Prophets as being to teach people to establish justice.[51]

In like manner, the doctrine of *maqāṣid al-Sharīʿah* provides a dynamic, integrated and holistic conception of human needs and benefits flowing from a fundamental framework that is ontologically and cosmologically grounded in a view of human nature as a universal truth transcending all bounds of race and ethnicity and space-time contexts, and inextricably linked to the Absolute. It follows from this that any serious intellectual and practical effort must be aimed at addressing the enduring problems of human societal, economic, cultural and political development for the sake of the common good in an efficient and sustainable manner whereby all aspects of human life and existence must be considered and taken care of in a holistic and balanced manner in accordance with a comprehensive scale of values. Needless to say, this understanding of *maqāṣid al-Sharīʿah* and their ramifications have far-reaching implications for the way human problems need to be approached and diagnosed and for the types of means and policies that must be adopted in resolving them.[52] Such *maqāṣid*-inspired (or

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[51] See for example, Ibn Ashur, *Uṣūl al-Niẓām al-Ijtmāʿī fiʾl-Islām*, 292-299 & 317-320; also Ibn Ashur, *Treatise on Maqāṣid al-Sharīʿah*, 238-246; Ismāʿīl Rājī al-Fārūqī, *Al Tawḥīd: Its Implications for Thought and Life* (Herndon, Virginia: The International Institute of Islamic Thought, 1420/2000), 157-193; Raymond K. Farrin, "Sūrat al-Nisāʾ and the Centrality of Justice", *Al-Bayān – Journal of Qurʾān and Ḥadīth Studies*, Vol. 14 (2016): 1-17; Harvey, *The Qurʾan and the Just Society*, 81-190; Zafar Iqbal & Mervyn K. Lewis, *An Islamic Perspective on Governance* (Cheltenham, UK & Northampton, USA: Edward Elgar Publishing, 2009), 59-89; Hossein Askari & Abbas Mirakhor, *Conceptions of Justice from Islam to the Present* (London: Palgrave Macmillan, 2020), 5-12 & 17-28.

[52] al-Modarresi, *al-Tashrīʿ al-Islāmī*, Vol. 3, 329-384; Mohamed El-Hassan Biraima Ibrahim, *al-Tanmiyah al-Mustadāmah: Taʾsīs Maqāṣidī* (Khartoum: Markaz al-Tanwir al-Marifi, 2004); Muhammad Umer Chapra, *The Islamic Vision of Development in the Light of Maqāṣid al-Sharīʿah* (London-Washington: The International Institute of Islamic Thought, IIIT, 1429/2008); Mehmet Asutay & Isa Yilmaz, "Re-embedding *Maqāṣid al-Sharīʿah* in the Essential Methodology of Islamic Economics," in El-Mesawi, Mohamed El-Tahir (ed.), *Maqāṣid al-Sharīʿah: Explorations and Implications* (Petaling Jaya, Malaysia: Islamic Book Trust, 2018), 373-418.

-oriented) view of development clearly shuns, at least theoretically, all kinds of reductionism against which an increasing number of thinkers have warned us over so many decades now, based on the realization of the dismal reality to which reductionist theories and unidimensional approaches have led mankind in almost all spheres of human life over the globe whose ecology and order have been seriously and threateningly affected. As argued by many scholars across the different disciplines, the complex crisis facing mankind at present and threatening her future is deeply rooted in the fundamental view(s) of the human nature and condition informing the dominant paradigms and theories that have been guiding not only the political and economic realms, but also, and perhaps in a more dangerous fashion, the world of science and scientific research and its technological applications. Hence, the whole edifice of human society and civilization is at risk at its very foundations.[53]

