

UNDERSTANDING
Maqāṣid al-Sharīʿah

A Contemporary Perspective



Musfir bin Ali al-Qahtani

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INTERNATIONAL INSTITUTE OF ISLAMIC THOUGHT

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I436AH/2015CE

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978-1-56564-666-7 *Limp*
978-1-56564-668-1 *Cased*

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Layout and Design
Shiraz Khan

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Foreword

MUSFIR BIN ALI AL-QAHTANI contributes in this work to the ever growing body of scholarly literature in the field of *maqāṣid al-sharīʿah* (higher objectives of Islamic law). *Understanding Maqāṣid al-Sharīʿah: A Contemporary Perspective* calls for the development of a juridical sense that is finely tuned to the higher objectives and purposes of Islamic rulings, the aims of which are the formulation of a new methodology in understanding the revealed texts and the reform of Muslim thought and its application. The author draws our attention to the importance of understanding various levels of *maqāṣid*, including distinguishing between primary aims (*al-maqāṣid al-aṣliyyah*) and secondary aims (*al-maqāṣid al-tābiʿah*).

Al-Qahtani asserts that a positive understanding of the objectives of the Shariʿah should produce affirmative human and cultural development in Muslim societies. The real strength of this work, however, is in the author's application of higher objectives and aims to different areas of jurisprudence, such as in deriving and issuing religious rulings (*iftā'*), and to important social issues and problems present in Muslim societies, such as extremism, jihad, commanding right and forbidding wrong, social change, crisis of Muslim thought, countering religious excessiveness, the need for recreation and leisure, citizenship and nation-belonging, spreading beauty and harmony in Islam, and the role of Muslim women in society. For these reasons, the book should appeal both to the general reader and specialist alike.

Where dates are cited according to the Islamic calendar (hijrah) they are labelled AH. Otherwise they follow the Gregorian calendar and labelled CE where necessary. Arabic words are italicized except

FOREWORD

for those which have entered common usage. Diacritical marks have been added only to Arabic names not considered modern. English translations taken from Arabic references are those of the author.

The IIIT, established in 1981, has served as a major center to facilitate serious scholarly efforts based on Islamic vision, values and principles. The Institute's programs of research, seminars and conferences during the last thirty years have resulted in the publication of more than four hundred titles in English and Arabic, many of which have been translated into other major languages.

We express our thanks and gratitude to the author for his cooperation and all those directly or indirectly involved in the completion of this book.

IIIT

1436 AH / May 2015 CE

Preface

All praise be to God (SWT),¹ and blessings and peace be upon His trustworthy Prophet Muhammad (ṢAAS)², his household and his Companions.

The aims of Islamic law, or the Shari‘ah, constitute a general framework for existent and anticipated Islamic rulings. They are the comprehensive goals to which a Muslim refers whenever he or she is uncertain, particularly when partisanship, blind imitation, and preoccupation with the details of controversial issues are the order of the day. They are also a refuge for someone who seeks a way out of a crisis or seeks an Islamic solution to a particular *nāzilah* (a novel case that was unknown in the history of Islamic jurisprudence and for which Islamic rules are needed). In any of these situations, the aims of Islamic law, or *maqāṣid al-sharī‘ah*, are there to offer guidance. Many Muslim reformers have taken *maqāṣid al-sharī‘ah* as their primary reference point. Imam al-Shāfi‘ī, for example, brought the Muslim community together after they had been divided into two groups, *Ahl al-Ra’y*³ and *Ahl al-Hadīth*,⁴ via a focus on *maqāṣid al-sharī‘ah* in his famous work, *al-Risālah*; in a similar spirit, Shaykh al-Islam Ibn Taymiyyah explained the way of the righteous predecessors after division had eaten deep into the fabric of the Muslim community concerning belief and law. Imam al-Shātibī did the same in his famous work, *al-Muwāfaqāt*, in which he clarified matters relating to acts of worship and other fundamental issues in light of *maqāṣid al-sharī‘ah*.

Therefore, selecting a working methodology to clarify the aims and general principles of Islamic law in times of crisis and division

is beneficial to Muslims both individually and collectively. Such crises might involve, for example, excessive preoccupation with disagreements over peripheral matters; blind imitation of fallible human beings as opposed to following the infallible revelation; giving preference to means over ends, and stressing avoidance of harm over achievement of benefit. Such phenomena have brought division to the Muslim community and, consequently, weakness and degeneration.

The present work is an attempt to apply the science of *maqāṣid al-sharīah* to contemporary needs, particularly the need to formulate new Islamic methodologies, and to reform and diversify Islamic action. I refer to such an approach as “goals awareness” given the need to understand the goals of Islamic law lest we come to hasty conclusions concerning their means of application. In this way we can bring about guided change and lucid reform, being cognizant of and attentive to the realities before us.

This work consists of a preface, introduction, and five chapters. The preface presents the science of *maqāṣid al-sharīah*. Chapter One examines the impact of goals awareness on contemporary methods of arriving at fatwas, or Islamic legal rulings. Chapter Two deals with the need to be aware of cultural constructions. Chapter Three discusses goals awareness as it relates to the crisis of religious extremism. Chapter Four examines the impact of goals awareness on Muslims’ way of thinking. Finally, Chapter Five highlights the urgent need for goals awareness in social action.

May God grant me sincere intention and correct action and let this work be pleasing to Him. Whatever I have written that is correct is from God alone, and whatever is mistaken is from me and from Satan. God knows best, and is the best of all judges. Blessings and peace be upon our beloved Prophet Muhammad, members of his household, and his Companions.

Dr. Musfir bin Ali al-Qahtani

INTRODUCTION

OVERVIEW OF THE INTRODUCTION

To introduce and discuss the meaning of *Maqāṣid al-Sharī‘ah*, its definition, how it is understood, and its differing categories.

THE aims of Islamic law are the purposes for which this law was ordained, and which are considered in all or most of its rulings. Islamic law has been ordained exclusively for the benefit of humankind in this world and in the Hereafter.¹

A thorough study of Islamic law will show that its rulings exist either to bring benefit or to ward off harm. Examples of this in the Qur’an include the following statements:

[We have sent all these] apostles as heralds of good tidings and as warners, so that men might have no excuse before God after the coming of these apostles. (*Sūrah al-Nisā’* 4:165)

We have sent thee [O Prophet] as an evidence of our grace towards all the worlds. (*Sūrah al-Anbiyā’* 21:107)

A close study of the rationales behind known rulings will show clearly that such rationales, taken together, are the very goals of the Shari‘ah and the pivot around which its rulings revolve. This is illustrated by the following statement of God, which follows a command to perform ritual ablutions: “God does not want to impose any hardship on you” (*Sūrah al-Mā’idah* 5:6). The same principle is evident in God’s statement ordaining fasting: “Fasting is ordained for you as it was ordained for those before you, so that you might

remain conscious of God” (*Sūrah al-Baqarah* 2:183), and His statement about prayer: “Prayer restrains [us] from loathsome deeds and from all that runs counter to reason” (*Sūrah al-ʿAnkabūt* 29:45).

