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A Civilizational Perspective

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The previous decade witnessed a plethora of books on the subject of *maqāṣid* (aims of Sharīʿah), stressing that Islam's commandments have overarching aims, and that the individual texts of Qur'an and hadith can only be adequately understood within the universal principles of Islam. While the classical work on *maqāṣid* is immense, that of Shatibi (d. 1388 C.E.) gained the utmost authority as it theorized for five general aims of Shariʿah, which can take one of three levels of priority. Since then most of the works on the subject of *maqāṣid* have been a variation on Shatibi's approach. The major contribution of this book is to marry Ibn Khaldun's perspective with that of Shatibi. In such a way, a new *maqāṣid* theory that attends to the insights of history and social sciences is constructed. The proposed theory is marked by a high degree of synthesis and maintains the major categories of Shatibi, but only after redefining and expanding them. Moreover, the new enhanced theory of *maqāṣid* is marked by being multidimensional, where the five goals of Sharīʿah operate in an open space. In addition to its academic contribution, this new work hopes to make *maqāṣid* more amenable for appreciation and application in our time.

The book aims to contribute to the development of *maqāṣid al-Sharīʿah* (the aims of Shariʿah) theory by offering an ʿumrānī (civilizational) perspective on the matter. Such a perspective hopes to advance the discipline of *maqāṣid al-Sharīʿah* to new horizons and make it more relevant to a public discourse; a discourse that is not limited to the juristic

derivation of rulings, the fatwa of the mufti, or the legal theorizing of the *uṣūlī*. The ᶜ*umrānī* approach allows *maqāṣid* theory to be more comprehensive and to better serve the circumstances and needs of the diverse peoples and communities of the Ummah and beyond.

Chapter One

Stages in the Development of the Discourse on Maqāṣid al-Sharīʿah

The notion of *maqāṣid al-Sharīʿah* (aims of Shariʿah) is soundly rooted in the Shariʿah itself; a Shariʿah that is universal and which has an ample capacity for reflection and reason. The Qurʾanic discourse, in fact, criticizes ignoring higher aims and myopically approaching religion such that it leads to deleterious outcomes. There are, in fact, several instances within early Islamic tradition demonstrating that the concept of *maqāṣid* was operable in minds and actions. The *maqāṣid al-Sharīʿah* were therefore a main driving force in approaching issues and circumstances confronting Muslims since early Islamic tradition, and the notion of *maqāṣid* can be found rooted in the Islamic primary sources. Muslim jurists undoubtedly paid attention to consequences, and the main pillar of the principles of *uṣūl* was based on the *maqāṣid* at a very early stage. The branch of knowledge encapsulating *maqāṣid* itself came about at the right time, having emerged within a framework of intellectual and practical development, and shaped in a manner befitting to the needs of that time.

1.1 Three Pivotal Periods in the Development of *Maqāṣid*

Literature on the subject of *maqāṣid al-Sharīʿah* points to five prominent scholars in this field: Abū al-Maʿālī al-Juwaynī (d. 478/1085), Abū Ḥāmid al-Ghazālī (d. 505/1111), al-ʿIzz Ibn ʿAbd al-Salām (d. 660/1262), Shihāb al-Dīn al-Qarāfī (d. 684/1285), and Abū Isḥāq Ibrāhīm al-Shāṭibī (d. 790/1388)—all of whom played a significant role in establishing a framework for the study of *maqāṣid*. Three pivotal periods in the development of *maqāṣid* can be identified. The first of these was shaped by al-Juwaynī and his student al-Ghazālī. The contribution of al-Juwaynī was set out in his book *al-Burhān fī Uṣūl al-Fiqh*, wherein he proposed five levels of aims: necessities (*ḍarūriyyāt*), general needs (*ḥājah ʿāmah*), complementary matters (*mukaramāt*), preferable

matters (*mandūbāt*), and matters that cannot be subjected to reasoning. This was followed by his work *Ghiyāth al-Umam fī Iltiyāth al-Ẓulam*, in which he discussed political matters. Al-Juwaynī was followed by al-Ghazālī, who introduced the notion of the "preservation" of necessities and collocated the necessities of which al-Juwaynī had spoken, namely: religion (*dīn*), life (*nafs*), intellect (*ʿaql*), lineage (*nasl*), and property (*māl*).

The second pivotal period in the development of *maqāṣid* corresponds to the works of al-ʿIzz ibn ʿAbd al-Salām and his student al-Qarāfī. Al-ʿIzz further developed *maqāṣid* thought in two of his treatises. Meanwhile al-Qarāfī, in his book *al-Furūʿ*, continued the work begun by his teacher on *maqāṣid*. Among his contributions to the field was the differentiation between the various actions of the Messenger on the basis of whether they were done in the capacity of a Messenger (conveying the revelation), a judge, or a leader. Consequentially, rulings derived from the Prophet's actions, as well as the principle of *sadd al-dharāʾiʿ* (blocking the means that may lead to harm) are informed by this differentiation.

1.2 The Historical Context Behind the Development of *Maqāṣid* Thought

Regarding al-Shāṭibī's *maqāṣid* theory, we may note three particular features to his methodology. First, certain statements of his pertaining to the role of reason in religion appear conflicting. Second, he is adamant in linking *maqāṣid* theory to *uṣūl al-fiqh* as a way of legitimizing the former's place within the Shariʿah and dispelling any notion of it being a deleterious innovation. Lastly, he affirms the practical value of the *maqāṣid* and their role in renovation for an era that fell below the ideal lofty standard dictated by religion.

1.3 The Role of Reason and its Place in al-Shāṭibī's Thought

With respect to the relationship between revelation and reason, al-Shāṭibī appears to come close to adopting the notion of duality, though he limits the role of reason with respect to revelation. He says, "Rational evidence, if it is to be used in this field of knowledge [*uṣūl*], is only to be used on the basis of textual evidence, or as a help to understand what this textual evidence indicates, or in support of what this textual evidence points to, and the like. It cannot be used independently in determination, because this is a matter of Shariʿah and reason is not a Shāriʿ." Although al-Shāṭibī affirmed the role of reason, when he elabo-

rates on its details he delves into unnecessary precautions, such as when he says, "When scripture and rational thinking are in harmony with regard to some issues of Shariʿah, that is all well and good, provided that precedence is given to scripture and it is followed by reason, and that reason is subordinate to the text. Therefore, the framework of rational thinking when examining an issue is to be allowed only as much as scripture allows (and it is not be given free rein)."

1.4 The Intellectual Context behind al-Shāṭibī's Work

We should consider al-Shāṭibī's work from the vantage of the intellectual setting of his time, a period marked by the challenge of unchecked reason of philosophers. The discipline of *uṣūl al-fiqh* provided a platform for the reconciliation of reason and revelation, to the extent of forming a symbiotic relationship between them. It is as such that he began to highlight the distinctions between his work and what was prevalent at his time when he coined phrases and terminology that reflected opposites or dualities. With regard to terminology dealing with *sharʿī* evidence, he coined phrases and terminology such as: "scholarly consensus constitutes proof" (*al-ijmāʿ ḥujjah*); "a report narrated by one or a few narrators at each stage of the chain of transmission" (*khabr wāḥid*); "analogy constitutes proof" (*al-qiyās ḥujjah*); "reaching a conclusion that is not based on a text, analogy, or scholarly consensus because there is no text and no precedents" (*istidlāl mursal*); and "juristic preference" (*istiḥsān*). He also coined phrases referring to the levels and strength of evidence, such as: "indication that a thing is definitive" (*ifādat al-qaṭʿi*). As a result of abiding to these dualities, the *maqāṣid* approach of al-Shāṭibī remained restricted to the dictates of *uṣūl al-fiqh*, which bestows accuracy on *fiqhī* matters but prevents *maqāṣid* from becoming a completely independent branch of knowledge with its own tools and terminology.

1.5 The Ultimate Aim of Shariʿah

Al-Shāṭibī asserted that the ultimate aim of Shariʿah is to rectify the condition of the Muslims. He rejects pure theoretical philosophy, but not philosophy that has some practical, real benefits. He states, "The spirit of knowledge is action; otherwise knowledge on its own is useless and of no benefit." And he affirms that knowledge should be the standard for measuring the validity or otherwise of deeds and customs.

Chapter Two
The Maqāṣid al-Sharīᶜah and Modernity

The modern age has given rise to many challenges that may be summed up on two levels: changes at the practical level, in the way people live their lives, and changes at the intellectual level, in concepts and ideas. In this chapter we focus on the literature of three important modern-day *maqāṣid* thinkers who have treated the challenges of modernity in their *maqāṣid* thought: Shah Walīullah al-Dehlawī (d. 1176/1762), as well as Ibn ᶜAshur (d. 1973) and ᶜAllal al-Fasi (d. 1974) in the mid-twentieth century.

2.1 An Early Contribution

In the introduction to his book €*ujjat Allah al-Bālighah*, Shah Walīullah al-Dehlawī says, "…the most essential branch of Islamic knowledge, as far as I am concerned, and the highest in status and greatest in value, is knowledge of the wisdom behind and implications of rulings and certain actions." Al-Dehlawī then devotes a chapter to the Qur'anic notion of *Sunnat Allah* (the general laws of material and socio-historical existence) that is referred to in the verse, "[This is] the established way of Allah with those who passed on before; and you will not find in the way of Allah any change" (Qur'an 33:62). For al-Dehlawī, *Sunnat Allah* refers to "forces that are embedded in this universe."

Al-Dehlawī's approach led him to steer clear of duality and opposites in trying to understand the reason and wisdom in the creation and in the commands of religion, and instead focus on understanding harmony between reason and revelation.

Al-Dehlawī's concept of human universals is aimed at understanding the relationship between the nature of humankind and the universe. It is in this regard that the wisdom of the Shariᶜah becomes apparent and an ultimate proof that it is from God, for it is suited to the nature of people. For al-Dehlawī, human universals can be classified according to two types of lived experience. One type pertains to those in rural or small communities, such as desert dwellers. A second type pertains to those in urban or heavily populated regions, wherein there is a great deal of interaction among people and needs to be met, and, as an outgrowth, the development of civilized manners and wisdom. In such urban

regions, important guidelines are worked out to organize and regulate all needs and interactions to the extent that they become adopted and officially established by society.

Al-Dehlawī goes on to discuss a third type of human universal, which pertains to "establishing a ruler to judge between people on the basis of justice, deterring the disobedient among them, standing up to transgressors, collecting taxes from them, and spending taxes as they should be spent.

Al-Dehlawī discusses issues having to do with political administration and the duties and responsibilities of rulers and people, and issues having to do with organization of economic life, taxes, and earning a living; all of which, he asserts, require the role of reason. He tells us, however, that "People inevitably need capable, well-qualified scholars who do not limit knowledge to what may be gained through reason alone, but also through intuition."

Al-Dehlawī is characterised by a *maqāṣidic* approach, an approach that adopts the ideas of Ibn Khaldūn and the notion that societies are subject to laws. His approach, in fact, is deeply influenced by *maqāṣid* thought, for he states that the field of *maqāṣid* dictates specifying what is obligatory, what is essential, and what comes under the heading of manners and etiquette. Moreover, he speaks of two branches of knowledge that are distinctly different in their nature and what they deal with: knowledge of benefit (*maṣāliḥ*) and harm (*mafāsid*), and knowledge of legislation, criminal codes, and the laws of inheritance. He affirms that the Prophet Muhammad used to engage in ijtihad, and that his ijtihad was based on examining benefit and harm, and that Allah protected him from developing a view that was wrong.

