

Al-Maqasid al-Shari'ah (the Comprehensive Objectives of Shari'ah)*

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In harmonizing the rational and revelation, thus avoiding a literal textual approach to the revelation, Muslim scholars have engaged with both the Qur'an's and the *Sunnah*'s implicit messages through varying methods. Those methods were applied to deduct the universal meaning to understand the hidden objectives God tried to convey to human beings. Such meaning prevails in the words of Ibrahim al-Nakha'i (died 96H) as: "Verily, the rulings of Allah have their own specific objectives which are reflected as benefit and wisdom upon mankind"¹. With the same understanding, another classical jurist, Al-Izz bin Abdul Salam claims that "the greatest of all the objectives of the Qur'an is to facilitate benefits (*masalih*) and the means that secure them and that the realization of benefit also included the prevention of harm"². It could be comprehended from his word that all the obligations of the *Shari'ah* were predicated on securing benefits for the people in this world and the next, and it is the duty of Muslims to discover them and thus observing those objectives in their life and during the implementation of those duties³.

These objectives were later expounded by al-Ghazali who maintains that the objective of *Shari'ah* is to preserve or protect the *masalih* (singular: *maslahah*), exemplified by five main essentials of human beings: faith (*din*), life (*nafs*), intellectual (*'aql*), property (*mal*) and lineage (*nasl*)⁴. Al-Ghazali believes that the major purpose of *Shari'ah* law is to 'safeguard' or preserve those essentials, which

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¹ Al-Obeidi, Hammadi (1992). *al-Shatibi wa Maqasid al-Syariah* (al-Shatibi and Maqasid al-Shari'ah). Tripoli : Mansurat Kulliyah ad-Da'wa al-Islamiyyah, p. 132.

² Abdul Salam, Al-Izz (n.d.). *Qawa'id al-Ahkam* (Islamic Legal Maxim). Beirut: Dar al-Kutub al-'Ilmiyyah, vol. 1, p. 9.

³ Al-Obeidi, *ibid*.

⁴ Al-Ghazali suggests that: "In its essential meaning it (*maslahah*) is an expression for seeking something useful (*manfa'ah*) or removing something harmful (*malarrah*). But this is not what we mean, because seeking utility and removing harm are the purposes (*maqasid*) at which the creation (*khalq*) aims and the goodness (*Salat*) of creation consists in realizing their goals (*Maqasid*). What we mean by *Maslahah* is the preservation of the *Maqasid* (objective) of the *Shari'ah* law, which consists of five things: preservation of religion, of life, of reason, of descendants and of property. What assures the preservation of these five principles (*uSul*) is *Maslahah* and whatever fails to preserve them is *mafsadah* and its removal is *Maslahah*" (al-Ghazali, *Op. Cit.*, vol. 1, pp. 286-7).

eventually bring benefit for human life. Due to such rationale, al-Tufi concludes that the preservation of these objectives consists in both “attracting utility” (*jadhb al-naf*) and “repelling harm” (*raf’ al- Darar*), and should be used as the major source of law after the Qur’an and the *Sunnah*.⁵ He adds furthermore that in some cases of *mu’amalat* (contracts and transactions), *maqasid* would supersede some minor rulings in the Qur’an and the *Sunnah* to achieve the highest objectives. However, in the issues of *ibadat* (rituals or spiritual duties) which is the direct interactions with God, and considered as God’s rights, the human mind cannot and should not attempt to discern the reasons behind the textual injunctions unlike the *mu’amalat*, where God delegated to humanity the right and duty to set up just rules and regulations in accordance with the public interest (*maslahah*).

It could be noticed that prior to al-Shatibi’s definition of *al-maqasid*, other writers namely al-Juwayni, al-Ghazali, and al-Izz bin Abdul Salam emphasized more on the notion of ‘protection’ and ‘preservation’. The word ‘*hifz*’ (protection) has been recognized as the ultimate objective of *Shari’ah*. As aforesaid, al-Ghazali coins in his *al-Mustasfa* that the highest objective of *Shari’ah* is to ‘preserve’ or ‘protect’ faith, life, intellectual, lineage and wealth or property⁶. According to Awdah, Al-Juwayni who preceded al-Ghazali also points out that the *maslahah* (benefit) (which he classified into three categories) are to be ‘protected’⁷. Similarly, Al-Izz bin Abdul Salam, despite of his general statement of *maslahah* as mentioned earlier (which is the general meaning of *maqasid*), happened to seclude the meaning of *maslahah* into the connotation of ‘*Hifz*’ or protection too⁸.