Other verses also explain the wise purposes behind Islamic rulings. Imam al-Shāṭibī writes, “Since it has been established by thorough study that this is the case [i.e., that the law of Islam aims to serve people’s best interests] and that it benefits knowledge, we can, therefore, say with all certainty that this is the general characteristic of all the details of Islamic law.”²

Thus, three things are found in every ruling of the Shariʿah: (1) a clear and easily defined cause (*ʿillah*), (2) the benefit (*maṣāliḥ*) the action concerned will bring, that is, the wisdom (*ḥikmah*) behind the legislation concerned, and (3) the benefit to be attained or the harm to be prevented by the ruling in question, also known as the purpose or intent (*maqṣad*).³

These are permanent features of all Islamic rulings. There is no Islamic ruling or legislation but that it aims to actualize a benefit, prevent some harm, or free the world from some evil or transgression. In short, the Shariʿah aims at actualization of the general goals of making individuals and societies happy, preserving law and order, and bringing humankind to the pinnacle of perfection, goodness, and civilization. Everything in Islamic legislation is about ensuring benefits. Whatever it demands is for the purpose of actualization of benefit, immediate or long-term; and all its prohibitions are for the purpose of preventing harm and evil.

Since the goals of the Shariʿah are so intimately connected to Islamic laws in their every detail, it follows that being acquainted with them is a matter of necessity for all people. Moreover, since the goals and purposes of Islamic law enable us to see the wisdom behind each Islamic command or prohibition, they serve to strengthen our faith, certainty, and commitment to right action. As for Muslim jurists, they consider the goals of Islamic law when investigating existing rulings, studying texts, and deducting new rulings. In order to know the ruling that applies to a given case, one needs first to understand the relevant texts. When seeking to

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reconcile seemingly contradictory proofs or texts, one may seek help through the goals of the Shari‘ah. If there is a need to explain God’s ruling on a case through methodologies such as analogical deduction or *istihsān*, the goals of Islamic law will help to clarify matters.⁴

It is precisely this situation which prompted Shaykh Ibn Ashur to write his invaluable book, *Maqāṣid al-Sharī‘ah al-Islāmiyyah*. In his introduction he wrote:

In this book I discuss important aspects of the goals of Shari‘ah, citing examples of the same, and providing proofs of their genuineness. Such goals can serve as a light by which those seeking understanding of the religion can minimize differences of opinions among themselves, and by means of which budding scholars can learn to weigh divergent opinions in a manner that is fair and just. It is hoped that this method will enable us to overcome partisanship and base our views solely on the truth. My intention is to help Muslims who, when faced with new events and situations, can discern the most appropriate Islamic rulings in the face of numerous divergent views.⁵

Similarly, eminent scholars before Shaykh Ibn Ashur pointed out the importance of this field of knowledge and stressed jurists’ need for it. Among these scholars were Imam al-Juwaynī,⁶ al-Ghazālī,⁷ al-‘Izz ibn ‘Abd al-Salām⁸ and his student, Imam al-Qarrāfī,⁹ Shaykh al-Islam Ibn Taymiyyah¹⁰ and his student Ibn al-Qayyim.¹¹

However, it was Imam al-Shāṭibī who brought this knowledge to light, stressing its principles, and played a major role in establishing its foundations and explaining its rules. His book, *Al-Muwāfaqāt*, in which he includes a groundbreaking discussion of the goals of Islamic law, is thus an indispensable reference for scholars of jurisprudence.¹²

In view of the foregoing, the present work deals with methods which introduce the jurist to rulings on contemporary juristic issues in light of the goals and purposes of Islamic law. We stress the importance of maintaining consistency with these goals and

purposes while taking into consideration all relevant evidences, principles, and the opinions of the leaders of the various schools of jurisprudence. Imam al-Shāṭibī asserted:

It is the Lawgiver's purpose that a morally accountable Muslim's intention when acting should be consistent with the Lawgiver's intention when legislating. The proof for this may be clearly observed in the establishment of Islamic law What is, therefore, required from a morally accountable Muslim is to ensure that his actions are in concordance with the intent of the Lawgiver.¹³

Shaykh Abdullah Darraz states that, "As for the *mujtahid* particularly, it is important for him or her to identify the goal of Shari'ah in its ruling on each matter in order to determine the validity or accuracy of categorizing such a ruling under the general goals which Islamic law seeks to achieve, since specific rulings are considered to be expressions of more general principles."¹⁴

This goal-oriented perspective on the part of the *mujtahid* is the guiding rule for deducing all types of rulings. The following points shed light on the role played by the aims of Islamic law in acquainting the *mujtahid* with rulings on newly arising issues and questions.

(1) The Meaning of *Maqāṣid al-Shari'ah*

The linguistic definition: The term *maqāṣid* is the plural of *maqṣad*, a word that conveys a number of meanings, including: (1) to aim at something, to come to it, to head towards it; (2) straightness of a path; an example of this is God's statement, "It rests with God alone to show you the right path (*wa 'alā Allāhi qaṣd al-sabīl*), yet there is [many a one] who swerves from it" (*Sūrah al-Naḥl* 17:9); and (3) justice, moderation and avoidance of excess. This is shown in God's statement: "Be modest in thy bearing (*waqṣid fī mashyika*) (*Sūrah Luqmān* 31:19)." We also have the Prophet's statement: "Be just, and you will attain the goal,"¹⁵ which means, "Be balanced and moderate."¹⁶

Perhaps the first meaning is the most inclusive and the closest to what we need. We can then say that *maqāṣid* are things that the

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Shari‘ah aims at in its rulings, and toward which it strives on a path which is balanced and moderate.

As for the literal meaning of the word *sharī‘ah* or *shar‘*, it denotes clearness and exposition. It also denotes a source of water. Therefore, *sharī‘ah* is a means of complying with the requirements of servitude to God; it is also said that it is the path of religion.¹⁷

The technical definition of *maqāṣid al-sharī‘ah*: The term *maqāṣid al-sharī‘ah* is widely used among both earlier and later scholars. However, neither I nor other researchers before me have found a precise definition for the word *maqāṣid* in the works of such scholars. Even the pioneering al-Shāṭibī did not define this term precisely, perhaps because he wrote almost exclusively to other scholars rather than to laymen. This may be seen in the statement that:

No one should expect to benefit from this book until he is fully acquainted with the science of the Shari‘ah, both its fundamentals and its subsidiaries, its texts and its logical foundations, and is not given to imitating other scholars or favoring a particular school of thought.¹⁸

It should be borne in mind that this term had been in use for centuries before al-Shāṭibī’s time, and that al-Shāṭibī did not believe in being too preoccupied with detailed definitions. He believed, rather, that terms can be defined by making them more tangible and accessible to those seeking to understand them.¹⁹

Though earlier scholars did not define *maqāṣid al-sharī‘ah*, there have been attempts by some contemporary scholars and jurists to do so. Eminent scholar al-Tahir ibn Ashur writes, “The general goals of Shari‘ah are the meanings and wise purposes to which the Lawgiver gives consideration in all or most pieces of legislation, and which are not restricted to a particular kind of Islamic ruling.”²⁰ This definition is peculiar to the general goals of Shari‘ah. There are, in addition, specific goals and wise purposes pertaining to matters of this world and the afterlife that are not covered in this definition.