2.2 Ibn ʿAshur's Methodological Overhaul

Ibn ʿAshur's (d. 1973) contribution is regarded as the first in this field since the demise of the caliphate and ever since Muslims were confronted with epistemological uncertainties, wherein they developed a desire to choose selectively from their Islamic heritage in light of modernity and its secularism. In addition to treating Ibn ʿAshur's contributions, we visit in this chapter the work of ʿAllal al-Fasi (d. 1974), a contemporary of Ibn Ibn ʿAshur who also contributed to the development of *maqāṣid* theory, saying: "Shariʿah is but rulings based on *maqāṣid* and *maqāṣid* that give rise to rulings." He adds, "The aims of Shariʿah form the

eternal reference point for Islamic jurisprudence, whether it has to do with working out rules and regulations or with judicial matters. It is not an alien element; rather it is at the heart of Shariʿah."

According to Ahmad al-Raysuni, "The foremost contribution that distinguished Ibn ʿAshur was his contrasting for the first time between *uṣūl al-fiqh* and *maqāṣid al-Sharīʿah*. His innovative contribution included both developing a framework and delineating the central elements for *maqāṣid* theory."

A. Juxtaposing Fiqh and *Uṣūl al-Fiqh*

Ibn ʿAshur's innovative theory departs from the traditional approach established in *uṣūl al-fiqh*. The contribution of al-Shāṭibī was so weighty and reconciled generational contributions to the approach of *maqāṣid*. Yet, the strength of al-Shāṭibī's formulation with its tight *uṣūlī* scaffold constituted its limitedness—it is too crystalized of an approach incapable of accounting for new class of circumstances. The moment was ready for a paradigm-shifting work, and it was born through Ibn ʿAshur's contribution. By advancing the science of *maqāṣid*, Ibn ʿAshur thus sought to rise above historical differences and disputes within and between the juristic schools in the field of *uṣūl al-fiqh*. This new discipline of *maqāṣid* essentially had the makeup to transcend partisan identity.

Ibn ʿAshur well-recognized the value that traditional works in *uṣūl al-fiqh* brought to the development of this science. Yet, he undoubtedly recognized the paramount need to renovate the science. It is as such that he says: "Likewise, if we want to lay down definitive and categorical principles for the understanding of the Shariʿah, we need to return to the traditionally accepted propositions of *uṣūl al-fiqh* and reformulate them. We should critically evaluate them, rid them of the alien elements that crept into them, and supplement them with the results of thorough comprehension and careful thought. Then, we need to reformulate the whole and classify it as an independent discipline called 'science of the higher aims of the Shariʿah' (*ʿilm Maqāṣid al-Sharīʿah*)."

B. Real Ideas and Universal Conventional Ideas

One of the distinctive contributions of Ibn ʿAshur is his differentiation between *maʿānī ḥaqīqiyyah* (real ideas) and *maʿānī ʿurfiyyah ʿāmmah* (universal conventional ideas). This approach is similar to that of Ibn Khaldūn's, which is based on the recognition of human society and on the accumulation of knowledge, and that the scholars' understanding or

focus should not be limited to knowledge of texts only. He affirms this idea indirectly with his four conditions for something to be regarded as an aim of Shariʿah, namely: certainty (*thubūt*), evidence (*ẓuhūr*), consistency (*inḍibāṭ*), and regularity (*iṭṭirād*).

C. The Collective Dimension and Expanding the Concept of *Maqāṣid*

Ibn ʿAshur's innovative *maqāṣid* theory sought to disentangle *uṣūl al-fiqh* from some of its tethered methods, methods which had negatively impacted its development. It is in light of this that he tells us, "From an inductive examination (*istiqrāʾ*) of numerous indicants in the Qurʾan and the authentic Prophetic traditions, we can with certainty draw the compelling conclusion that the rules of the Islamic Shariʿah are based on inner reasons (*ḥikam*) and causes (*asbāb*) that devolve upon the universal goodness and benefit of both society and individuals." Ibn ʿAshur divides *maṣāliḥ* (welfare, benefits, and interests including public interests) into those that are universal (*kulliyyah*) and those that are particular (*juzʾiyyah*).

Ibn ʿAshur further points out that there has been an overemphasis on giving a devotional dimension to many rulings that pertain to human dealings and transactions (*muʿāmalāt*), to the point that any reflection on or re-examination of such rulings is regarded as something prohibited. Ibn ʿAshur also tried to emphasize the collective dimension of Islamic rulings. The distinct characteristic of Islamic Shariʿah is its concern not only for the interests of the individual but also for society as a whole. When serving the interests of a few procures harm for the greater society, then priority must be given to the best interests of society. This is to preserve the balance in society; the balance between individual and public interests, between means and ends, and between particular and universal principles.

D. Understanding and Researching *Maqāṣid* should be a Continuous Pursuit

Ibn ʿAshur maintains that understanding and researching *maqāṣid* should be ongoing. This is because some *maqāṣid* may be not apparent in certain eras but become so later on. Al-Fasi arrives at a similar position (i.e., that the *maqāṣid* are not only discoverable in certain eras but rather may become apparent in any era) in his discussion of effective cause (*ʿillah*).

Ibn ʿAshur goes on to affirm the importance of reason in understanding the aims of Islam. He says, "The description of Islam as the *fiṭrah* means that it is a cognitive natural disposition, since Islam consists of beliefs

(ʿaqāʾid) and divine guidance (tashrīʿāt) that are all rational matters or matters that accord with what is perceived and confirmed by reason.

2.3 Substantive Contributions

The contributions noted above were methodological contributions, and they opened the door to substantive contributions in several pivotal concepts and dimensions, including the natural disposition of human beings, the family system, and issues related to economics and politics.

A. The Concept of *Fiṭrah* (Natural Disposition)

Among prominent later writers on *maqāṣid al-Sharīʿah* who focused on the concept of *fiṭrah* were al-Dehlawī, al-Fasi, and Ibn ʿAshur. Al-Dehlawī emphasized the important impact that *fiṭrah* has and how it consistently manifests itself in human life. Al-Fasi stated, in his discussion of the modern notion of natural laws, "If there is such a thing as natural law, it can most adequately be manifested in the law of Islam." And Ibn ʿAshur established a comprehensive relationship between *maqāṣid al-Sharīʿah* and *fiṭrah* through several *maqāṣid*, including: generality (ʿumūm), equality (musāwāh), freedom (ḥurriyyah), tolerance (samāḥah); and he held that the Shariʿah was not aimed at causing hardship.

In his book *Naẓariyyat al-Maqāṣid ʿinda al-Imām Ibn ʿĀshūr*, Ismail Hassani discusses the concept of *fiṭrah* and different scholarly views concerning its understanding, explaining that what it means is humankind's potential for good and evil, or the potential to be upright in particular. Ibn ʿAshur based his understanding of *fiṭrah* on the idea that it is "the make-up or system on which God based every creature. So, the *fiṭrah* of humankind is the way in which people are created both outwardly and inwardly, that is, physically and mentally. It is a person's aptitude, potentials, abilities, and practices."

Ibn ʿAshur's notion of *fiṭrah* allows for the *maqāṣid al-Sharīʿah* to be understood in a manner that is in harmony with the spirit of Shariʿah. Ibn ʿAshur says, "It is plain and simple that Islam is the religion of *fiṭrah*." He then comments on the failure of scholars of *uṣūl al-fiqh* to pay sufficient attention to the concept of *fiṭrah*, attributing it to their inclination towards clear and well-defined facts. Preserving and protecting the *fiṭrah* is undoubtedly important; however, over-generalizing its meaning can make the concept arbitrary and abstruse. Therefore, the

view we take in this study is that the *fiṭrah* relates to the self or soul (*nafs*), as broadly understood, because it is of the same nature.

If we reflect holistically on Ibn ʿAshur's *maqāṣid* theory, we see how his methodology can actually lead to the discovery of new ways to ascertain such *maqāṣid*. Ibn ʿAshur's innovative *maqāṣid* theory would, in fact, open the door to discovering hidden *maqāṣid* or *maqāṣid* that weren't discernable up to and in his time.

B. The Concept of Family

Ibn ʿAshur wrote a chapter entitled "The Aims of Rulings on the Family" (*al-maqāṣid min aḥkām al-ʿā'ilah*), in which he discusses matters concerning the stability of society as a whole. Ibn ʿAshur believed that the role of the family was to ensure the sound formation and shaping of society, a tradition that exists in all civilizations. In highlighting the honourable nature of the coming together of man and woman in accordance with Shariʿah rulings, he points out that a marriage contract is not to be understood literally as if it were a mere business transaction. Moreover, the dowry in Islam should not be thought of as an exchange for benefits (as some Muslim jurists may imply). If that were the case, then the dowry payment would be ongoing, corresponding to the fulfilment of benefits throughout the marriage, as analogous to paying rent; or it would be a onetime payment for the value of the woman as if she were a commodity, and whereupon it would be returned to the man in the event of a divorce, none of which of course applies.

C. Issues Pertaining to Economic Wealth

Among the important and new contributions that Ibn ʿAshur makes is a detailed treatment of the *maqāṣid* of financial transactions. Ibn ʿAshur emphasizes the idea of collective wealth and the importance of giving consideration to the concept of Ummah when addressing wealth and resources.

Ibn ʿAshur ultimately advances five aims of the Shariʿah concerning economic wealth: marketability (*rawāj*), transparency (*wuḍūḥ*), preservation (*ḥifẓ*), durability (*thabāt*), and equity (*ʿadl*) in handling it. He demonstrates his innovativeness in establishing a correlation between the increased circulation of wealth through the Islamic institution of inheritance and social and political cohesion.

Ibn ʿAshur establishes eight objectives with regard to labor, the last of which is "shunning all kinds of conditions and contracts that resemble

slave labor, such as requiring employees to work the whole or a very long period of their lives for the same employer, so that they have no way out." This matter, however, clearly needs further examination and discussion, as nowadays, equity and benefit for laborers is more likely to be achieved with long-term contracts.

Ibn ʿAshur's valuable contribution to the subject of wealth and labor highlights a general challenge in the relationship between the Islamic sciences and the social sciences and humanities. Though Muslim scholars may agree on the importance of benefiting from modern contemporary sciences, how to benefit from these sciences has yet to be realized. Unfortunately, most attempts at tapping into these sciences are made at an individual level (rather than at an institutional level) and are often insubstantial.

D. Political Issues

Those writing about the aims of Shariʿah at the time of European dominance pointed out the importance of politics in Islam and discussed the matter in a manner appropriate to developments that were taking place in modern societies. Ibn ʿAshur set out guidelines regarding political issues, and what people in authority should try to do and seek to achieve, and how they should go about running affairs in such a way as to achieve the public interest. This includes the issue of how to achieve principles of equality and freedom, defining rights and duties, establishing justice, running the financial system of the Muslim community, defense of the Muslim community, setting up government, establishing policies on a basis of moderation, establishing tolerance, devising ways of disseminating education and awareness among the Muslim community for both male and female, protecting the new generation from all that is detrimental to their well-being, establishing policies with regard to dealing with other nations (foreign policy) based on tolerance and fulfilment of treaties, and disseminating the beauty of Islam and truths about the faith to humanity.

According to Ibn ʿAshur, there are two aspects to equality, one of which pertains to creed where there is complete equality, and the other pertains to *tasharīʿ* where there is variance. Al-Fasi points out that some cases concerning equality are undoubtedly just and fair, whilst others are undoubtedly unjust. Regarding as equal one who is deserving and one who is not is the essence of injustice; and making everything absolutely equal can also lead to injustice

Ibn ʿAshur, moreover, believes that freedom and equality are fundamentally interconnected. He says, "It has already been established that equality is one of the aims of the Shariʿah. It necessarily follows that equality of the community's members in freely conducting their personal affairs constitutes one of the primary goals of the Shariʿah. This is what is meant by 'freedom'."