Nevertheless, Al-Shatibi manages to bring a better and more comprehensive meaning of the *maqasid*, when he added the element of ‘promotion’ instead of protection or

⁵ Al-Tufi, Najmudin (1989). *al-Ta’yin fi Syarh al-Arba’in (al-Ta’yin in Explaining al-Nawawi’s forty Hadiths)*. Beirut: Muassasah al-Risalah, p. 239.

⁶ (See: Al-Ghazali, *Op. Cit.*, vol. 1, p.172.) However, al-Risuni maintains that Abdul Malik bin Abdullah al-Juwayni or known as *Imam al-aramayn* (478H/ 1085 AD) (the Imam of the two holy sanctuaries) was the first person to classify the *maqasid al-Shari’ah* into three major categories: Essential, Complementary or Embellishment and Desirable or Luxury (*Daruriyyah, I’ajiyat, ta’isEniyyat*) all relating in one-way or another to *maslahah*. His pupil, al-Ghazali later on developed JuwaynĒ’s idea further, by classifying the *Maqasid* into the preservation of the five essentials as discussed earlier. (Al-Risuni, Ahmad (1995). *Nazariat al-Maqa asid ‘inda al-Imam al-Shatibi* (al-Shatibi’s Theory of al-Maqa asid (Highest Aims of Shari’ah)). Beirut: al-Ma’had al-‘Alami li al-Fikr al-Islaamiy, p. 124)

⁷ Awdah, Jaseer (2006). *Fiqh al-Maqasidi: Inatah al-Ahkaam al-Syar’iyyah bi Maqasidihaa (Fiqh al-Maqasidi: Formulation of Islamic Legal Rulings Through Islamic Higher Objectives of Shari’ah)*. Virginia: International Institute of Islamic Thought, p. 16.

⁸ Abdul Salam, *ibid*.

'*Hifz*' *per se*. He suggests that *Shari'ah* is not only being revealed to protect or preserve the *maslahah*, but it also promote the *maslahah* in order to realize the benefit for human life. The five essentials in the human life (or six according to some) are not only being protected and preserved, but also being promoted and propagated as could be fathomed from the deduction reasoning of the revelation. Hence, the word '*Hifz*' might not be suitable in such sense; instead, the word '*ri'Ayah*' or observance, which is more comprehensive and extensive, is a more suitable term for such a notion.

With such extensive concepts of *maslahah*, it could be interpreted as infusing a real substance into the external shell (of Islamic rulings and law), thus proves that moral obligation is related to Divine Omnipotence and Will and how the former in fact necessarily flows from the latter⁹. With the proper understanding of such philosophy, the application of the true understanding of revelation could avoid the legal positivism approach, which acts according to the formulated law without responding to the moral consequences of it.

Drawing on the Qur'anic verses: "We sent you not but as a mercy for all creatures" (107: 21); "Allah does not wish to place you in difficulty, but to purify you, and to complete His favour to you" (6: 5); and "In the Law of Equality there is (saving of) life to you"(179: 2), al-Shatibi concludes that "Upon exploration of *Shari'ah* we have concluded that it was only set up to serve the interests of man. This is a conclusion that no one can dispute. Canon laws were made for only one purpose and that is to serve the interests of humans in this life and in the Hereafter". In his *magnum opus*, *al-MuwAfaqAt*, which is one of the foremost treaties in this field, al-Shatibi categorizes into three classes the *maqasid* that divine messengers were sent to fulfil in the lives of humans. There are *masalih Daruriyyah* (essential requirements) without which life will be ruined, *masalih Hajiyyah* (requirements pertaining to general needs) without which man can survive but maybe in distress and hardship, and *masalih Tahsinniyyah* (ameliorative requirements) whose absence would not seriously undermine the quality of life¹⁰.

⁹ Rahman, Fazlur (1979). *Islam*. Chicago: University of Chicago Press, p. 115.

¹⁰ al-Shatibi, *Op. Cit.*, vol. 2, p. 326.