Allal al-Fasi defines the goals of the Shari‘ah as, “the ends the Shari‘ah seeks to achieve, and the mysteries the Lawgiver has embedded within each of its rulings.”²¹ This definition covers the general and the specific goals of the Shari‘ah. Therefore, it is, overall, an acceptable definition.

For his part, Ahmad al-Raysuni defines *maqāṣid al-sharī‘ah* as, “The objectives for whose actualization Islamic law was established for the benefit of humankind.”²² This definition is close to that of Allal al-Fasi, though it excludes the latter’s reference to “specific goals”. Hence, al-Raysuni appears to believe that “the benefit of humankind” includes both general and specific benefits.

Yusuf Hamid al-Alim defines *maqāṣid al-sharī‘ah* as, “the aims which legislation strives to achieve, and the underlying purposes which the All-Wise Lawgiver has placed in each ruling of the Shari‘ah.”²³ This definition covers the two types of goals, although it is somewhat redundant, being a combination of the definitions offered by the two previously mentioned scholars.

Wahbah al-Zuhayli defines *maqāṣid al-sharī‘ah* as “the objectives and wise purposes which the Lawgiver embeds in each of its [the Shari‘ah’s] rulings.”²⁴ It will be noted that this definition resembles those provided by Ibn Ashur and al-Fāsī, while other contemporary scholars have offered definitions similar to those related above.²⁵

Based on the foregoing, the term *maqāṣid al-sharī‘ah* refers to the meanings and wise purposes, generally and specifically considered by the Lawgiver, to bring about benefits for humankind in this world and the Hereafter.

The Definition Explained

“Meanings” (*al-ma‘ānī*, plural of *ma‘nā*): This word, common among many scholars, particularly earlier ones, is used in the sense of “causes” (*‘ilal*). Imam al-Shāfi‘ī said:

If there is a ruling by God or His Messenger and the wisdom behind that ruling is explained, and if we then encounter a case upon which there is no explicit text (from either the Book of God or the

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Sunnah of His Prophet but which shares the same cause (*ma'nā*) as that upon which there is a textual ruling, then that ruling is applicable to the new case.²⁶

In his explanatory notes on *Uṣūl al-Bazdawī*, Abd al-Aziz al-Bukhari comments that in the phrase “knowing the texts with their meanings” (*ma'rifat al-nuṣūṣi bi ma'ānīhā*), the word translated as “meanings” (*al-ma'ānī*) refers to “linguistic and legal meanings now referred to as causes (*ʿilal*),” since earlier scholars used the word *ma'nā* in place of the word *ʿillah*.²⁷

Wise purposes (*ḥikam*, plural of *ḥikmah*): Al-Qarrāfī explains that in the parlance of *uṣūl al-fiqh* scholars, a *ḥikmah* is “that on account of which an effective cause (*al-waṣf*), that is, a cause which reflects the universal aims of the law, becomes a specific cause (*al-ʿillah*).”²⁸ The goals of Islamic law are manifested through the causes of legal rulings and the wisdom which underlies them.

“Considered by the Lawgiver”: It is understood from this phrase that the basic characteristic of God’s rulings is that they are premised on causes that lead to benefits that are the very objectives of the Lawgiver.²⁹

“To bring about benefits for mankind”: This clause explains the general objective behind promulgation of Islamic rulings, which is to bring about what is good and beneficial for human beings at large.

“In this world and the Hereafter”: This clause indicates that the objectives of the Shari‘ah are to bring about what is good and beneficial for humankind in this world and the next. Many of those who study the objectives of the Shari‘ah do not explain the benefits that someone will receive in the afterlife from the rulings of Islamic law. However, Imam al-Shāṭibī states, “Laws are promulgated for the benefit of humankind in both this world and the Hereafter.”³⁰

Other terms similar in meaning to *maqāṣid al-sharī‘ah*: There are numerous terms used to refer to the objectives of the Shari‘ah. This is to be expected given the broad range of meanings encompassed by this concept, including legislative rules, basic principles, and aims which can all be categorized generally under the rubric of objectives or goals of the Shari‘ah. Another reason for this

plethora of terms revolving around a single theme may be the gradual historical development of the science and the maturation of its terminology.³¹ The following are some of the terms to which we are referring:

Al-Maṣlahah: In its general Islamic connotation among *uṣūl al-fiqh* scholars, this term is more or less synonymous with the term “legal intent” (*al-maqṣad al-sharʿī*), or one of the objectives of Islamic law. Imam al-Rāzī writes:

The term ‘legal interest’ or ‘legitimate interest’ (*maṣlahah sharʿiyyah*) is a description that directly or indirectly includes attainment of one of the goals of Islamic law, whether that goal is religious or worldly. What we mean by the goals of Shariʿah are those entities whose attainment and preservation are required by the texts of Islamic law, such as life, reason, chastity, property and honor.³²

Imam al-Ghazālī touched upon the theme of *maqāṣid al-sharīʿah* through his discussion of the topics of *maṣlahah* and *istiṣlāḥ* due to these terms’ close connection to one another. He writes:

As for *maṣlahah*, it originally means efforts made to bring about a benefit or to prevent harm. But this is not what we mean by this term, because the achievement of benefit and prevention of harm are merely human goals whose actualization brings about people’s well-being. Rather, what we mean by this term is preservation of the goals of the Shariʿah, which aims at the preservation of five entities: people’s religion, their souls, their reason, their progeny and their wealth. Anything that entails preservation of these fundamentals is a *maṣlahah*.³³

Many *uṣūl al-fiqh* scholars have made similar statements in this regard. The recognized goals of the Shariʿah are those which are consistent with the Lawgiver’s intentions. When the pursuit of a given *maṣlahah* involves a potential harm to society, such a *maṣlahah* should not be recognized because it conflicts with the clear and the defined purpose of the Lawgiver, which is not is subject to human wishes and desires.³⁴

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Al-Ḥikmah (wise purpose) is a term used as a synonym for “the purpose of the Lawgiver.” For instance, they say, “the purpose of this is such and such, or the *ḥikmah* behind this is such and such,” although jurists use the word *ḥikmah* (wisdom) more often than the word *maqṣad* (goal), and their writings are filled with references to the wise purposes behind various Islamic precepts.³⁵

In his study of the use of the word *ḥikmah* by Muslim juristic scholars, Abd al-Aziz al-Rabiah notes that it is used in two senses: (1) the intended purpose for a given legal ruling, that is, the human interest to be achieved or maximized, or the harm to be prevented or minimized by means of such a ruling, and (2) the cause or occasion that necessitates the promulgation of a law, such as hardship.³⁶ It will be noted that these two definitions are almost identical, and that both signify the actualization of the Lawgiver’s true purpose.