Chapter Three
Contemporary Trends in Writings on Maqāṣid

The Qurʾan and Sunnah are the sources of Shariʿah, and our contemporary time has witnessed the continuous effort in researching and advancing the science of *maqāṣid* through focusing on the general frameworks established by these two sources. Contemporary writings on *maqāṣid* generally focus on three main areas: (1) educating the general public about the aims of Shariʿah; (2) revisiting previous work on *maqāṣid* for the purpose of improving and expanding upon it; and (3) examining issues relevant to *maqāṣid* and working towards their resolution.

3.1 In the Footsteps of al-Shāṭibī (Abdallah Bin Bayyah)

The contemporary scholar Abdallah Bin Bayyah upholds what he characterizes as al-Shāṭibī's judicious approach to *maqāṣid*, as compared to those who have gone to extremes in their approach. Bin Bayyah thus concludes that al-Shāṭibī took a middle course, and adds, "Based on this discussion, we refute the notion that the *maqāṣid* are independent of *uṣūl al-fiqh*; rather, they are indeed interconnected, like body and soul." In addition to the universal aims of Shariʿah, there are also particular objectives that are applicable to individual cases, and specific objectives having to do with certain areas of *fiqh*.

3.1 Reintroducing the *Maqāṣid* for a New Era (Ahmad al-Raysuni)

The contributions to *maqāṣid* thought of Ahmad al-Raysuni represents a beacon in contemporary discourse on *maqāṣid al-Sharīʿah* and provides an intelligible reintroduction of al-Shāṭibī's *maqāṣid* theory. Al-Raysuni's work on *maqāṣid* also offers a serious treatment of the concept of *maṣlahah* (welfare) and follows in the rigor and comprehensive approach found in Ibn ʿAshur's *maqāṣid* work. One of the main ideas that distinguishes al-Raysuni's contribution is his emphasis on the rationality of the Shariʿah. Al-Raysuni goes on to define the innovative

aspects of al-Shāṭibī's theory as being four: (1) the great expansion of the study of *maqāṣid*; (2) connecting between the objectives of the *Shāriʿ* and the objectives of the *mukallaf* (competent and responsible person in view of Shariʿah), and highlighting the way in which they are interconnected; (3) developing a sound methodology to ascertain the objectives of the *Shāriʿ*; and (4) the compilation and precise formulation of comprehensive principles, within the framework of which particulars are ordered and theories are developed. Al-Raysuni praises al-Shāṭibī for understanding that the reason for a ruling is to achieve benefit and ward off harm.

3.3 Delineating Guidelines for Applying *Maqāṣid* to Other Sciences (Ismail Hassani)

Ismail Hassani treats the subject of *maqāṣid* within the purview of addressing contemporary issues. Hassani attempts to capture and introduce us to Ibn ʿAshur's *maqāṣid* theory. Among the important features in Ibn ʿAshur's thought which he highlights is the consideration given to harmonizing Shariʿah (whether pertaining to beliefs or actions) with *fiṭrah* (innate human nature). And among his points of emphasis is that rights and duties among and between people is ultimately based on procuring good and benefit (*maṣlaḥah*).

Hassani shares Ibn ʿAshur's view with regard to establishing a political framework in order to preserve and protect the five indispensables (*al-ḍarūriyyāt*; that are essential to the well-being of the Muslim community and general society), as well as the needs (*al-ḥājiyyāt*) and enhancements (*al-taḥsīniyyāt*). In adopting these, Hassani calls for them to be defined in such a way that "that which is variable ought not be controlled by that which is invariable." He asserts that the new approach calls to consider that narrowing the scope of indispensables among ancient *uṣūlīs* is a matter of the past. Hassani holds that Ibn ʿAshur's development of a methodology to ascertain the aims of the Shariʿah had thus enabled *maqāṣid* thought to be relevant in addressing issues pertinent to the social system and to the objectives of freedom and equality in particular.

Finally, Hassani importantly provides us with three critical matters of methodological import: (1) defending the role of reason in shaping the theory of *maqāṣid*; (2) emphasizing the role of academic specialties in law, sociology, political science, and applied as well as empirical sciences not only in *taḥqīq al-manāṭ* (ascertaining the applicability of the

reason of a ruling), but also in *takhrīj al-manāṭ* (extracting the reason), all of which is central to *maqāṣid* theorizing; and lastly (3) noting that Islam's primary source texts are subject to interpretation from two angles, linguistic and legislative, which need mutual consideration in order to work out all possible meanings.

3.4 Attempting to Define the Universals (Hasan Jabir)

Hasan Jabir's thesis, *al-Maqāṣid al-Kulliyyah fī Daw' al-Qirā'ah al-Manzumiyyah li al-Qur'ān al-Karīm*, attempts to ascertain the universal *maqāṣid* directly from the Qur'an through a systematic methodology. Jabir notes the difficulty in ascertaining the *maqāṣid* through *uṣūl al-fiqh* alone or through *fiqh* rulings, the latter of which jurists arrived at to address particular matters pertaining to the context of their time, and as such, are limited in their capacity to be relevant to new developments or for universal application. Jabir's work offers an outline of his research into *maqāṣid* under the heading "The Universal Objectives and their Hierarchical Structure." The conceptualization is comprised of two dimensions, that pertaining to human nature and that pertaining to the role of *tashrīʿ* (the precepts and implications of Shariʿah). The part on legislation is comprised of three complementary and intersecting areas: worship, human nature, and charity. Jabir regards the Qur'an as being the only source for the basis of rulings, and he maintains that *uṣūl al-fiqh* alone is not sufficient in deducing the *maqāṣid*. He holds, moreover, that the science of *maqāṣid* can be applied to other disciplines and methodologies in reinforcing and supporting *uṣūl al-fiqh* such that it achieves what was intended by those who pioneered the field, which is identifying universals. Among the commendable and distinguishing features of Jabir's work is its innovativeness and the depth of its discourse. However, his treatment of the subject matter presents itself as incohesive and unmethodical. Moreover, his outline of the hierarchical structure of the universals is rather ambiguous. Thus, the strength of Jabir's work lies in its comprehensiveness, while its weakness is in its abstruseness.

3.5 Deploying Ideas from Beyond Tradition (Jasser Auda)

Jasser Auda's work, *Maqāsid al-Shariah as Philosophy of Islamic Law: A Systems Approach*, is a pathbreaking contribution that uses System Theory to establish a framework for the concept of *maqāṣid*. Auda sees *uṣūl al-fiqh* as a system that is comprised of the following six features: cognition, wholeness, openness, interrelated hierarchy, multi-

dimensionality, and purposefulness. These six features ultimately serve the Shariʿah, which he defines as "a purposeful system guided by its objectives."

Auda reaches five core conclusions concerning the role of *maqāṣid*: (1) that they be regarded as evidence; (2) that they form the basis of interpreting texts and in determining whether a text is specific in meaning; (3) that they be used in clarifying apparent conflicting texts; (4) that they form the reference point with regard to what is specific or general in meaning, and what is open-ended and what is restrictive; and (5) that achieving the objective becomes the ultimate deciding factor when there is a dispute about what is open-ended or restrictive (not simply relying on the analytical tools of language or logic to settle the dispute). Auda concludes his work with a fifteen point summary proposal for supporting the feature of "purposefulness" in the system of Islamic law.

Jasser Auda's systems approach to Islamic law and *maqāṣid* thought is certainly a unique contribution. However, he does not produce any new solutions that did not already exist in the Islamic intellectual heritage. His work can partly be summed up as emphasizing the notion of avoiding restrictions and deploying broad universal principles that are to be found in *uṣūl al-fiqh*. Despite some of its flaws, the innovative theory he introduces to us has great potential for further development.

3.6 Expanding the *Maqāṣid* and Applying them to All Aspects of Life (Gamal Eldin Attia)

Gamal Eldin Attia's work *Naḥwah Tafʿīl Maqāṣid al-Sharīʿah* is distinguished by its expansion of the *maqāṣid*. His comprehensive approach to the *maqāṣid* parallels that of Ibn ʿAshur's, though their methodologies also differ in many aspects. Central to Attia's theory is the idea that the aims of the Shariʿah are realized on four levels: individual, family, community, and humanity. He thus expands the *maqāṣid* to twenty-four. Attia essentially lays the foundation for a new conceptualization of the *maqāṣid*. This new conceptualization is especially demonstrated in his designation of various *maqāṣid* across four broad categories (Individual, Family, Ummah, and Humanity), within which the five universal *maqāṣid* along with other *maqāṣid* become noticeably clear.

Ibn ʿĀshur, as well as those who would follow him, had extended the discourse on *maqāṣid* to include their application in relation to the collective, a shift from the prevailing discourse which had primarily

focused on the *maqāṣid* as they pertain to the individual. It would in fact be a deficiency if the *maqāṣid* were not more general in application such that they apply broadly across various disciplines. Attia's expansion of the *maqāṣid* is thus a significant contribution, and it is the hope that it will curb disputation concerning how to approach them.

What distinguishes Attia's work in particular is its inclination to connect theory to application, or at least to think of the possibility of applying theory to real-life situations. Thus, when Attia discusses the notion of *maqāṣid*-based ijtihad (an idea which al-Raysuni emphasizes), he considers its practical realization, and as such, calls for not allowing the *maqāṣid* to be treated or viewed separately from *uṣūl al-fiqh*; rather, he calls for making the *maqāṣid* an advanced branch of Islamic jurisprudence which serves to support and assist it in developing its remaining branches.

3.7 Qualitative Expansion of the *Maqāṣid* (Abd al-Majid al-Najjar)

Among the distinguishing features of Abd al-Majid al-Najjar's work *Maqāṣid al-Sharīʿah bi Abʿād Jadīdah* is its balanced approach, wherein it might reference *uṣūl al-fiqh* as a general support for the argument, brings examples of *fiqh* rulings, and expand *maqāṣid* and reinterpret them; and overall, it attempts to not stray from the dominant views in the field. Al-Najjar points out that Muslim culture tends to understand the notion of "Shariʿah" as referring only to obligations and admonitions pertaining to individual conduct, and that a reductive understanding has been also attributed to *maqāṣid al-Sharīʿah*. However, the notion of "*maqāṣid al-Sharīʿah*" should be understood to encompass more, namely matters of faith. Thus, the discipline of *maqāṣid* should be understood to serve two primary roles, supporting the derivation of the Islamic regulations in accordance with a particular objective, and astutely applying them to real-life matters. His study sets forth four broad aims of the Shariʿah: preserving the value of human life, preserving human essence, preserving society, and preserving the surrounding physical environment. Al-Najjar's approach, however, does not stop at these four broad goals; rather, it goes into detail concerning them, including two objectives within each of them (eight in all). He discusses certain issues associated with each of these that the Shariʿah gives due attention to in order to achieve these objectives.

In discussing the aim of preserving religion (*ḥifẓ al-dīn*), al-Najjar rejects the common narrow understanding of it. According to al-Najjar,

preservation of religion "is not limited to preserving individual religious piety (*ḥifẓ al-tadayyun*), as some imagine;" rather it is more comprehensive than that and includes beliefs and obligations, whether they have to do with belief in the unseen, such as belief in the hereafter, or they have to do with the seen world of faith, such as prayer, seeking knowledge and other matters that are enjoined or admonished with regard to individual conduct. With regard to the preservation of intellect, it is achieved by the well-known material approach (of avoiding such harmful things as intoxicants), as well as by an intangible approach through the liberation of thought and education.

Al-Najjar then discusses the universal aim of preservation of society (*ḥifẓ al-mujtamiᶜ*), which includes the preservation of offspring (*ḥifẓ al-nasl*) and the preservation of the social structure (*ḥifẓ al-kiyān al-ijtimāᶜī*). The preservation of society may be achieved, moreover, by preserving the institution of the family, including family values, and thus protecting it against selfish individuality. As such, every individual is deemed to have a role within the broader social order or system. The preservation of society may also be realized through the institution of the state.