However, Ibn al-Qayyim presents the *maqasid* from a different angle through emphasizing that justice and equity in ensuring welfare, as the utmost *maslahah* to be preserved through Islamic *Shari'ah*.¹¹ Furthermore, he insisted that the means to justice and equity could never be captured by a finite list; hence, reason will guide the Muslims on how to ensure both justice and equity in changing circumstances. The articulation of *maqasid* from this expanded point of view will be helpful in the effort to develop policies based on Islamic ontology.

Similarly, Al-Qaradawi views the more inclusive approach to *maqasid* and further extended the list of the *maqasid* according to the contemporary reality and discourse to include social welfare and support (*al-takaful*), freedom, human dignity and human fraternity, among the higher objectives and *maqasid* of the *Shari'ah*.¹² These are undoubtedly upheld by both the detailed and the general weight of evidence in the Qur'an and the *Sunnah*. Apart from him, a few other contemporary scholars also proposed other essentials, which emerged as the result of modernity and the development of human life. Environment and quality of life are amongst the themes included in the proposal as part of the new *Daruriyyah* (essentials) being observed by *Shari'ah*.¹³

To conclude the discussion about the importance of *maqasid*, we could summarize that the *maqasidic* method represents a comprehensive holistic but rather universal approach towards *Shari'ah*. Any studies conducted on Islam, the *Shari'ah* or the epistemological sources of Islam must never abandon the discussion on *maqasid*. In the same vein, *maqasid* is but a crucial tool in understanding the revelation or the texts of the sources, in which the negation of it will lead to the misinterpretation of the texts, hence Islam as a whole¹⁴.

In presenting a new normative governance theory based on Islamic epistemology, highest objectives of the *Shari'ah* or *maqasid al-Shari'ah* should be the focal point of the discussion, as *maqasid* helps to operationalize and articulate Islamic knowledge into a mechanism of and principles for governance as a practical reality. In other

¹¹ Ibn al-Qayyim, Muhammad bin Abu Bakar (n.d.). *I'laam al-Muwaqi'in 'an Rabb al-'Alamin* (Guidance for the *Mujtahid* Scholars). Beirut: Matba'ah Beyrut, pp. 309-11.

¹² Al-Qaradhawi, Yusuf (1993). *Malaamih al-Mujtama' al-Muslim alladhi Nanshuduhu* (Glimpse of the Characteristics of Islamic Society we Aim for). Cairo: Maktabah al-Wahbah.

¹³ Al-Qaradhawi, Yusuf (2001). *Ri'ayat al-Biah fi al-Shari'ah al-Islamiyyah* (Environmental Preservation in Islamic *Shari'ah*). Cairo: Dar al-Shuruq, pp. 47-8.

¹⁴ Awdah, *Op. Cit.*

words, under the shade of such argument, the *maqasidic* approach will assist the quest to develop the aim of *tawhidic* reality into an Islamic governance model. As the aforementioned ontological maxim is concerned, the aim of the vicegerency mission of individuals is to fulfil the attainment of *falah* which leads to the benefit in both worlds. The articulation of *falah* could be found in the comprehensive achievement of *maqasid al-Shari'ah*. The accomplishment of all the tiers of *maqasid* (*Daruriyyah*, *ÍAjiyyAt* and *taÍsÊniyyAt*) in the governance process can be a benchmark of an accomplishment of 'good' in the governance process. This situation can be explained in the modern jargon of 'human well-being'¹⁵.

If the *maqasid* is to be perceived as the aim through the articulation of *falah* then it is no longer a mechanistic element to the governance process. It is a means and goal by itself. By such, good governance from an Islamic point of view is a governance process that consists of the *maqasidic* elements to fulfil the *maqasidic* end. Accordingly, within this paradigm, the governance process is not just a consequence of an independent deontological activity for just a sheer discharge of responsibilities for the sake of delivering the vicegerency tasks. In fact, it is to be viewed from a virtue based consequentialistic paradigm. It is a process to attain a holistic end for the benefits of individuals through its *tawhidic* individualistic paradigm, which goes beyond the instrumental value meaning. This paradigm imposes multi-dimensions of benefits, which encompass both individuals and community benefits, in this world and the Hereafter¹⁶.