Al-‘illah: Different usages of this term have caused significant controversy. However, our concern here is to identify how it is used to express the purpose of the Lawgiver, which in this context is synonymous with *ḥikmah*. Over time it has come to be used primarily to refer to the apparent effective cause around which rulings of the Shari‘ah revolve.

Mustafa Shalabi has identified the following three uses of the word *‘illah*: (1) the benefit or harm that results from an action, (2) the benefit derived from or the harm prevented by promulgation of a ruling, and (3) the visible occasion for promulgation of a ruling in which there is a benefit for humankind.³⁷ He states:

It is correct to call these three things *al-‘illah* (cause)... Later, however, they referred to effective causes (*awṣāf*) with the word *‘illah*. In such cases, the word *‘illah* was used figuratively because it is through these effective causes that the *‘illah* is defined. Similarly, they refer to any benefit or harm that may result from an action as a wise purpose (*ḥikmah*), while acknowledging that it is actually the *‘illah*.³⁸

Hence, Imam al-Shāṭibī defines *‘illah* as a *ḥikmah*, i.e., the wise purpose or benefit associated with something that has been commanded or permitted, and the harm associated with something that

is forbidden. For instance, hardship is the *‘illah* for allowing a traveler to shorten prayers and not to fast; therefore, being on a journey is the justification for this concession. In general, the *‘illah* is the benefit or the harm itself, not its presumed source.³⁹ The way in which Imam al-Shāṭibī interprets *‘illah* is the most suitable in the study of the objectives of Shari‘ah, since the connection between the *‘illah* and the benefit to be sought and/or the harm to be avoided is necessary for making analogical deductions and deriving rulings.

Scholars of Islamic jurisprudence also use the term “appropriate” (*munāsib*) in describing the goals of the Shari‘ah, where the concept of appropriateness is a means of identifying the justification for a ruling. Imam al-Bayḍāwī said, “What is meant by ‘appropriate’ is that which brings benefit and prevents harm.”⁴⁰

In explaining the meaning of the word “appropriate”, Imam Shams al-Dīn al-Iṣfahānī states, “Appropriateness means that the effective cause calls for a ruling whose intention is to bring benefit or prevent harm in the particular situation concerned.”⁴¹

In his annotation on *Jam‘ al-Jawāmi‘*, Imam al-‘Aṭṭār states that “the word ‘appropriate’ refers to the wisdom reflected in the *‘illah* referred to above as the purpose of the Lawgiver.”⁴²

Imam al-Ghazālī defined appropriateness in terms of the relationship between a given ruling and the human interests it helps to achieve. He wrote:

What is meant by ‘appropriate’ is the way in which benefits are achieved as a result of a given ruling. For example, alcohol is forbidden because it robs a person of his reasoning capacity, which is the very basis for a person’s being morally accountable. This ruling may thus be described as ‘appropriate.’⁴³

These, in sum, are some terms that are close in meaning to *al-maqāṣid al-shar‘iyyah*, or the goals of Islamic law. We have mentioned only the most widely used ones while omitting those that occur less frequently.⁴⁴

(2) Proofs Supporting Recognition of *Maqāṣid al-Sharī'ah*

In what follows, we shall cite textual and logical proofs which support the recognition of *maqāṣid al-sharī'ah*.

Textual Proofs

Recognition of the goals of Islamic law is not supported by a single specific text. Rather, it is supported by all the texts of the Shari'ah taken together. Indeed, every text in the Qur'an and the Sunnah tends to confirm the general principles and goals of the Shari'ah.

Imam al-Shāṭibī writes that,

... in affirming the intent of the Lawgiver as embodied in these principles,⁴⁵ scholars do not rely on a particular text or interpretation. Rather, based on the clear sense of countless passages, including texts with universal applicability and those applicable only to specific situations, and details pertaining to cases in every area and type of jurisprudence, they have discovered that the law taken as a whole... gravitates toward support for these principles.⁴⁶

According to Imam al-Shāṭibī, the process of establishing the validity of *maqāṣid al-sharī'ah* requires clear evidence and proofs for the claims being made.⁴⁷ After considering the kinds of proofs that establish the authenticity of *maqāṣid al-sharī'ah*, al-Shāṭibī continues:

The proof sought could be established through another dimension: the spirit of the law... A careful study of the Shari'ah, looking at its general and detailed proofs, will show that the goals of the Shari'ah cannot be demonstrated through one specific text, but, rather, only by examining a variety of texts with diverse purposes.⁴⁸

A thorough, inductive study of the Shari'ah and the bases for its rulings makes it clear that it affirms goals which promote human beings' welfare both in this world and the Hereafter. Imam Ibn al-

Qayyim wrote:

The Qur'an and the Sunnah of God's Messenger contain many texts in which the rulings of the law are explained or justified based on the wise purposes and benefits that serve as its foundation. If the texts to which we refer came to only 100 or 200, we would cite them here. However, there are more than 1,000 texts in the Qur'an and the Sunnah which address these issues in a variety of ways.⁴⁹

Clearly, it would be difficult to establish the validity of *maqāṣid al-sharī'ah* by citing such a large number of texts. Nevertheless, it can also be established on the basis of the various principles affirmed by these texts. Some of these principles are as follows:

First: God informs us in many places in the Qur'an that He is *al-Ḥakīm* (the All-Wise).⁵⁰ This attribute necessitates that His rulings be ordained purposefully. It is the wise who put things in their proper places, and God's rulings do precisely this, having been ordained for people's benefit in this world and in the Hereafter. Ibn Al-Qayyim wrote:

A statement cannot be regarded as wise unless it leads to praiseworthy goals and fulfills useful purposes. When a statement becomes a guide to beneficial knowledge and righteous deeds, the desired goal is achieved. But if the speaker, by his speech, does not intend to benefit the audience, provide them with guidance, lead them to happiness, or warn them against things that could impede its attainment, and if he fails to speak of this ultimate goal, send messengers and revelation concerning it, or lay down rewards and punishments toward its fulfillment, then he cannot be wise, nor can his speech be considered a source of wisdom.⁵¹

But highly exalted is God above such a description!

Second: God informs us in numerous places in the Qur'an that He is the Most Merciful.⁵² The following verses are illustrative: "Our Lord, we have believed, so forgive us and have mercy upon us, and You are the best of the merciful" (*Sūrah al-Mu'minūn* 23:109); and, "But My mercy encompasses all things" (*Sūrah al-A'rāf* 7:156).