The fourth universal aim al-Najjar discusses is the preservation of the physical surroundings, which in turn is achieved by preserving wealth and the environment. According to al-Najjar, the preservation of wealth is realized through five means, namely: earning a living, economic growth and development, preservation of property rights (which is deeply entrenched in human nature), circulation of wealth, and business activities. As for the preservation of the environment, it may be realized by protecting it from destruction, pollution, excessive consumption that is far removed from sensitivity towards the cycle of the environment, and exhaustion of its resources; all of this leads to an imbalance in the environment.

Al-Najjar's study is regarded as pioneering. It follows a balanced approach, incorporating previous contributions in the field of *maqāṣid*, while avoiding delving into controversial matters or weighing between various views. His primary focus was to broaden the scope of *maqāṣid* and to develop a new approach that was not confined to any singular or methodological issue. It is as such that his approach treats different areas including belief, social life, and finance.

Chapter Four
Ascertaining the Maqāṣid al-Sharīʿah

The fundamental question pertaining to the *maqāṣid al-Sharīʿah* regards how to ascertain them? It is concerning this question wherein lies different interpretations and approaches, which in turn lead to various outcomes. The dominant approach to ascertaining an aim (*maqṣid*) of the Shariʿah is through identifying it directly from a text (i.e., Qurʾanic verse or hadith) or deducing it from an aggregate of texts. Modern *maqāṣid* thinkers such as Ibn ʿAshur and Allal al-Fasi went beyond this approach in further developing the methodology to ascertaining the *maqāṣid*. Al-Fasi provides the following concise statement regarding deriving *maqāṣid*, "The Shariʿah is rulings embodying *maqāṣid* and *maqāṣid* embodying rulings." Al-Raysuni says, in attempting to clarify al-Fasi's statement, "The meaning here is that the aims of the Shariʿah are taken from the rulings of the Shariʿah, and the rulings of the Shariʿah are arrived at by knowing the aims of the Shariʿah. In essence, this statement best characterizes the relationship between *maqāṣid* and ijtihad and the derivation of rulings."

4.1 The Boundaries of Induction (*Istiqrāʾ*) and its Efficacy

Al-Shāṭibī's *al-Muwāfaqāt* established a methodology to approaching the texts (Qurʾan and Sunnah) wherein induction (*istiqrāʾ*) was used to derive universals, going beyond the mere gathering of dispersed particulars. Offering a Qurʾanic basis for this approach, he tells us, "What is meant by "guard" in the verse, 'We have, without doubt, sent down the Message; and We will assuredly guard it (from corruption)' (15:9), is the preservation of the universal or holistic principles in the Qurʾan. And that is also what is meant in the verse, 'This day have I perfected your religion for you' (5:3). In other words, these Qurʾanic verses do not refer to merely preserving particulars, but rather universals." Induction in and of itself is no more than giving proper consideration to the particulars of the Shariʿah in relation to the universals that encompass them. We should note, as al-Raysuni reminds us, that in addition to induction, al-Shāṭibī defined the following four other ways in which the objectives of the *Shāriʿ* may be determined: (1) consideration of primary, explicit commands and admonitions; (2) consideration of general commands

and admonitions; (3) consideration of secondary objectives; and (4) the *Shāriʿ's* silence concerning an issue despite that the context calls for clarification and *tashrīʿ*. With respect to induction, we can ascertain that it is the most important and the strongest method to discover and confirm a *maqṣid*.

Al-Shāṭibī's theory was a breakthrough with regard to achieving one type of the *Shāriʿ's* objectives, which he expresses by saying, "The *Shāriʿ's* objective with the Shariʿah is to liberate the *mukallaf* (the competent and responsible person in the sight of Allah) from the control of his whims and desires, so that he becomes an *ʿabd* of Allah by choice, just as he is by necessity." Understanding that there is this type of objective points to the necessity of differentiating between objectives concerning the *mukallaf* and those aims of the Shariʿah which will inevitably be broader and more comprehensive.

A further question is whether an inductive approach to the Shariʿah Texts through the methodology of *uṣūl al-fiqh* is reliable, or whether the science of *kalām* (natural theology) can offer an alternative or supplemental methodology? The science of *uṣūl al-fiqh* is aimed at defining the rulings intended by the *Shāriʿ* on the basis of the *nuṣuṣ*, so as to direct and shape real-life situations in accordance with those rulings, and then to practically apply them. The science of *kalām*, on the other hand, seeks to achieve the same goal but in a manner using a method that seeks to purify real-life and eliminate false and deviant concepts. The scholar of *kalām*, however, will never be able to achieve this unless he understands the sound rulings according to which he should shape real-life situations.

Discussion in this section affirms the relative nature of human knowledge; so long as there is a divine text and human reasoning, the interaction between the two will be endless. It is an interaction which enriches and enables Islam to be universal and eternal. Undoubtedly, the current weak state of the Ummah is a by-product, as al-Alwani has suggested, of a fissure between revelation and reason. The notion that human knowledge is relative in nature, however, should not lead us to discredit conclusions based on rational arguments, possibilities, certainties, and empirical proof. Rather, any knowledge that we inherit – including that which has come from the most esteemed scholars whom we believe God has granted deep understanding, and whose writings have for centuries been important sources for Muslims – is knowledge that is subject to the constraints of time and place (a constant feature of

human nature). This human knowledge that we have inherited should be revisited. In fact, it should be reassessed and developed further. To do so is perhaps the greatest way of honoring such knowledge, and it is an acknowledgement of the work of pioneering scholars who provided the foundation for it. It is no wonder that the knowledge we have inherited has included differences on particular issues; even on matters wherein there was purported consensus. Claiming consensus can only be invoked if we mean by it the universals of Islam, not the particulars of ijtihad.

4.2 The Relationship Between the *Maqāṣid* and Fiqh

Most writings on *maqāṣid* try to link the *maqāṣid al-Sharīʿah* to the rulings of the Shariʿah, even though these various writings differ in the degree of the connection between them and the extent to which they regard the *maqāṣid* as directing and guiding the fiqh process. Just as *uṣūl al-fiqh* provides guidelines for the process of deriving detailed rulings, the *maqāṣid* are regarded as a means to help consolidate all fiqh issues within a single framework and to understand the wisdom and reasons behind the rulings, while also helping guide the jurist when approaching new issues. According to al-Shāṭibī, there are three ways to ascertain the aims of Shariʿah: (1) explicit texts from the Qur'an or Sunnah; (2) identifying the basis or reason (ʿillah) of Islamic rulings; and (3) an inductive analysis of the Qur'an and Sunnah.

4.3 Review of Key Concepts in *Maqāṣid* Thought

This section attempts to offer a further exposition of key concepts critical to understanding and applying *maqāṣid* thought. We begin with a discussion of *maṣlaḥah* as it is prone to being misunderstood and manipulated. We then address the concept of *ḍarūrah* (i.e., the notion of necessity or that which is indispensable), a concept that when misrepresented, unnecessarily constrains the framework of Shariʿah. We follow this by expounding on the concept of *ḥifẓ* (preservation), which is also prone to misunderstanding that can result in the misapplication of Shariʿah. Lastly, we provide discussion regarding whether the *maqāṣid* should be limited to the traditional five or expanded.

A. *Maṣlaḥah*
Ahmad al-Raysuni holds that there has been renewed discourse on the issue of reconciling between *nuṣūṣ* (Shariʿah Texts) and the principle of *maṣlaḥah*, projecting that it will become a central issue of discourse in

our time, much like those discourses pertaining to the reconciliation between the *naṣ* and reason, *aḥād* hadiths (transmitted by a singular chain of narrators), captious theological questions regarding whether the Qur'an is created, the Divine attributes, and other well-known issues throughout Islamic intellectual history that have been debated.

Ibn ʿAshur, like al-Shāṭibī, designated three categories of *maṣlaḥah*, namely *al-ḍarūriyyāt* (indispensables), *al-ḥājiyyāt* (needs), and *al-taḥsīniyyāt* (enhancements). He further added two broader categories, universal *maṣlaḥah* (concerning the Ummah as a whole) and particular *maṣlaḥah* (concerning a certain segment of the Ummah or certain individuals—i.e., having particular circumstances). With respect to particular *maṣlaḥah*, he designated three types: definitive, speculative, and illusionary. Ibn ʿAshur's taxonomy of *maṣlaḥah* certainly offers a great deal of benefit, especially in that it captures and accommodates the role of reason and experiential knowledge in the process of ascertaining and applying the *maqāṣid*.

Raysuni's theory of *maṣlaḥah* offers further categorization and important detail. His taxonomy includes associating *maṣlaḥah* with each of the traditional five *ḍarūriyyāt* (indispensables). He also adds two broad categories of *maṣlaḥah*, that which is tangible and that which is intangible. Al-Raysuni, moreover, gives great consideration to the context of time when thinking about *maṣlaḥah*; meaning that with the passage of time, a *maṣlaḥah* may seize being a *maṣlaḥah* and may even become a *mafsadah* (harm), or vice versa. This indicates the importance of not basing *maqāṣid* on time sensitive matters such that the *maqāṣid* become susceptible to change in the same way that *maṣāliḥ* change according to time

Al-Raysuni's judicious engagement with *maṣlaḥah* must be understood in light of what he holds to be its distortion and misapplication by modernist thinkers, which he goes on to illustrate. Another issue with respect to the subject of *maṣlaḥah* is that some of the well-known statements in reference to *maṣlaḥah* are so general and open-ended that they undermine the true meaning of *maṣlaḥah*. For example, the well-known statement, "Wherever there is a *maṣlaḥah*, there too is the Shariʿah of Allah" is undoubtedly too open-ended and may lead to misapplication. This statement can hold true only with a valid (i.e., scholarly vetted) *maṣlaḥah*. As such, and because this statement may lead to the misapplication of *maṣlaḥah*, it must be qualified by certain parameters, such as adding the caveat that it does not undermine the *maṣāliḥ* prescribed in

Shariʿah, and that it does not contradict what is established, either explicitly or implicitly, by the Shariʿah texts. Yet, the addition of such conditions introduces tautology to the statement.

Scholars such as Ibn ʿAshur are of the view that it is more beneficial to focus on greater *maṣāliḥ* that are well-established, as doing so would make it more inclusive of many types of *maṣāliḥ* that the Shariʿah would promote. This is important given the vast number of developments in modern life.

B. The Concepts of Ḥifẓ and Ḍarūrah

The term *ḥifẓ* (preservation) appeared early in the literature of *maqāṣid* and was considered self-explanatory. The term *ḍarūrah* (indispensability) is encountered in fiqh and in *uṣūl al-fiqh*, especially in regard to circumstances that make a Muslim not able to do what is obligatory and required. However, *maqāṣid* used the concept of *ḍarūrah* in an abstract and broader sense.

€ifẓ (Preservation)

Al-Shāṭibī provided a general, twofold definition for the notion of *ḥifẓ al-maqāṣid* (preservation of the objectives). The first part of his definition is that *ḥifẓ al-maqāṣid* connotes setting up the pillars of the *maqāṣid* and reinforcing their foundation. This meaning thus concerns bringing the *maqāṣid* into existence. The second part is that *ḥifẓ al-maqāṣid* connotes protecting the *maqāṣid* from what could undermine it, including those things which exist at present or are expected to arise in the future. This meaning namely concerns protecting the existence of the *maqāṣid*.

Regardless whether one agrees or disagrees with al-Shāṭibī's two-fold definition, it is relatively substantive and goes beyond a mere simplistic or literal rendering of *ḥifẓ al-maqāṣid*. What is not clear, however, is whether this notion of *ḥifẓ* refers only to *maqāṣid* that already exist and are to be preserved, or whether it also refers to preserving new *maqāṣid* that have come about as a result of Islam's passage through history? Qays Hamid is of the view that use of the term *ḥifẓ* inhibited the *maqāṣid* from going beyond the individual and applying to society. Those who studied the *maqāṣid* understood the limitations implied by the term *ḥifẓ*, so they began to distinguish between *ḥifẓ* in the context of preserving *maqāṣid* that were already established and *ḥifẓ* in the context of preserving *maqāṣid* that included those yet to be established. Understanding *ḥifẓ* in the sense of the former context leaves the impression of stagnation and a lack of dynamism. As such, and to avoid such an impression, *ḥifẓ* should also be understood in the sense of the latter context.