Additionally, *maqasid al-Shari'ah* provides valuable intellectual foundation for the subsequent development of Islamic governance theory. One of the principal objectives of the Shari'ah is the prevention of *mafsadah*¹⁷. The induction of textual

¹⁵ Malik, Maszlee (2011). *Constructing the Architectonics and Formulating the Articulation of Islamic Governance: A Discursive Attempt in Islamic Epistemology*, unpublished PhD Thesis in Durham University. Available at: <http://etheses.dur.ac.uk/832/>. Access Date: 31 January 2013. Pp. 249-51.

¹⁶ Malik, *ibid*.

¹⁷The word *mafsadah*, derived from the root word *fasada* or *fasad*, has been mentioned almost fifty times in the Qur'an and has a wide range of meanings, amongst others: "a state of disorder, or disturbance, or of destruction, annihilation, waste, or ruin" (Lane, Edward William (1978). *Arabic-English Lexicon*. London: Longman, vol. 1, p. 2396). It also connotes mischief, corruption, exploitation, wrong, and all forms of injustice, mismanagement, anarchy, and chaos. *Fasad* is the opposite of *islah*, derived from the root word *Salaha*, which literally means "good, incorrupt, sound, right, or a proper state, or in a state of order" (Lane, *Op. Cit.*, vol. 2, p. 216). *Islah* refers to a state of equilibrium where things are in a proper order and balance. Muslim jurists have also used the words *sharr* (evil) and *darar* (harm) as synonymous with *mafsadah*.

proofs in abundance point out the fact that removal of corruption (*dar' al-mafasid*) and acquisition of good (*jalb al-masalih*) are “the comprehensive objective of the *Shari'ah*” and the “fundamental universal rule of the *Shari'ah*”¹⁸. Muslim jurists are of the opinion that any measure that prevents a *mafsadah* is in line with the objectives of the *SharĒ'ah* even if the latter does not provide any indication as to its validity or otherwise provided however, that it should not turn a prohibited act into a permissible one and vice versa¹⁹. The prevention of public harm or evil (*mafsadah 'ammah*) should be amongst the priorities of Islamic governance according to the orientation of *maqasid al-Shari'ah*.

However, the harm (*mafsadah*) due to the dynamic interaction of human life presents itself in a variety of forms. It varies in degrees due to different contexts and societies, and can hardly be enumerated, not even through the revelation for the dynamism of the development of the human mind and its needs. Hence, the prevention of a certain public harm (*mafsadah*) to public interest in a certain context requires diversity of approaches and policies. In dealing with the issue of governance, *maqasid* determines the radius of policies governing the society by accumulating general benefits and avoiding harm to the whole community to enhance public interest (*maslahah 'ammah*). The eradication of *mafsadah* (in its various forms) that may lead to underdevelopment, unemployment, and economic crises and impede the accomplishment of the *maqasidic* goals is indeed an act of good (Islamic) governance²⁰.

Above all, the whole idea of *maqasid* implies a comprehensive implementation of justice in the community through the preservation and promotion of human well-being, which is the ultimate aim of a governance process. *Maqasid* as a part of epistemological sources in Islam is becoming a foundation to define human well-being. Thus, the articulation of Islamic ethos that might be useful for governance such as social equilibrium, justice, sustainable development, rule of law, efficiency, empowerment *etc.*, will be taken under the shade of this *maqasidic*-based human well-being consideration²¹. The activation of *maqasid* within such understanding can

¹⁸ Ibn 'Ashur, Muhammad al-Tahir (2006). *Ibn 'Ashur Treatise on Maqasid al-Shari'ah*. (Translated by Tahir el-Mesawi). Virginia: International Institute of Islamic Thought (IIIT), pp. 88-90.

¹⁹ al-Ghazali, *Op. Cit.*, vol. 1, pp. 139-40.

²⁰ Malik, *Op. Cit.*, p. 251.

²¹ Malik, *Op. Cit.*, p. 251.

be understood within the spirit of verse (2: 177) in al-QurʻAn:

It is not righteousness that you turn your faces towards East or West; but it is righteousness to believe in Allah and the Last Day and the Angels and the Book and the Messengers; to spend of your substance out of love for Him, for your kin, for orphans, for the needy, for the wayfarer, for those who ask; and for the ransom of slaves; to be steadfast in prayers and practice regular charity; to fulfill the contracts which you made; and to be firm and patient in pain (or suffering) and adversity and throughout all periods of panic. Such are the people of truth, the God-fearing.

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