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However, God can only be described as “Most Merciful” if He intends to show kindness to His servants by what He has created for them, commanded them to do, and legislated for them. Had His commands not been intended as kindness to His servants, then such commands could not be rightly called compassionate even if the servants actually experienced compassion through them. Therefore, as concluded by Ibn al-Qayyim, “Denying that there is any wisdom behind or any purpose for whatever God does is, in essence, a denial of His mercifulness.”⁵³

Third: There are numerous Qur’anic verses in which God informs us that He has done “such and such” for “such and such a reason”, or in which He explains His actions in some other terms. Such passages, which serve as a basis for formulation of the general and specific goals of the Shari‘ah, include:

And thus have We willed you to be a community of the middle way, so that with your lives you might bear witness to the truth before all mankind, and that the Apostle might bear witness to it before you. And it is only to the end that we might make a clear distinction between those who follow the Apostle and those who turn about on their heels that We have appointed [for this community] the direction of prayer which thou [O Prophet] hast formerly observed. (*Sūrah al-Baqarah* 2:143)

God wills that you shall have ease, and does not will you to suffer hardship; but He desires that you complete the number [of fasting days required], and that you extol God for having guided you aright, and that you render your thanks [unto Him]. (*Sūrah al-Baqarah* 2:185)

Because of this did We ordain unto the children of Israel that if anyone slays a human being – unless it be in punishment for murder or for spreading corruption on earth – it shall be as though he had slain all mankind; whereas, if anyone saves a life, it shall be as though he had saved the lives of all mankind. (*Sūrah al-Mā'idah* 5:32)

And after giving instructions concerning the distribution of war booty, God explains the wisdom behind His instructions with the words, “so that it may not be [a benefit] going round and round among such of you as may [already] be rich” (*Sūrah al-Ḥashr* 59:7).

Similarly, the Messenger of God explained the injunction to ask permission before entering someone else’s home, saying, “Verily! The command to request permission to enter [another’s household] has been given lest one see what others would not want him to see.”⁵⁴ There are, in addition, numerous other Qur’anic verses and sayings of the Prophet which either make explicit mention of the reasons for this or that ruling, or from which such reasons may be inferred, and which in this way affirm the goals of the Shari‘ah.⁵⁵

Fourth: A number of texts from the Qur’an and the Prophetic Sunnah explain certain general and specific purposes of the Shari‘ah. One of these general purposes is to spare people undue hardship. We read, for example, that God “has laid no hardship on you in [anything that pertains to] religion” (*Sūrah al-Ḥajj* 22:78); “God wills that you shall have ease, and does not will you to suffer hardship” (*Sūrah al-Baqarah* 2:185); and, “God does not want to impose any hardship on you” (*Sūrah al-Mā’idah* 5:6).⁵⁶ As for specific goals relating to people’s well-being, a number of these are mentioned in connection with jihad, zakah, and fasting.⁵⁷

Fifth: There are general texts that encompass the actualization of all benefits. We read, for example, “Behold, God enjoins justice, and the doing of good, and generosity towards [one’s] fellow-men; and He forbids all that is shameful and all that runs counter to reason, as well as envy; and He exhorts you [repeatedly] so that you might bear all of this in mind” (*Sūrah al-Naḥl* 16:90). In this connection, Imam al-‘Izz ibn ‘Abd al-Salām said, “The most comprehensive Qur’anic injunction of all that is beneficial and warning against all that is harmful is God’s statement: ‘Behold, God enjoins justice, and the doing of good...’”⁵⁸

In response to the claim that Islamic rulings do not cater to the interests of humans, Shaykh Muhammad al-Amin al-Shanqiti would refer often to God’s statement, “Verily, this Qur’an shows the way to all that is most upright” (*Sūrah al-Isrā’* 17:9).⁵⁹ And

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similarly, the Prophet's statement that "no one should harm another, or reciprocate harm"⁶⁰ makes clear that the Shari'ah does not allow one to harm another, nor does it condone harming anyone in return.⁶¹

The foregoing are only a few of the many textual proofs that the Shari'ah was revealed to fulfill lofty goals of great benefit to the entire creation.⁶²

Logical Proofs

Although the textual proofs cited thus far are sufficiently compelling in and of themselves, I would like now to cite a number of logical arguments to show that there is no contradiction between human reason and the texts of the Qur'an and the Sunnah. In so doing, I hope to disprove the doubts raised by rationalists. Therefore, what follows are rational proofs that the Lawgiver has goals, and that His ordainments aim at bringing about benefits and preventing harm:

First: Rulings devoid of wisdom and desirable goals can only be made by someone who is either ignorant of what he is doing – which, of course, is not applicable to the One Who possesses knowledge of all things – or unable to achieve such goals, which is impossible in the case of the One Who has power over all things. Furthermore, rulings devoid of wisdom and worthy goals can only be made by someone unwilling to bring benefit to others, which is equally inapplicable in the case of the One Who is the Most Merciful and Whose kindness is an integral part of His being. Indeed, such a Being could be nothing but a Benefactor, the Bestower of favor and blessing. If it were suggested that some factor might prevent this Being from willing and intending those goals, this also is impossible in the case of the One in Whose way nothing can stand, for He is the Doer of whatever He wills. Nor could these goals be assumed to be defective; indeed, such an assumption would turn the facts on their heads and be contrary to logic. After all, one who acts in wisdom and for a desired purpose is more praiseworthy than one who acts without a purpose. Likewise, one who creates is more perfect than one who does not; one who knows

is more perfect than one who does not know; one who speaks is more perfect than one who does not speak; one who has the ability to will is more perfect than one who lacks this ability. And all these facts are logically unimpeachable. Therefore, denying the Lawgiver's wisdom and purposefulness is tantamount to attributing to Him the very opposite and most demeaning qualities.⁶³

Second: It only reasonable to assert that God cares for the welfare of His servants throughout the span of their existence. After all, it is He who created us out of nothing and granted us His favor by making His other creatures subservient to us. As we are reminded in the Qur'an, "And He has made subservient to you, [as a gift] from Himself, all that is in the heavens and on earth. In this, behold, there are messages for people who think!" (*Sūrah al-Jāthiyah* 45:13).

It is impossible that God would care for the welfare of His servants both in this world and in the Hereafter while neglecting our interests in matters relating to the rulings of His own law. Indeed, it is these rulings that preserve our possessions our lives and our honor, without which we could not exist. Hence, it must be acknowledged that God takes our interests and welfare into consideration while ordaining the rulings of the Shari'ah.⁶⁴

Third: God Almighty has bestowed honor on the human race. He says, "Now, indeed, We have conferred dignity on the children of Adam" (*Sūrah al-Isrā'* 17:70). Human dignity requires that people have the capacity to achieve personal well-being in its highest forms.⁶⁵

Fourth: It is generally recognized that unless a system aims to bring about benefit or prevent harm, it is a failed system that deserves to be neither implemented nor emulated. No sane person would allow his (or her) system or method of doing things to be described as faulty and devoid of benefit. If even human beings, in all their imperfection and ignorance, would reject such a system, then how more unacceptable would it be to the Supreme Lawgiver?⁶⁶

(3) Categories of *Maqāṣid al-Sharīʿah*

As we have noted, God has sent messengers with His revelations to benefit His servants both in this life and in the life to come.⁶⁷ This overall aim of the divine law has been manifested to varying degrees from one society to another depending on a variety of factors, some of which have negatively impacted the Law's benefits to humankind. A *mujtahid* who observes such disparities among societies and circumstances will be better able to compare one situation with another, arrive at sound analogical deductions, and recognize the ways in which to apply the divine law's precepts to this question or that.