Al-Raysuni, however, strongly objects to the claim that we need to express the need to seek the *maṣāliḥ* [i.e., new *maqāṣid*] and not merely preserve them, saying, "This is wrong. When we say that the Shariᶜah 'preserves' [i.e., preserves certain *maqāṣid*], it means that they already exist. In other words, there are some beneficial goals to attain first, and some harms to ward off."

Ḍarūrah (Indispensability)

Turning to the notion of *ḍarūrah* [a notion that is part and parcel to *ḥifẓ* and whose practical application can pose issues], al-Shāṭibī defines it as "something that is essential to achieving interests in both religious and worldly terms, in such a way that if the *ḍarūrah* is not attained, then worldly affairs will not be conducted in a proper manner; rather they will be run in such a way that will lead to mischief, fighting, and loss of life, and in the hereafter there will be loss of salvation and of the bliss of paradise, which will result in clear loss." Al-Raysuni defines *ḍarūrah* as "*maṣāliḥ* that we cannot do without and there is no way to avoid them." In my view, the aforementioned definitions make *ḍarūrah* too restrictive. *Ḍarūrah* should not only apply to life-threatening, cataclysmic matters; rather, it should be more encompassing, but of course within certain boundaries.

How do we define indispensability as it applies to the preservation of religion (*ḥifẓ al-dīn*)? In other words, what is the bare minimum needed to preserve religion? We should note al-Shāṭibī's statement, "Preserving religion essentially entails preserving three dimensions, *islām* (i.e., the normative outward features of Islam), *imān* (i.e., the normative beliefs of Islam), and *iḥsān* (i.e., the combined notion of beauty and excellence)." These three dimensions, however, are very broad and difficult to capture within an *uṣūlī* framework. The question then is, how can we apply the three concepts of indispensables (*ḍarūriyyāt*), exigencies (*ḥājiyyāt*), and enhancements (*taḥsīniyyāt*) to the three dimensions of preserving religion, namely *islām, imān*, and *iḥsān*? Moreover, how do we reconcile these concepts and dimensions with the four-fold standard developed in Ibn ᶜAshur's theory, in which he stipulated the condition that for something to be a *maqṣid* it should be "fixed, apparent, well-defined, and consistent"?

As for that which is a *ḍarūrah* (indispensable) to preserving intellect (*ḥifẓ al-ᶜaql*), it should include avoiding falsehood and affirming the notion of causality. It should also include meaningful reflection upon the Qur'an and upon the creation of humans, animals, and other signs in

the universe. Defining the boundaries or scope for what is indispensable to preserving the intellect can be challenging.

In regard to the preservation of lineal identity (*ḥifẓ al-nasab*), reducing its understanding to its fundamental linguistic meaning whereby it is conceived only in terms of preserving reproduction will pose certain problems. Ibn ʿAshur's notion of preserving lineal identity goes beyond the more restricted rendering of "reproduction" and offers comprehensive and broad concepts and ideas that are important to the proper fulfillment of preserving and protecting the family system and social structure. To neglect this conceptualization would undermine the family makeup and inevitably society.

In regard to the preservation of wealth (*ḥifẓ al-māl*), defining its indispensability (wherein which life would not be possible) is rather difficult. In other words, how do we define the bare minimum needed for the preservation of wealth? I ask this in light of the fact that there have been peoples throughout history who were able to adequately live on even the scarcest amount of wealth and provisions.

C. Categorizing and Ordering into Indispensables (*Ḍarūriyyāt*), Exigencies (*Ḥājiyyāt*), and Enhancements (*Taḥsīniyyāt*)

Undoubtedly, the three-tier categorization of indispensables (*ḍarūriyyāt*), exigencies (*ḥājiyyāt*), and enhancements (*taḥsīniyyāt*) introduced by al-Juwaynī is among the important features of *maqāṣid* theory. These categories allow the theory to be more effective, comprehensive, and facilitate analysis. They essentially enable the theory to be dynamic and thus steer it away from a narrow understanding that can lead to its misapplication. We have already discussed the definition of indispensables (*darūriyyāt*). As for the meaning of exigencies (*ḥājiyyāt*), these are matters that are needed in order to alleviate constraints that typically lead to hardship—hardship that can occur in such areas as worship, customary practices, human transactions, and criminal cases. Thus, if exigencies are neglected, people will generally experience hardship. It should be noted, however, that such hardship is not to the extent that it undermines public welfare as the case is with indispensables (*darūriyyāt*). With respect to enhancements (*taḥsīniyyāt*), what is meant is the adoption of that which is of excellence in customs and traditions, and the avoidance of that which is abominable (which people of sound and mature thinking would refrain from). Matters of enhancements generally pertain to the realm of *akhlāq* (virtuous conduct).

Al-Shāṭibī highlights the relationship between these levels in a very clear manner, telling us, "Having established that enhancements are in the service of and complementary to exigencies, and that exigencies are in the service of and complementary to indispensables, it should then be understood that the indispensables are central [and therefore foundational to the exigencies and enhancements]."

Some commentators on *maqāṣid* theory, such as philosopher Taha Abd al-Rahman, reject the hierarchal prioritization of these three categories, believing that it detracts from the distinct quality of each of them (*tabayun*). Al-Raysuni holds that, "This three-fold division is based on ijtihad; it is approximate and no more." However, Riyad Adhami resolves the matter in suggesting that each of the five indispensable aims of Shariʿah occur at one of the three categories of indispensables, exigencies, and enhancements, and therefore producing fifteen levels of priorities. As such, if there is a conflict between two objectives, then any indispensable objective takes precedence over that which is exigent, and any exigent objective takes precedence over that which is an enhancement, regardless of which of the five objectives it is connected to. If two indispensable objectives or two exigent objectives are at the same level, then precedence is given to the one that is connected to the higher aim of Shariʿah.

From this we may understand that there is the following order of prioritization in the event of a conflict: (1) that which is indispensable for the preservation of religion, (2) that which is indispensable for the preservation of human life, (3) that which is indispensable for the preservation of lineal identity, (4) that which is indispensable for the preservation of intellect, and (5) that which is indispensable for the preservation of wealth; then (6) that which is exigent for the preservation of religion, (7) that which is exigent for the preservation of human life, (8) that which is exigent for the preservation of lineal identity, (9) that which is exigent for the preservation of intellect, (10) and that which is exigent for the preservation of wealth; then (11) that which is an enhancement for the preservation of religion, (12) that which is an enhancement for the preservation of human life, (13) that which is an enhancement for the preservation of lineal identity, (14) that which is an enhancement for the preservation of intellect, and (15) that which is an enhancement for the preservation of wealth. Based on the aforementioned, the practical implementation of *maqāṣid al-Sharīʿah* becomes possible for the general public.

D. Are the Indispensable (Ḍarūriyyāt) Maqāṣid Limited to Five?

Limiting the indispensables of Sharīʿah to five or otherwise has nothing to do with identifying *maqāṣid*; rather, it has to do with the art of theorizing. Any academic effort to do so must be focused on whether there is good reason to include another objective as something secondary to a major indispensable objective. Perhaps keeping five indispensable objectives has the advantage of enabling us to easily refer to the writings of earlier scholars and benefitting from what they wrote; otherwise, there is no rational reason not to add to these five objectives if it becomes apparent that limiting the number to five does not suffice. Al-Raysuni asserts that, "Limiting the indispensable [*maqāṣid*] to five, even though there is something approaching consensus regarding them, requires review and examination."

Chapter Five
Notes on Methodology

Here we discuss methodological issues related to the topic of *maqāṣid*, including: Observations related to theorising and issues that reduce its usefulness; and the relationship between Sharīʿah, jurisprudence and law.

5.1 Notes on Theorization

The ongoing revival of *maqāṣid* theory is seen as a crucial priority for the Ummah today, with many scholars actively contributing to this discussion. The process of renewal in various fields, including Islamic sciences, requires careful consideration of specific conditions. Contributions may arise from within established scholarship or from external sources, but it is essential that no field, particularly those concerning religion, exclude valuable insights from non-specialists. This inclusive approach recognizes the collective responsibility of the Ummah in addressing and evolving these critical topics.

For individuals seeking to contribute to a field, thorough research into the perspectives of earlier scholars is necessary. This involves not only understanding existing views but also critically engaging with them—refuting, revising, and proposing alternative ideas. While outsiders are encouraged to challenge established norms and bypass restrictive barriers that may lead to stagnation, there are still conditions that must be

met for their contributions to be meaningful and relevant. This balance of internal expertise and external fresh perspectives is vital for fostering a dynamic and progressive discourse within the Islamic sciences.

Uṣūl al-fiqh is a sophisticated science that has reached a high level of maturity, which ironically hinders further creative development. As a field matures, its specialists often become adept at countering challenges, even those intended to be constructive, leading to a crystallization of thought that resists new contributions. This phenomenon is recognized in the sociology of knowledge and the history of sciences, highlighting how the availability of resources and the surrounding circumstances influence the trajectory of a discipline's development.

There is nothing more indicative of the limitations of *uṣūl al-fiqh* and its inability to deal directly with major social problems of our time than the fact that when discussing the issue of *shūrā* (consultation) and democracy, Bin Bayyah does not refer to *uṣūl al-fiqh* in any way; rather, he only mentions the concept of justice, which comes under the heading of the major aims of Shariʿah. The reason for this is not that there are few religious texts that speak of political issues; rather, it is the profound changes that have occurred in all aspects of life which compel one to reference the major aims of Shariʿah, as they are more closely attached to the source of Islam and the wellspring of its guidance.

5.2 The Relationship between Shariʿah and the Law

In modern society, the terms Shariʿah, fiqh, and *qānūn* are often misunderstood, particularly in light of growing global interest in *maqāṣid al-Shariʿah*. While Shariʿah encompasses theological, moral, and practical teachings derived from the Qur'an and hadith, fiqh refers to the scholarly interpretations and applications of these teachings in daily life. Historically, Muslims understood the distinctions between these terms, but contemporary confusion arises from foreign influences and a decline in Islamic scholarship. Therefore, it is crucial to re-examine the etymology and meanings of Shariʿah to clarify these concepts.

Linguistically, the term *sharīʿah* means "the path to water," reflecting its root meaning of "a clear road or path." The Qur'an illustrates that *sharīʿah* encompasses not only Islamic teachings but also divine guidance linked to Prophethood, as seen in verses addressing the religious path prescribed to earlier prophets. Additionally, the concept of *sharīʿah* extends beyond mere rulings and regulations, embodying the

broader orientation of Islam and its *tawḥīdī* worldview. Thus, *sharī*ʿ*ah* signifies a comprehensive framework rooted in divine teachings rather than being confined to legalistic interpretations alone.

Reducing Shariʿah to mere legalistic interpretations distorts the understanding of the Islamic system, especially in a modern, secular context where values are eroded in favor of legality. Fiqh encompasses a wide range of life issues, including ethics, worship, and social conduct, reflecting a moral depth that is often absent in formal law. While both fiqh and *qānūn* (law) address similar matters, fiqh cannot be easily codified into rigid legal rules due to its nuanced nature. This distinction highlights that while following the law may make someone a good citizen, adhering to fiqh, in light of *maqāṣid*, nurtures a deeper moral and spiritual character, making one a good human being. Consequently, attempting to convert fiqh into law can lead to significant problems, as seen in cases where personal religious practices conflict with state law.