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[53] See for example, Alexis Carrell, *Man, the Unknown* (New York & London: Harper & Brothers Publishers, 1939); Ralph Barton Perry, *Realms of Value: A Critique of Human Civilization* (Cambridge, USA: Harvard University Press, 1954); Karl Polanyi, The great Transformation: The Political and Economic Origins of our Time (Boston, Massachusetts: Beacon Press, 2001 [1944]); Pitrim A. Sorokin, *S.O.S.: The Meaning of our Crisis* (New York: Kraus Reprint C., 1970 [1951]); Pitrim A. Sorokin, *The Crisis of Our Age* (Oxford, UK: Oneworld, 1992 [1941]); Herbert Marcuse, *One-Dimensional Man: Studies in the Ideology of Advanced Industrial Society* (London and New York: Routledge Classics, 2007 [1964]); Rene Dubos, *So Human an Animal* (New Brunswick, New Jersey: Transaction Publishers, 1998 [1968]); Hans Jonas, *The Imperative of Responsibility: In Search of an Ethics for the Technological Age* (Chicago: University of Chicago Pres, 1985); Fred Block & Margaret R. Somers, *The Power of Market Fundamentalism: Karl Polanyi's Critique* (Cambridge, Massachusetts: Harvard University Press, 2014); T. M. Scanlon, *What We Owe Each Other* (Cambridge, USA: Harvard University Press, 1998); Edgar Morin, *Science avec Conscience* (Paris: Editions du Seuil, 1990); Edgar Morin, *Où Va le Monde* (Paris: L'Herne, 2007); Serge Latouche, *Survivre au Développement* (Paris: Editions Mille et Une Nuit, 2004); Serge Latouche, *Farewell to Growth,* translated from the French by David Macey (Cambridge, UK & Maiden, MA: Polity, 2009); Alain Touraine, *A New Paradigm for Understanding Today's World,* translated from the French by Gregory Elliott (Cambridge, UK & Maiden, MA: Polity, 2007); Michael Mann, *The Sources of Social Power,* Vol. 4: *Globalizations, 1845-2011* (Cambridge & New York: Cambridge University Press, 2013); Branko Milanovic, *Global Inequality: A New Approach for the Age of Globalization* (Cambridge, Massachusetts & London, England: The Belknap Press of Harvard University Press, 2016).

Conclusion

The foregoing exposition and discussion would have, it is hoped, made clear what the idea of *maqāṣid al-Sharī'ah* stands for. By now, there should not be any tenable doubt that it is not simply a juristic doctrine embodying the legal and moral philosophy of the Islamic juridical teachings and legislative commands understood systematically as an integral body of rules for human conduct. Instead, as has been shown, we are presented with a grand theory on human life and condition in all their interrelated aspects as well as with an integrated total vision of the multidimensional nature of human beings' needs and wants, all of which are grounded in an ontological and cosmological view of human existence, value and status.

Having said that, the operationalization and realization of the notion of *maqāṣid al-Sharī'ah* as its meaning and scope have been analyzed and elucidated in this paper require vast and sound knowledge of the human social world and the natural physical realm as well as adequate and efficient means and techniques that must ensure safeguarding mankind and her habitat without endangering those creatures cohabiting the world with her, as much as the balance and goodness of nature depends on their existence.

TRANSLITERATION TABLE

CONSONANTS

Ar=Arabic, Pr=Persian, OT=Ottoman Turkish, Ur=Urdu

	Ar	Pr	OT	UR		Ar	Pr	OT	UR		Ar	Pr	OT	UR
ء	,	,	,	,	ز	z	z	z	z	گ	–	g	g	g
ب	b	b	b	b	ژ	–	–	–	ṛ	ل	l	l	l	l
پ	–	p	p	p	ژ	–	zh	j	zh	م	m	m	m	m
ت	t	t	t	t	س	s	s	s	s	ن	n	n	n	n
ٹ	–	–	–	ṭ	ش	sh	sh	ş	sh	ه	h	h	h¹	h¹
ث	th	th	th	th	ص	ṣ	ṣ	ṣ	ṣ	و	w	v/u	v	v/u
ج	j	j	c	j	ض	ḍ	ẓ	ż	ż	ى	y	y	y	y
چ	–	ch	ç	ch	ط	ṭ	ṭ	ṭ	ṭ	ة	-ah			-a²
ح	ḥ	ḥ	ḥ	ḥ	ظ	ẓ	ẓ	ẓ	ẓ	ال	al³			
خ	kh	kh	kh	kh	ع	ʻ	ʻ	ʻ	ʻ					
د	d	d	d	d	غ	gh	gh	ğ	gh					
ڈ	–	–	–	d	ف	f	f	f	f					
ذ	dh	dh	dh	dh	ق	q	q	k	q					
ر	r	r	r	r	ك	k	k/g	k/ñ	k					

¹ – when not final
² – at in construct state
³ – (article) al - or 1-

VOWELS

		Arabic and Persian	Urdu	Ottoman Turkish
Long	ا	ā	ā	ā
	آ	Ā	Ā	–
	و	ū	ū	ū
	ي	ī	ī	ī
Doubled	يّ	iyy (final form ī)	iy (final form ī)	iyy (final form ī)
	وّ	uww (final form ū) uvv (for Persian)	uv	uvv
Diphthongs	و	au or aw	au	ev
	ى	ai or ay	ay	ey
Short	◌َ	a	a	a or e
	◌ُ	u	u	u or ü o or ö
	◌ِ	i	i	i

URDU ASPIRATED SOUNDS

For aspirated sounds not used in Arabic, Persian, and Turkish add h after the letter and underline both the letters e.g. جﮭ jh   گﮭ gh

For Ottoman Turkish, modern Turkish orthography may be used.

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