In what follows we will examine three of the various approaches to categorizing *maqāṣid al-sharīʿah*.⁶⁸

APPROACH NO. 1 is based on the types of interests or benefits the law of Islam is intended to preserve. This approach divides *maqāṣid al-sharīʿah* into three types: (1) essentials (*maqāṣid ḍarūriyyah*) (2) exigencies (*maqāṣid ḥājjiyyah*), and (3) enhancements (*maqāṣid taḥsīniyyah*).

1) *Essentials*

Al-Shāṭibī defined essentials (*maqāṣid ḍarūriyyah*) as,

things that are vital to actualizing benefits in matters of religion and earthly affairs, and the absence of which would render such actualization impossible. Their absence will lead to corruption and loss of life, and in the Hereafter, a failure to attain salvation and bliss.⁶⁹

As for al-Fattūḥī, he defined them as, “that which yields benefits that are of an essential nature.”⁷⁰ It will be clear from the aforementioned definition of essentials (*maqāṣid ḍarūriyyah*) that they are entities without which an upright life – indeed, life itself – would be impossible. Imam al-Ghazālī, Ibn ʿAbd al-Shakūr, Ibn al-Subkī, al-Fattūḥī (Ibn al-Najjār), and others identified these aims, in descending order of priority, as: religion (*al-dīn*), life (*al-naḥs*), reason (*al-ʿaql*), progeny (*al-nasl*), and property (*al-māl*).⁷¹

Imam al-Shāṭibī placed these essentials in a different order,⁷² namely, religion, life, progeny, property, and reason,⁷³ while al-Ṭūfī and Ibn al-Subkī added a sixth essential, that of honor (*al-aʿrād*). They argued that sensible people would most often be willing to sacrifice their lives and wealth in defense of their honor. Therefore, anything that is defended with something that is essential should also be viewed as an essential.⁷⁴

Proof that the law of Islam came to preserve these essentials is derived from an inductive study of firmly authenticated texts that promote the preservation and protection of these five entities. Imam al-Shāṭibī wrote:

Not only the Muslim community, but other religious communities as well, would agree that Islamic law was ordained for the preservation of five essentials: religion, life, progeny, property, and reason. The Muslim community recognizes this fact even though there is no particular text which states this explicitly, nor is there a specific principle to which these essentials can be traced. Rather, their concordance with the Shariʿah may be inferred from a body of textual evidence so diverse that it cannot be limited to a single theme or category.⁷⁵

Ibn Amīr al-Ḥājj stated, “The fact that the essentials of the Shariʿah consist in the preservation of these five entities may be induced from a study of reality and of the various religions’ customs and laws.”⁷⁶

The laws of all religions recognize these benefits in various ways; however, the law of Islam, which is the last of all the divinely revealed laws, gives them the clearest recognition, having ordained ways both to bring them into existence, and to preserve them.⁷⁷ The existence of religion is ensured through faith and its pillars, and through the principles and protocols governing acts of worship. By virtue of these things the religion is enlivened, people’s affairs are put right, and the society is kept on a strong and solid foundation. As for preservation of the religion, Islam accomplishes this by encouraging believers to invite others to faith, by warding off aggression against the religion, by fighting against whoever may

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seek to destroy it and obliterate its symbols and landmarks, by stopping those who attempt to cast doubts on its doctrines, and by preventing incorrect or distorted legal rulings.

Islam works to preserve life through the ordainment of marriage, by commanding us to consume what is necessary to for our survival, and by prescribing punishments for those who perpetrate actions that may pose danger to life. Regarding reason, with which God has endowed all human beings, Islam preserves it by forbidding intoxicants and carrying out the divinely ordained punishment against those who imbibe alcohol or other intoxicants. Progeny is preserved by Islam through the institution of marriage. Adultery, fornication, and wrongfully accusing others of committing them are forbidden, and punishments are prescribed for perpetrators. Similarly, abortion is forbidden except in cases of clear necessity. As for material property, Islam encourages its lawful acquisition by permitting various transactions and by enjoining efforts to earn it by legitimate means, and it works to preserve it by prohibiting theft and prescribing a punishment for this crime. Islam forbids us to cause damage to other people's property, and provides for compensation to be paid in the event that such damage occurs. To the same end, Islam forbids those who are mentally incompetent to exercise control over wealth, whether theirs or other people's.⁷⁸ In sum, Imam al-Shāṭibī wrote:

Fundamental acts of worship and belief, such as testifying that 'there is no god but God and Muhammad is His Messenger', ritual prayer, zakah, fasting, and pilgrimage, are meant to preserve the very existence of the religion. Customs involving food and drink, clothing and shelter are meant to preserve the existence of life and the mind. Numerous transactions have been instituted to preserve the existence and subsistence of progeny, wealth, life and reason, while criminal laws are meant to preserve the very existence of all the above.⁷⁹

2) *Exigencies (Maqāṣid Ḥājiyyah)*

In explaining exigencies (*maqāṣid ḥājiyyah*), Imam al-Shāṭibī tells us that they,

are a necessary means to avoid discomfort and undue hardship. If these aims are not fulfilled, the morally accountable Muslim will face some hardship, though not to a degree that would threaten the interests of the Muslim community as a whole.⁸⁰

Therefore, exigencies are comprised of things the need for which is not so dire that their absence would cause a disruption in life's flow, obstruct benefits, or deprive one of absolute necessities.⁸¹ Rather, they are things whose absence would only cause some inconvenience, disrupt people's acts of worship, or cause some disturbance to their otherwise untroubled lives. What are termed "exigencies" (*al-maqāṣid al-ḥājīyyah*) are meant to relieve people of hardship, since the law of Islam is founded upon ease and the prevention of discomfort and hardship, be it in relation to worship, daily customs, social and monetary transactions, or criminal procedures. Imam al-Shāṭibī stated:

In connection with acts of worship, special concessions are granted when there is a possibility of hardship, such as when a Muslim is ill or on a journey. Similarly, hunting, partaking of enjoyable food and drink, clothing, shelter, and means of transportation are all permitted for the purpose of alleviating hardship. This permissibility is also accorded to transactions such as loaning, sharecropping contracts, forward buying, and surrendering subsidiary items along with the principal goods being purchased, such as the fruits of a tree one is buying or the belongings of a slave who has been sold. This principle is likewise applicable in criminal matters such as *al-ḥukm bi al-lawṭh*, that is, handing down a guilty verdict against someone accused of murder based on circumstantial evidence, *al-tadmiyah*, a declaration by a wounded person before he dies that "so-and-so killed me," *al-qasāmah*, which is the declaration, under oath, by family members of someone who has been murdered that a particular individual killed their clansman, and *ḍarb al-dīyah* *al-āqilah*, that is, distributing the burden of paying blood money among consanguine relatives, the size of their shares being proportionate to their closeness to the accused, and the like.⁸²

These and other legal rulings whose purpose is to relieve morally

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accountable Muslims of undue hardship help to achieve two significant objectives of the Shari‘ah: (1) they remove an incentive to abandon the right path while reducing the risk of someone’s developing an aversion to acts of worship and other Islamic obligations; and (2) they make it less likely that a Muslim will neglect his or her religious obligations due to a feeling of being overwhelmed by excessive religious duties. Muslims should avoid being overzealous in some actions lest they be negligent in others. In other words, they should carry out their religious obligations in such a way that none of them is fulfilled at the expense of any other.⁸³