The aims of Shariʿah serve as foundational reference points for constitutional principles in political administration, prioritizing the preservation of intellect and life while distinguishing between essential needs (*ḍarūriyyāt*) and lesser priorities (*ḥājiyyat* and *taḥsīniyyāt*). *Uṣūl al-fiqh* plays a crucial role in shaping legal guidelines and controls, offering maxims that inform law formulation within state and civic institutions, thus aligning Islamic cultural mandates with legal frameworks. Fiqh acts as a resource for examining and integrating various scholarly opinions on issues like divorce, custody, and ethical standards in public administration, which ultimately influence legal rulings and regulations. Additionally, fatwas serve as supplementary materials, providing judicial precedents that can be analyzed for their binding nature and applicability through ijtihad, contributing to the broader legal context of the state.

5.3 Reconceptualizing the Concepts of *Nafs* and *Fiṭrah*

Discussions on the objective of preserving human life (*nafs*) often assume the concept is clear and self-evident, which can restrict its meaning. Al-Najjar points out that the discussions surrounding *nafs* fail to encompass related concepts, such as human dignity. Another relevant concept is *fiṭrah*, which Ibn ʿAshur connects to the aims of Shariʿah but does not thoroughly explore its relationship with *nafs*. This paper aims to expand on the meaning of *nafs*, arguing for its centrality to the ʿumrānī perspective of *maqāṣid*. Furthermore, while scholars like al-

Dehlawī attempt to define *fiṭrah* through the faculties of reason, emotion, and self, a precise definition remains elusive, highlighting the complexity of these interrelated concepts.

The definitions of *nafs* present several issues, particularly in how they relate to the intellect and heart, which both play roles in understanding and decision-making. These definitions often overlook the Qur'anic concept of *nafs's* potential for guidance or error. The nature of *fiṭrah* also requires clarification regarding its relationship to *ᶜaql* and *nafs*, and whether it is innate or acquired. Ibn ᶜAshur explores this in his work, raising questions about whether *fiṭrah* is universally innate among humans or if it can be influenced by divine revelation to correct distortions caused by desires and traditions. Al-Fasi contributes to this discussion by affirming that *fiṭrah* is innate, while also distinguishing it from related concepts such as nature, character, attitude, and habit.

In exploring the concept of *fiṭrah* alongside *nafs*, it becomes clear that discussions often reduce *nafs* to merely the physical body and its well-being, neglecting its broader implications as understood in the Qur'an. A more comprehensive understanding of *nafs* reveals five interconnected aspects: reason, emotion, conscience, will, and the body. *Fiṭrah*, as an essential human reality, can be seen as either the manifestation of conscience and inner feelings or as a state that encompasses all aspects of *nafs*, representing the intrinsic God-given nature of humans. This nuanced understanding highlights that *fiṭrah* is fundamental to human experience and behavior.

Further examining the relationship between *fiṭrah* and the various aspects of *nafs*, we observe that emotions such as love, kindness, and anger are universally recognized across cultures, illustrating a common *fiṭrī* emotional spectrum. Reasoning, characterized by inquiry and analysis, also connects deeply with *fiṭrah*. Conscience, often viewed as the spiritual reflection of human nature, reveals itself through feelings of guilt or regret, indicating a sound *fiṭrah*. Al-Dehlawī emphasizes that *fiṭrah* can become dormant due to barriers like negative attitudes and poor education, suggesting that enhancing *nafs* through spiritual growth and reflection can help overcome these obstacles, allowing *fiṭrah* to flourish in its natural, elevated state as intended by Allah.

5.4 The Concept of Freedom

Ibn ᶜAshur discusses the concept of freedom in Islam in his work *Uṣūl al-*

Niẓām al-Ijtimāʿī, identifying two forms: freedom from slavery and freedom of choice in belief and thought. While Islamic teachings aim to eliminate servitude, particularly slavery, they also emphasize the importance of personal conviction in matters of faith, rejecting compulsion. The Qur'an highlights the significance of freedom of thought and expression, illustrating that genuine faith must stem from an open heart, which fosters intellectual growth and the preservation of religion.

The abstract understanding of freedom in Islam is rooted in key principles, including the equal creation of humankind, the natural state of *fiṭrah*, and individual accountability to Allah. This conceptualization has far-reaching implications across personal, social, political, and economic dimensions, navigating both positive and negative aspects of human behavior. However, the modern interpretation of freedom, particularly as it relates to individual choice, often conflicts with Islamic perspectives, leading to potential issues surrounding personal responsibility and the collective good.

In Islam, rights are intrinsically linked to duties, with a focus on collective welfare over individual claims. The notion of individual freedom is limited by ethical guidelines and societal responsibilities, ensuring that personal liberties do not infringe upon communal interests. This integrated approach suggests that while freedom is vital in Islamic philosophy, it is not a standalone objective within the *maqāṣid* of Shariʿah; instead, it occupies a distinct role within the overarching framework of Islamic governance and societal structure.

5.5 Approaches to Reading Shariʿah Texts

The discussion of *maqāṣid* is fundamentally linked to the methodology of interpreting Shariʿah texts, including the Qur'an and hadith, with a focus on linguistics, context, and the integrative design of the Islamic system. Al-Najjar outlines five key aspects for this interpretative approach: linguistic analysis, contextual examination, *maqāṣidī* abstraction of common goals, an overall integrative reading process, and the use of reason. By nesting these bases, a more profound and balanced understanding of the texts emerges, countering the tendency for specialization to overshadow a comprehensive appreciation of Shariʿah. This approach emphasizes the interconnectedness of various interpretative methodologies, enhancing the depth of understanding in the study of Islamic law.

The linguistic approach to Shariʿah texts involves analyzing the meanings of words and passages, establishing the text's "carrying capacity" while adhering to the nuances of the Arabic language, which has been reformulated by the Qur'an. Contextual analysis further examines texts to derive rulings that guide human conduct, with *uṣūl al-fiqh* organizing this deductive process. The *maqāṣid* approach seeks to uncover higher objectives and wisdom behind Shariʿah, highlighting the importance of public and individual well-being. Integrative and conceptual analyses expand the understanding of Shariʿah within the broader Islamic system and its unique worldview. Employing these diverse approaches simultaneously enhances the comprehension of Shariʿah texts, preventing both overly literal interpretations and excessively liberal readings, while ensuring that contemporary sensibilities do not distort the original meanings of the texts.

Chapter Six
Discovering Maqāṣid in Ibn Khaldūn

To develop an effective theory of *maqāṣid*, it is crucial to move beyond the confines of *furūʿ al-fiqh* and *uṣūl al-fiqh*, while also rejecting misleading binaries such as the division of *maṣlaḥah* into worldly and hereafter benefits, a view dismissed by thinkers like Ibn Taymiyyah and al-Ṭūfī. This study aims to present an *ʿumrānī* perspective on the aims of Shariʿah, drawing on Ibn Khaldūn's ideas related to social sciences and the concept of *ʿumrān*. The chapter will first explore Taha Jabir al-Alwani's methodology for identifying the major aims of Shariʿah, followed by an examination of Ibn Khaldūn's contributions, setting the stage for a detailed discussion of the *ʿumrānī* objectives of Shariʿah.

6.1 Going Beyond the Framework of Fiqh and *Uṣūl al-Fiqh*

The literature review highlights that most efforts to understand and expand *maqāṣid al-Sharīʿah* have been largely confined to the frameworks of fiqh and *uṣūl al-fiqh*, resulting in limited conceptual innovation and adherence to earlier scholars' views. While such research has provided commentary through elaboration or interpretation, it lacks significant qualitative development necessary for addressing contemporary issues. The notion of moving beyond traditional frameworks does not dismiss these sciences; rather, it seeks to reengage with *maqāṣid* meaningfully. Taha Jabir al-Alwani has been a key advocate for this shift, emphasizing a methodological change that

transcends fiqh to focus on the fundamentals of religion (*uṣūl al-dīn*), as reflected in his contributions to the field of *maqāṣid*.

6.2 *Maqāṣidī* Reading of Ibn Khaldūn's Work

The project of revisiting and developing *maqāṣid* is crucial for the entire Ummah, requiring the mobilization of scholars and collaboration with various fields of specialization. While both al-Shāṭibī and Ibn Khaldūn aimed to reform Islamic thought, they employed different approaches; al-Shāṭibī focused on extracting universal rules from Sharīʿah texts, whereas Ibn Khaldūn sought to derive principles from history and social sciences to inform Muslim realities. Their contemporaneity and shared experiences suggest a potential exchange of ideas, with both contributing to reformative efforts in their respective works. However, Ibn Khaldūn's insights not only complement but also expand beyond *uṣūl*, offering a paradigm shift that facilitates a reimagining of *maqāṣid*, which this book aims to achieve.

Ibn Khaldūn completed his *Muqaddimah* in 799 AH, and al-Shāṭibī completed his *al-Muwāfaqāt* in the same decade, and it is likely that they met and benefited from each other, either directly or indirectly.

A. A Brief Look at Ibn Khaldūn's Innovative Methodology

Perhaps the best place to begin is by comparing Ibn Khaldūn's introduction with that of al-Shāṭibī. Al-Shāṭibī's discourse is marked by his concern that his renewal might be viewed as innovation or a misrepresentation of Sharīʿah, as well as his belief that it diverges from the approach of the early generations of scholars. Additionally, he alludes to certain concepts and embeds them with "symbolic references" without making explicit statements. The *maqāṣid*-oriented perspective that al-Shāṭibī articulated remains at a theoretical acceptance of the necessity to consider natural laws and historical experience, yet it does not develop a methodology for effectively utilizing these elements.

The methodology of fundamentalist induction, characterized by its dependence on linguistic rules, inherently limits the capacity for a critical examination of historical contexts. As noted by Zarzur, there exists a notable parallel between the intellectual pursuits of Ibn Khaldūn and the methodological framework established by al-Shāṭibī: "What distinguishes Ibn Khaldūn from al-Shāṭibī in their discourses on *maqāṣid* is that Ibn Khaldūn's discourse is informed by historical and sociological factors. Moreover, Ibn Khaldūn offers a different approach to certain

impermissible matters in the Shariʿah by considering them within an economic or sociological framework rather than a religious one, or by attempting to identify a sociological reason (stemming from an ʿumrānī basis) for an impermissibility." Ibn Khaldūn sought to transcend the mere contextualization of maqāṣid within historical frameworks; instead, he endeavored to establish methodological foundations for understanding the dynamics of human behavior throughout history. This approach, while distinct from maqāṣid, allows for the examination of potential connections between the two. In contrast, al-Shāṭibī concentrated his theoretical efforts on textual analysis, aiming to derive comprehensive principles that emerge from the texts. Ibn Khaldūn, however, directed his theoretical focus towards ʿumrān dimensions, from which historical laws can be derived. He implied a cautionary stance, suggesting that the principles of Shariʿah cannot stand if ʿumrān is adversely affected and that the maqāṣid alone may be insufficient for the welfare of the Ummah. Ibn Khaldūn's awareness of this relationship is evident in his discourse on the link between injustice and the decline of civilization.

Abd al-Rahman al-Adrawi believes that "the efforts of al-Shāṭibī and Ibn Khaldūn led to a great leap forward in knowledge and led to the development of a rational methodology that is founded on knowledge and is of a very serious and pioneering nature." He asserts that the Khaldunian methodology is a maqāṣid-based application, akin to a methodological revolution that transcends the traditional boundaries of linguistic reasoning and foundational reasoning, thereby opening broader horizons than those presented by al-Shāṭibī.

B. Extracting Maqāṣid for an ʿUmrānī Perspective
We examine Ibn Khaldūn's contributions and some issues he raised in relation to the five maqāṣid of Shariʿah. His thesis underscores the importance that an individual's life and the related legal interests can only be achieved through the proper functioning of the community. Since many of the commands of Shariʿah and their outcomes depend on collective effort, there must be a foundational relationship between the proper functioning of ʿumrān and the maqāṣid of Shariʿah. Among the dimensions of his maqāṣid-oriented perspective are: the integrity of conceptualization, the well-being of the soul and intellect, social cohesion, the development of livelihoods, and the justice of the governance system.

Sound Worldview

Ibn Khaldūn's *Muqaddimah* emphasizes the concept of historical laws (*sunan*), the purpose of creation, and the role of humans in the universe. The central focus of Ibn Khaldūn's theory is the general regularities observed in history.

Emotional and Psychological Well-being

Ibn Khaldūn's discourse was aimed at producing a theory in a systematic and cohesive manner. He complained about blind following and the fact that there was no longer any interest in engaging in ijtihad, and all that was left was mere imitation. Ibn Khaldūn mentions taking the views of the imams as being the fundamentals of Islam led to misunderstanding of the rulings and it also led to undermining ʿumrān, which is the basis for the well-being of the system of Islam. Ibn Khaldūn expressed concern about the mixing of what is part of Islam with some of the practices of the Prophet which come under the category of customs and habits. As an example is the issue of medicine, which falls under ʿādiyyāt (ordinary empirical experiences), that is part of human endeavors. He tells us that the Prophet Muhammad was sent to "teach us Shariʿah and was not sent to instruct us on medicine or other ʿādiyyāt."

Al-Shāṭibī held that everything in the Sunnah has a basis in the Qur'an. Ibn Khaldūn offered a more elaborate understanding of the Sunnah's place vis-à-vis the Qur'an and Islam. Ibn Khaldūn not only links the Sunnah to the Qur'anic text, but he also connects it to the higher objectives with respect to *uṣūl al-dīn* and the mission of the Prophets. The third perspective regarding *al-amr al-ṭabīʿī* (the nature of things), according to Ibn Khaldūn, has to do with people's upbringing. Here, Ibn Khaldūn focuses on the impact of the surrounding environment on people's behavior, and it is on the basis of that outlook that we should understand his discussion of the ʿumrān of the Bedouin and savage nations, not from a deterministic perspective. Along the same line, Ibn Khaldūn places an emphasis on the importance of ʿurf (custom and tradition) in shaping people's lives, but he states that ʿurf should be subject to Islamic teachings and values. The formation of a noble class that distinguishes itself from the rest of society is something common in human societies. Although the customs and traditions of the noble class may elevate the manners and behavior of society as a whole, self-admiration and arrogance (on the part of the noble class) may ultimately corrupt it, reducing their actions to mere boasting that is unable to promote any kind of good behavior and manners.

Balanced Societal Order

The general meaning of the concept of ʿaṣabiyyah (group solidarity) in Ibn Khaldūn's thought is cohesion, and it is not limited to political matters, but encompasses everything that contributes to the integrity of society and the alignment of its components. The religious aspect is what purifies and balances its elements. We also point out the impact of habituation to humiliation and the loss of empowerment, as the humiliation of the tribe and submission to others are obstacles to sovereignty, leading to a weakening of the strength of ʿaṣabiyyah. The connection of this concept to *umrāni maqāṣid* (objectives) lies in the cultural adaptation to events and crises, which is a characteristic of civilization.

Economic Vitality

Ibn Khaldūn offers many lessons regarding the field of economics, financial life, and the balance in wealth development. He provides a precise definition of the issues surrounding wealth acquisition as the state matures and its institutions diversify. The challenge lies in achieving balance in taxation, ensuring that the state collects sufficient funds to perform its functions without oppressing the people or hindering their ability to earn. He also warns about the dangers of the state engaging in trade and profit-making, as the state's apparatus has its own inherent power that can disrupt market balance and investment pathways.

Just System of Government

It is important to pay attention to two methodological points in reading Ibn Khaldūn's thesis: first, that the focus of his theory is not ʿaṣabiyyah or the state, but rather the laws (*sunan*); and second, to avoid conflating the normative (*maʿyārī*) with that based on historical laws. The normative pertains to ideals, while the law-based relates to what is commonly practiced in human reality. Highlighting these two points is crucial to avoid oversimplifying Ibn Khaldūn's ideas.

This is an exploration of Ibn Khaldūn's contributions on both collective and ʿumrān levels. The necessities of civilization that Ibn Khaldūn identifies must be aligned with the theory of *maqāṣid*, which is what I aim to achieve in the third chapter by proposing a new theory for understanding the Islamic system of civilization from a *maqāṣid* perspective.

PART III: ʿUMRĀNĪ AIMS OF SHARIʿAH

Preamble

Part Three presents a theory of the aims of Shariʿah from an ʿumrāni perspective.

I   The preservation of religion and the refinement of its worldview (€ifz al-Dīn wa Tazkiyah al-Ṭasawwur): Safeguarding faith and promoting a correct understanding of beliefs.

II The preservation and the refinement of the holistic self and its intellect (€ifz al-Nafs wa Tazkiyah al-ʿAql): Protecting human life and intellect while fostering moral and intellectual development.

III The preservation of family and the refinement of the societal order (€ifz al-Usrah wa Tazkiyah al-Ijtimāʿ): Protecting the family unit and enhancing social cohesion and community values.

IV The preservation of wealth and the refinement of livelihood (€ifz al-Tharwah wa Tazkiyah al-Arzāq): Safeguarding economic resources and ensuring just and ethical means of earning.

V   The preservation of polity and the refinement of governance (€ifz al-Ummah wa Tazkiyah al-Siyāsah): Maintaining the integrity of the nation and promoting fair and just political systems.

Chapter Seven
ʿUmrānī Maqāṣid

This chapter presents a *maqāṣid* theory regarding the realm of ʿumrān. The *maqāṣid* project is a methodical initiative for the Ummah, illuminating the path of dealing with reality amidst changing circumstances and times.

Al-Alwani had proposed a tripartite formulation of the *maqāṣid*: tawḥīd (unity), tazkiyah (purification), and umran. Tawḥīd serves as the guiding light for all branches of the *maqāṣid*, tazkiyah is the process through which the *maqāṣid* operate, and matters of umran are the subject of detailed exploration.

7.1 The Preservation of Religion and the Refinement of its Worldview

Religion is the guiding force in human life, and it embodies the core issues and spirit that place individuals on a straight path, protecting

them from behaviors that lead to misguidance. The goal is to achieve faith that is free from injustice, which necessitates studying the ailments of perception that distort religion from its original intent, as well as the aspects of purification that preserve the clarity of perception without addition or subtraction. The prevailing ailments of perception that have affected religions include: pantheism, anthropomorphism, mystical nationalism, and materialism.

A. Ḥulūl: Guarding Against Belief in Divine Embodiment
This term refers to the idea that the Divine resides within a person. There are religions that completely embrace the notion of indwelling. Their way of life is shaped by such beliefs, and they divide humans into castes, describing the highest caste as having divine indwelling and the lowest as cursed. They reduce humankind, whom God created and honored, to a cycle of reincarnation. Some of these ideas influenced some Muslim groups and distorted their understanding of the teachings of the religion. God created humans and instilled within them innate impulses that, if unleashed without restraint, can dominate a person and lead to their destruction. Conversely, if these impulses are suppressed, they may fester and eventually corrupt. Deviating from the foundational understanding leads to deviation in behavior. The Qur'anic criticism of some monks for consuming people's wealth unlawfully is a warning to all and is applicable to all religions (9:34).

B. Tajsīd: Guarding Against Incarnation
Anthropomorphism is accompanied by fragmentation, which in turn leads to a disruption in causality; certain anthropomorphisms become associated with specific attributes over others. This fragmentation results in a competition among various belief components, as well as between the attributes of good or evil that humans, as creators, perceive, leading them to favor one over the other. In all of this, there is a projection of the attributes of the created onto the Creator.

C. Guarding Against Transcendent Nationalism
The third distortion of religion is the physical manifestation of transcendent nationalism; that is, ethnocentrism stemming from the belief of being divinely "chosen" and therefore superior. This is the understanding that ignores the hidden unseen and the unknowable (ghayb) whilst trying to give a physical manifestation to what is unseen, and then turns both of them into attributes that are unique to some specific people. Some religious understandings distanced God from life on the grounds that His mission has been fulfilled due to the success of His chosen

people. This distorted claim—that religion is the special privilege of a select group—crept into the thought of some Muslim groups, resulting in their disregard of Islam's universal message.

D. Dahriyyah: Guarding Against Existentialism
Its essence is the illusion of self-sufficiency from the absolute God in all His attributes, and the continuous sustenance of the universe without any absence. This is reflected in the beliefs of Zoroastrianism, Gnosticism, Buddhism, Confucianism, and contemporary humanism. Anthropomorphism represents a form of pantheism within the created, and the imposition of divine attributes onto parts is evident in esoteric pantheism. What is required is the purification of perception from such intrusions.

7.2 The Preservation and the Refinement of the Holistic Self and its Intellect

The second *ʿumrānī* aim of Shariʿah is to preserve and refine the *nafs* in alignment with the elevated state of *fiṭrah*, which represents the natural condition of human intellect, emotions, conscience, willpower, and physical body as created by Allah. The *nafs* is a holistic self with five dimensions: intellect, emotions, conscience, will, and the physical body. While both wickedness and piety are inherent tendencies, individuals can align with the refined standards of *fiṭrah* by following religious guidance. The choice between wickedness and piety hinges on one's ability to differentiate right from wrong and whether they yield to or restrain their desires. Worship and adherence to religious commandments empower the good to prevail over evil. Ultimately, those who purify the *nafs* attain felicity, while those who corrupt it face loss and doom.

Caring for one's physical well-being parallels the need to develop and maintain the intellect, which is enriched through knowledge. Emotions thrive on reciprocation, while examining the conscience leads to purification. Willpower is strengthened by a commitment to religious values. Each aspect of the *nafs*—intellect, emotions, conscience, willpower, and physical body—is interconnected; thus, the purification of the *nafs* in all dimensions is essential and is achieved through worship and adherence to religious teachings.

A. Ikhlāṣ: Sincerity and Vigilance
Ikhlāṣ, sincerity, is a central concept in the Islamic faith as it is a necessary condition for the acceptance of deeds on the Day of Judgement. The

aim of purifying the *nafs* dictates that individuals should take stock of themselves and their deeds, for human beings will have nothing but what they strive for.

B. Trust in Allah and Certainty of Faith

The second means by which purification of the *nafs* may be attained is strengthening one's trust in Allah and attaining certain faith in Him. Giving in to despair and hoping for more worldly gains are two feelings that may find their way into the heart of the weak individual and exacerbate the person's weakness. Hence, developing trust in Allah and making it second nature, on the basis of rational conviction, is one of the most powerful means of rectifying people's lives.

C. Ṣabr and Mujāhadah: Patience and Striving

Ṣabr, patience, is a highly recognized attribute in the Qur'an and Hadith, and frequently the concept of *mujāhadah* (striving the utmost) is associated with it. The aim of purifying the *nafs* and preserving the *fiṭrah* requires fostering feelings of patience and training in it, as this world is a place of trial, and human life is filled with various forms of tests. The purification of patience is grounded in the concept of reward and is based on the understanding of this world as a place of tribulation.

D. Learning and Education

The fourth element connected to preserving and purifying the *nafs* is taking care of the intellect and protecting it through education and learning; and we are using the term education here in its general meaning of being cultured, not simply in the technical sense of certificates and formal education. Islamic teachings encourage people to improve their intellect through thinking and contemplating the signs in themselves and in the universe, and this is regarded as an act of worship and a means of developing God-consciousness.

7.3 The Preservation of Family and the Refinement of the Societal Order

The purification of societal order is the third ʿumrānī aim of Shariʿah, encompassing the concept of preserving lineage and expanding it along with its related aspects. There are four dimensions of this aim of Shariʿah: seeking tranquillity, mutual support, mutual advice, and correcting what is wrong.