It goes without saying that exigencies (*al-maqāṣid al-ḥājīyyah*) are of a lesser degree of importance than essentials (*al-maqāṣid al-ḍarūriyyah*). This is why Imam al-Āmidī said, “Laws can be diverse in connection with exigencies (*al-maqāṣid al-ḥājīyyah*), but not in connection with essentials (*al-maqāṣid al-ḍarūriyyah*).”⁸⁴

3) *Enhancements (Maqāṣid Taḥsīniyyah)*

Enhancements are entities that, while they are not necessary for a person’s survival, nevertheless serve to make life easier and more enjoyable. According to Imam al-Shāṭibī, this category of *maqāṣid al-sharī‘ah* encompasses,

the adoption of fitting, praiseworthy practices while shunning filthy habits that would be abhorrent to a person of reasonable sensibilities. As such, these aims fall under the rubric of refined manners and noble morals.⁸⁵

Individuals’ and societies’ adoption of refined manners and noble morals is an attempt to pursue the highest possible path in life, a path through which people seek to improve both their inward characters and their actions. Nevertheless, no one will be harmed or endure hardship if enhancements are not pursued.⁸⁶

Imam al-Qarrāfi described enhancements as entities that can be regarded as “extras”⁸⁷ given the complementary role they play. Commenting on enhancements, Ibn Ashur wrote:

As I see it, enhancements are things that help to perfect the Muslim

community in such a way that Muslims can live safe, tranquil lives, and their society can earn the respect of other nations. As a result of Muslims' commitment to exemplary habits, such as modest dress and growing a beard – in short, practices that reflect refined human sensibilities – the people of other nations will want to become part of the Muslim community, or, at least, to develop close relations with it ... The pursuit of *al-maqāṣid al-taḥṣīniyyah* also includes avoidance of those things that might lead to corruption, which is preferable to waiting until corruption actually occurs.⁸⁸

Enhancements, like exigencies and essentials, are reflected in all types of Islamic rulings. In this connection al-Shāṭibī states:

[Enhancements include] acts of worship such as the removal of impurities, attention to ritual purity overall, concealing one's private parts, wearing adornments, seeking nearness to God through supererogatory acts of worship such as voluntary alms giving; and in commendable customs such as the observance of rules of etiquette relating to eating and drinking, abstaining from unclean and unwholesome foods and drinks, and avoiding both excess or over abstemiousness in relation to food and drink. [Enhancements are likewise applicable] to things such as prohibiting the sale of ritually unclean substances, surplus water, and grazing fields; making it unlawful to deprive slaves of the opportunity to serve as witnesses and imams, or to deprive women of the right to be rulers and offer their hand in marriage; allowing a slave to seek liberation, as through a writ of manumission (*kitābah*), or through an agreement whereby he or she will be emancipated upon the death of his/her owner (*tadbīr*)...⁸⁹

At this juncture, mention should be made of some important matters relating to essentials, exigencies, and enhancements. With every ruling God has issued to fulfill different kinds of aims, He has ordained what might be termed complementary rulings known as *mukammilāt*, *tatimmāt*, or *tawābī*^c.⁹⁰ Al-Fattūhī writes:

The reason they are referred to as being complementary is that they cannot stand by themselves. For although they have an impact, they

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do so only in conjunction with the primary ruling with which they are associated, and should not be given more consideration than they warrant.⁹¹

We can define a complementary ruling as something by virtue of which the wise purpose underlying an essential, an exigency or an enhancement may be achieved, whether by blocking something that might prevent the wise purpose from being fulfilled, or by adding something that manifests this wise purpose all the more perfectly and powerfully.

For each type of complementary ruling, Imam al-Shāṭibī cites examples that illustrate the role they play in preserving *maqāṣid al-sharīʿah*. In the category of essentials, the principle of parity in retribution can be cited as an example. In this case, al-Shāṭibī tells us, parity in retribution is not essential; rather, it is of a complementary nature.⁹² Other examples illustrating the category of essentials include equal sustenance, equal wages, prohibiting the act of looking at a woman who is neither one's wife nor a woman who is not marriageable to the person looking for reasons of consanguinity; and prohibiting the consumption of even a small amount of an intoxicant.

The second category, that of exigencies, may be represented by examples such as considerations of compatibility in marriage.⁹³ Also, if we classify business transactions as exigencies, then calling on others to witness a transaction, mortgages, and guarantees are of a complementary nature to such transactions.

The third category, that of enhancements, is related to matters such as rules of conduct for dealing with ritual impurity, actions recommended for maintaining ritual purity, spending out of one's lawful earnings, and making choices concerning animals to be slaughtered for ritual purposes, including those slaughtered for the Feast of Sacrifice (*al-udḥiyah*) and following the birth of a child (*al-ʿaqīqah*), and concerning which slave to manumit.⁹⁴ However, enhancements should under no circumstances be allowed to override essentials. For example, jihad (against evil, wrongdoing and oppression) is an essential, while carrying it out in fairness is an enhancement. If an enhancement which is complementary to an

essential threatens to invalidate the essential, then it should not be reckoned with, since the absence of something which is merely complementary should not be allowed to invalidate something which is more fundamental.⁹⁵

The essentials (*al-maqāṣid al-ḍarūriyyah*) of Islamic law form the basis for its exigencies (*al-maqāṣid al-ḥājjiyyah*) and enhancements (*al-maqāṣid al-tahsīniyyah*). If an essential is absolutely defective, the exigency and the enhancement would likewise be absolutely defective. However, if one or both of the latter two (the exigency and the enhancement) were defective, the essential would not necessarily be rendered defective in an absolute sense. However, absolute defectiveness in the enhancement or the exigency might cause a defect in the essential in one respect or another.⁹⁶

APPROACH NO. 2 to categorizing *maqāṣid al-sharīʿah* is based on their level of importance or urgency. When *maqāṣid al-sharīʿah* are categorized in this manner, they divide themselves into two types. The first type consists of what we might term primary aims (*al-maqāṣid al-aṣliyyah*), that is, aims which embody the Lawgiver's most fundamental purposes. A more fundamental or primary aim will undoubtedly embody an interest more paramount than an aim which is less fundamental. Imam al-Shāṭibī states, "Fundamental aims are those which the morally accountable Muslim has no say in, and which are recognized as essential in every religion."⁹⁷

The reason such matters are not subject to human input lies in the fact that they are necessary to safeguard inalienable public interests which are not specific to a particular situation, condition, or period of time. Imam al-Shāṭibī sought to explain the unquestionable nature of the essentials of Islamic law by dividing them into two groups. The first group was that of individual essentials (*ḍarūriyyāt ʿayniyyah*), which are duties required of each individual Muslim. Each individual Muslim is commanded to preserve his religion on the level of doctrine and practice, and to protect and preserve his own soul, life, and mind.⁹⁸