A. Sakan: Tranquil Stability

Sakan is a Qur'anic term that includes the meanings of repose, comfort,

peacefulness, shelter, and stability. Assured stability is a crucial property in all of the institutions of the society, especially the family. Promoting the measures that lead to stability is clearly a matter of importance, because the family is the framework that brings together the two sexes, which are the brilliant creation of Allah.

B. Mutual Support
Human life is inherently characterized by weakness, which is transformed into strength through cooperation and mutual support based on the bond of faith, rather than solely on familial ties. This bond protects against the tribalism of ignorance and the support of falsehood driven by fanaticism and obstinacy. Such cohesion can only be achieved through the efforts of the believers themselves, who must interlink the foundations of society with one another.

C. Naṣīḥah: Mutual Advice
The third aspect of strengthening societal order is enjoining what is right and forbidding what is wrong. It is essential to have a counselor who reminds others of what is most upright and beneficial. The concept of enjoining good and forbidding evil should not be limited to mere admonition and reprimand; rather, it is a social responsibility that seeks out ways of wisdom and kind exhortation.

D. Islāḥ: Maintenance of the Social System
The Qur'anic term iṣlāḥ is a generous term where it carries the meanings of improvement, mending, suitability, acting morally with religious consciousness. The aspect of reform within the Islamic framework is intrinsically linked to the determination and resolve of individuals to pursue reform in all circumstances, taking the necessary means without becoming overly attached to them. It requires patience in the face of adversity, avoidance of despair and hopelessness, and a hopeful yearning for relief from trials. The inclination toward reform serves as the intellectual foundation for the universality of the message of Islam and the dominance of Qur'anic values that are preserved from alteration.

7.4 The Preservation of Wealth and the Refinement of Livelihood

This is the fourth aim of Shariᶜah regarding ᶜumrān, where the focus is on maintaining rizq (bounties) of Allah, which includes both visible and hidden wealth, both individual and collective wealth, and wealth that could be achieved directly by individual effort or that already exists, having been bestowed upon humankind and entrusted to it. The effects

of abundant provisions on human life are evident; without them, life withers and cannot thrive. This aim (preservation of wealth and purification of livelihood) has four aspects: individual ownership in the sense of it being a trust from Allah, circulation of wealth, emancipation, and conservation.

A. Individual Ownership as a Trust from Allah

The Creator's wisdom dictates that humans possess an inclination toward the love of wealth, which is essential for life. Islamic law encourages spending from this wealth while prohibiting its hoarding, as this minimizes the potential for aggression and deprivation of others. The purification of spending manifests in two aspects: determining the limit that approaches extravagance and assessing what constitutes wastefulness.

B. Tadāwul: Circulation of Wealth

The circulation of wealth is a fundamental principle within the Islamic system. Usufruct ownership pertains to what is made available for human use. All resources of the earth are creations of God, and over time, ingenious methods have emerged to extract the treasures of the universe for the benefit of people, encompassing various forms of water, pasture, and fire that are shared among individuals.

C. Iʿtaq: Liberation

Emancipation stands in opposition to enslavement. God has freed people and bestowed upon them apparent and hidden blessings, making them equal in their servitude to the One, the Eternal. They are equal in their descent from a single origin, with their nobility in the sight of God determined by piety. The measure of worth lies in righteous deeds and cooperation in their pursuit. Consequently, the third branch of the objective of preserving provisions is the emancipation from the constraints of life in the quest for sustenance. Slavery represents one of the most severe forms of human control, heightening the necessity for mutual support and cooperation in its resistance and dissolution.

D. Sufficiency and Conservation

The aim of preserving wealth and purifying provisions encompasses all the activities associated with the aforementioned specific objectives. Usufruct ownership frames the interaction with wealth, circulation prevents its monopolization, revitalization enhances it, and emancipation shows compassion toward those striving for benefit. Collectively, these elements lead to a balanced state of sufficiency, which itself must be regulated.

7.5 The Preservation of Polity and the Refinement of Governance

This is a fundamental objective worthy of independence, prominently highlighted by Ibn Khaldūn. Negligence and poor governance in managing the affairs of the nation lead to numerous corruptions across all aspects of life, potentially resulting in chaos and disorder. If such conditions persist, the status of the nation diminishes, and its strengths erode. Stability in a society cannot be achieved unless governance is committed to protecting rights. Furthermore, the collective efforts of the people cannot be gathered and directed toward the grand objectives of the nation without enabling political pathways to do so. Islam cannot attain prominence without wise governance.

A. Justice with Regard to Rights and Duties

This is the most significant demand of governance and the primary justification for delegating authority to a group of those in power. The concept of justice is inherent in all directives of the Shariᶜah. Upon reflection on the condition of nations throughout history, one finds that justice is the key to prosperity, while its absence is the key to calamities. While pure justice and egregious injustice are clear and largely undisputed, the assessment of moderate matters is often perplexing to the intellect. Freedom cannot be sustained without justice, nor can one conceive of freedom without rights and responsibilities. Freedom is an essential element in the Islamic paradigm where it is tied to the concept of creation and to accountability on the day of judgement. Furthermore, rights cannot be preserved without due attention to documentation in a written record.

B. Shūrā: A Multilayered System of Consultation

The purification of the objective of consultation (*shūrā*) and the preservation of its effectiveness are achieved by establishing it across various social contexts. Humanity has engaged in consultation on collective matters since ancient times, typically occurring among the wise and notable figures of a community. This process was often spontaneous, governed not by formal laws, but rather guided by widely accepted customs and norms.

The Connection between the Shūrā Process and the Type of Human Community

The type of *shūrā* may vary according to the three characteristics that human communities may have:

• The Degree of Diversity in the Social Make-up of the Community
Diversity is of three dimensions: ethnic, linguistic, and religious. When
the political system acknowledges these dimensions, it puts forth a real-
istic basis for managing differences and tensions

• How People Come Together and Form a Single Political Entity
Two key factors influence societal changes: demographic shifts and
geopolitical dynamics. Migration has historically altered demograph-
ics, leading to diverse human societies. The expansion of states and the
political control of new territories continue to shape populations. New
societal formations can arise from both hostile and peaceful means,
affecting how privileges and opportunities are distributed. A less con-
frontational approach fosters smoother development of the consulta-
tion (*shūrā*) process and its institutions. Additionally, Islam's recogni-
tion of Abrahamic religions promotes a value-based acknowledgment
of others, creating a common ground for *shūrā* within social relations.

• The Basis on Which Human Groups Form
There are five common types of human groups in which the *shūrā* pro-
cess may take place:
1. Friendship groups, because there is affection and compassion among
    them.
2. Neighborhood groups.
3. Associations of small groups among those who practice the same
    profession or share common interest.
4. Cities that typically house a large number of inhabitants. The nature
    of group formation in cities is different from that of small groups'
    localities, as the system in cities is composed of different levels
    among which there is interaction and overlap.
5. The Ummah as a whole.

Rebelling Against Authority
Philosophers from various cultures tend to discourage rebellion against
authority for minor reasons, seeing revolution as a last resort. This per-
spective is based on two main reasons: first, many calls for rebellion
stem from a desire for power rather than genuine reform; second, public
unrest can arise from the authority's failures in areas that do not war-
rant disobedience. The caution against rebellion is linked to the
shortcomings inherent in any political reality. Obedience to Shariʿah
and its implementation takes precedence over loyalty to the current
Muslim leadership. If consultation (*shūrā*) is functioning effectively
across different social and administrative dimensions, there should be

no need to completely replace the governing system. It is essential to connect rebellion with the degree to which the authority deviates from developmental objectives, which can range from negligence and incompetence to corruption and mismanagement; the former warrants reform, while the latter justifies revolution.

C. Jihad: Striving to Achieve Security and Peace
Jihad is a Qur'anic term, which has suffered much abuse and controversy from within and without. It means literally, striving, and refers to any earnest striving in the way of God, involving either personal effort, material resources, or arms for righteousness and against evil, wrongdoing and oppression.

D. Taʿāruf and Balāgh
Taʿāruf and balāgh are two Qur'anic comprehensive terms, and among their meanings are creating means of communication among people so that they may get to know one another and conveying the message of Islam. The duties of taʿāruf and balāgh span from the individual level to the top collective level. God created people as nations, tribes, and communities, and had He willed, He could have made them a single nation. However, He desired diversity to enrich and enhance life. Humans are made distinct in language and varied in color, emphasizing the importance of mutual recognition. This linguistic and cultural diversity reflects different customs, social structures, and ways of life. Encouraging mutual recognition fosters closeness by highlighting commonalities among people.

Conclusion

This book has introduced an ʿumrānī perspective of the aims of Shariʿah. The first and foremost of these aims is preserving the essence of religion and its pristine worldview, and to rectify the process of being guided by religion. The second ʿumrānī aim lies in the preservation of the holistic self and refining its multiple dimensions, reason, emotions, conscience, and will, in addition to the physical body, along the lines of fiṭrah. The third ʿumrānī aim that the maqāṣid of Shariʿah maintain is preserving the family system and refining the societal order with its overlapping institutions and the very reality in which people live. The fourth ʿumrānī aim has to do with wealth, property, resources, provision, and the economy. The fifth ʿumrānī aim lies in the maintenance of polity and rectifying the governing ways of running and managing the collective affairs of people.

Whatever ʿ*umrānī* aims have been introduced in this book may be regarded as a reformulation and an extension of the five classical aims of Shariʿah. The aim of the preservation of religion and the refinement of its worldview is parallel and complementary to the aim of preserving religion in the classical theory. The preservation and the refinement of the holistic self and its intellect is an ʿ*umrānī* aim and an expansion of two aims in the classical formation: the preservation of *nafs* (self) and the preservation of ʿ*aql* (reason). As an ʿ*umrānī* aim, the preservation of family and the refinement of the societal order is an expansion of the classical aim of preserving lineage. The preservation of wealth and the refinement of livelihood is also a broadening of the classical aim of preserving property. Lastly, the preservation of polity and the refinement of governance is an ʿ*umrānī* Shariʿah aim that was added as its realm is virtually absent in classical *maqāṣid*. And in all of these aims, the collective dimension was specifically stressed, an important feature for *maqāṣid* from an ʿ*umrānī* perspective.

Studying both the Qur'an and Sunnah and deepening the understanding of their horizons are a sure duty upon the serious believer, and learning from human experience as it accumulates knowledge with the passage of time would help in furthering the ʿ*umrānī* perspective of Shariʿah. The comprehensive nature of the discourse of ʿ*umrānī* Shariʿah *maqāṣid* is the key to rectifying the Muslims' affairs. And so long as life is constantly changing, there will be a constant need to think about how to expand the framework within which the aims of Shariʿah are to be achieved. That is the responsibility of the vicegerent, who is obliged to use reason, to read and understand Allah's revelation, and to reflect on the creation of the universe and the history of humanity.

The Author

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The previous decade witnessed a plethora of books on the subject of *maqāṣid* (aims of Shariah), stressing that Islam's commandments have overarching aims, and that the individual texts of Qur'an and hadith can only be adequately understood within the universal principles of Islam. While the classical work on *maqāṣid* is immense, that of Shatibi (d. 1388 C.E.) gained the utmost authority as it theorized for five general aims of Shariah, which can take one of three levels of priority. Since then most of the works on the subject of *maqāṣid* have been a variation on Shatibi's approach. The major contribution of this book is to marry Ibn Khaldun's perspective with that of Shatibi. In such a way, a new *maqāṣid* theory that attends to the insights of history and social sciences is constructed. The proposed theory is marked by a high degree of synthesis and maintains the major categories of Shatibi, but only after redefining and expanding them. Moreover, the new enhanced theory of *maqāṣid* is marked by being multidimensional, where the five goals of Shariah operate in an open space. In addition to its academic contribution, this new work hopes to make *maqāṣid* more amenable for appreciation and application in our time.