The second group is termed collective essentials (*ḍarūriyyāt kifā'iyyah*), which include actions that protect Islamic society's public interests and preserve social order. Collective essentials are achieved through, for example, the work of those who hold posi-

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tions of authority, and who help to protect and preserve the religion and people's rights in both the private and public spheres. Those assigned responsibility for protecting the public interest are forbidden to receive benefits in return for what they do. No ruler or holder of a position of authority must receive any remuneration from those he serves. Likewise, no judge should receive any gift from either of the contending parties to a litigation over which he presides. Hence, bribes and gifts given on account of the position someone occupies are prohibited.⁹⁹

The second type into which *maqāṣid al-sharī'ah* are divided based on this categorization is that of secondary aims (*al-maqāṣid al-tābi'ah*), which are subsidiary to primary aims. Secondary aims help to actualize primary aims; they may be associated with them or annexed to them, either based on an injunction of the Shari'ah, or based on the morally accountable Muslim's intention in the context of his/her practices and customs. According to Imam al-Shāṭibī, morally accountable Muslims have some say with respect to secondary aims.¹⁰⁰

Secondary aims are divided into three types based on the degree to which they affirm and support primary aims. Type 1 includes those that reinforce primary aims by making them attractive. An example is marriage (a secondary aim), which was ordained for the sake of procreation (a primary aim). The primary aim of procreation is associated with secondary aims such as the quest for shelter, spousal support, and cooperation toward securing the benefits of this world and the world to come. These secondary aims clearly reinforce marriage by fostering harmony and affection between spouses – a condition that furthers procreation, which is the primary objective of marriage in the Shari'ah.

Type 2 includes secondary aims which cancel out primary aims, and which, for this reason, are invalid. These include marriages which are entered into in order to allow a woman to remarry her first husband (*nikāḥ al-taḥlīl*), and temporary marriage (*nikāḥ al-mut'ah*), each of which works against the primary aim of marriage, which is procreation and a lasting conjugal bond. This sort of secondary aim should not be pursued, since it defeats the purpose of the Lawgiver.

As for Type 3, it is comprised of secondary aims that neither reinforce a primary aim nor cancel it out as in the case of Type 2 above. This type of secondary aim would include the case of marrying someone with the express intention of harming her/him, usurping her/his wealth, or some other motive which, although it might threaten the marriage's continuance, does not guarantee its discontinuance. This is because the intention to harm one's spouse does not necessarily mean that such harm will actually take place; neither does it mean that the occurrence of harm would necessarily lead to divorce due to the possibility of reconciliation, obtaining a legal injunction against the offending spouse, and the like.

This third type lies somewhere between Type 1 (secondary aims that reinforce a primary aim) and Type 2 (aims that are unequivocally contrary to the Lawgiver's purpose in ordaining marriage).¹⁰¹

APPROACH NO. 3 to categorizing *maqāṣid al-sharī'ah* is based on the extent to which they encompass the various rulings of Islamic law. This categorization yields three divisions: (1) general aims (*al-maqāṣid al-‘āmmah*), (2) specific aims (*al-maqāṣid al-khāṣṣah*), and (3) partial aims (*al-maqāṣid al-juz’iyyah*).

1) *General Aims*

General aims are the goals and objectives which are reflected in all or most areas of Islamic legislation. According to Ibn Ashur, they are,

...the wise purposes that can be discerned in all or most areas of Islamic legislation; hence, they are not restricted to one type of ruling to the exclusion of others. As such, they go to make up the global attributes and aims of Islamic law as a whole. These include wise purposes that are observable in many, though not all, types of Islamic legal rulings...¹⁰²

Preservation of the five essentials spoken of earlier – religion (*al-dīn*), life (*al-nafs*), reason (*al-‘aql*), progeny (*al-nasl*), and property (*al-māl*) – is included among the general objectives of the Shari‘ah, the most comprehensive, fundamental and sublime of which is achievement of benefit and prevention of harm. In fact, this is the

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pivot around which all aims of Islamic law – *maqāṣid al-sharīʿah* – revolve.¹⁰³

As we have seen, one of the overall aims of Islamic law is the elimination or mitigation of hardship. As al-Shāḥibī puts it:

Elimination of hardship is a universal goal of the Shariʿah. Hence, you will not find a general obligation in the Shariʿah that is characterized by hardship to more than a small degree. This is the implication of God’s statement that He “has laid no hardship on you in [anything that pertains to] religion” (*Sūrah al-Hajj* 22:78).¹⁰⁴

Other universal aims of the Shariʿah are justice, concordance, and harmony.

2) *Specific Aims*

Specific aims are goals and objectives that are peculiar to a particular type of ruling or a set of closely related rulings, such as the objectives of acts of worship (*maqāṣid al-ʿibādāt*), the objectives of social or financial transactions (*maqāṣid al-muʿāmalāt*), or the objectives of criminal laws (*maqāṣid al-jināyāt*). Similarly, they may be the objectives of a certain area of Islamic law, such as ritual purity (*al-ṭahārah*), sales (*al-buyūʿ*), and so on.¹⁰⁵

3) *Partial Aims*

Partial aims are objectives that relate to a particular question or issue. The categories of general aims and specific aims apply either to the Shariʿah in its entirety, or to all cases relating to a particular area (such as ritual impurity, penal law, etc.), whereas what we are terming partial aims (*al-maqāṣid al-juzʿiyyah*) pertain exclusively to a particular question or issue, or to a particular proof from which the larger purpose of Islamic law can be deduced. The clearest explanation of such partial aims can be found in the works of Shaykh al-Islam Ibn Taymiyyah and his student, Ibn al-Qayyim.¹⁰⁶

AL-QAHTANI'S work contributes to the ever growing body of scholarly literature in the field of *Maqāṣid al-Sharī'ah* (higher aims and objectives of Islamic law). *Understanding Maqāṣid al-Sharī'ah* calls for the development of a juridical sense that is finely tuned to the higher objectives and purposes of Islamic rulings, the aims of which are the formulation of a new methodology in understanding the revealed texts and the reform of Muslim thought and its application. Al-Qahtani draws attention to the importance of understanding various levels of *maqāṣid*, including distinguishing between primary aims (*al-maqāṣid al-aṣliyyah*) and secondary aims (*al-maqāṣid al-tābi'ah*). He asserts that a positive understanding of the objectives of the Shari'ah should produce affirmative human as well as cultural development in Muslim societies.

One particular strength of this work lies in the author's application of the higher objectives and aims of the Shari'ah to different areas of jurisprudence, such as in deriving and issuing religious rulings (*iftā'*), and to important social issues and challenges facing Muslim societies today. These include the role and status of women, problems of extremism and laxity, the misapplication and abuse of the Shari'ah, the crisis of Muslim thought, and the need to counter religious excessiveness. In addition issues often overlooked but important for mental well-being and societal welfare are assessed, including the need for recreation and leisure, and the active cultivation and promotion of aesthetics and harmony.

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INTERNATIONAL INSTITUTE OF ISLAMIC THOUGHT

ISBN 978-1-56564-666-7

