


# The Objectives of Islamic Law and their Relationship with Legal Evidence

Dr. Nouraddin KARRAT

## مقاصد الشريعة وعلاقتها بالأدلة الشرعية

الدكتور نور الدين قراط

Translated by: Sara EL HADI   
\* Mohammed V University, Rabat - Morocco  
[saraelhadi100@gmail.com](mailto:saraelhadi100@gmail.com)



ترجمة من العربية: الأستاذة سارة الهادي  
\* جامعة محمد الخامس، الرباط - المغرب

Date received: July 11, 2024  
Date revised: Aug. 20, 2024  
Date accepted: Sep. 8, 2024  
DOI: 10.5281/zenodo.14585319

نور الدين قراط، مقاصد الشريعة وعلاقتها بالأدلة الشرعية، تر. سارة الهادي، مجلة اجتهاد للدراسات الإسلامية والعربية، مركز اجتهاد للدراسات والتكوين، بلجيكا، مج. 1، ع. 2، ديسمبر 2024، 179-193.

KARRAT, Nouraddin, *The Objectives of Islamic Law and Their Relationship with Legal Evidence*, trans. EL HADI, Sara, Ijtihad Center for Studies and Training, Belgium, Vol. 2, Issue 1, December 2024, 179-193.

## ABSTRACT

This article addresses the topic of the objectives of Islamic law (the *Maqāṣid*) and its relationship with legal evidence, focusing on the intersection with the science of the principles of jurisprudence (*Uṣūl al-Fiqh*) and the objectives of Islamic law. The article is divided into two sections. The first section discusses the close relationship between the principles of jurisprudence and the objectives of Sharia, drawing on the opinions of various jurists. The second section, focuses on the objectives of Sharia and the method of induction, an essential component of this science, since if the objectives of Sharia require evidential support, this support mostly comes from the method of induction. This method not only strengthens these objectives but also ensures their dominance throughout the entire process of diligence, without, however, granting them independence in proving legal rulings.

## KEYWORDS:

Objectives of Sharia; Principles of Jurisprudence; Induction; Ijtihad; Al-Shatibi.

## المخلص:

تسعى هذه المقالة إلى تناول موضوع مقاصد الشريعة وعلاقتها بالأدلة الشرعية، وذلك بهدف إمالة اللثام عن العلاقة المتقاطعة بين علم أصول الفقه ونظرية مقاصد الشريعة الإسلامية. وقد توزع هذه المقالة مبحثان، تم تخصيص أحدهما للعلاقة الوثيقة بين أصول الفقه ومقاصد الشريعة انطلاقاً من آراء مجموعة من الفقهاء الأصوليين والمقاصديين.

أما المبحث الآخر، فقد عقده الباحث لمقاصد الشريعة ومسلك الاستقراء الذي يشكل مقوماً جوهرياً في هذا العلم، حيث إنه إذا كانت المقاصد الشرعية لا بد لها من دليل فهذا الدليل في الغالب هو مسلك الاستقراء، الذي يكسب المقاصد قوة ويجعلها تهيمن على عملية الاجتهاد برمتها، ولكن دون أن تستقل في إثبات الحكم الشرعي.

## الكلمات المفتاحية:

مقاصد الشريعة؛ أصول الفقه؛ الاستقراء؛ الاجتهاد؛ الشاطبي.

## INTRODUCTION<sup>1</sup>

One of the most important subjects in the field of *Usul al-Fiqh*, demanding scholarly attention and systematic scrutiny from practitioners and scholars of Islamic jurisprudence, is the intricate inquiry into *Maqasid al-Shariah* and its intrinsic relationship with the detailed provisions within the Islamic judiciary. This inquiry encompasses a nuanced examination of its evidential validity, hermeneutical implications, consequential ramifications, as well as considerations pertinent to the scholarly discourse and its epistemological imperatives. This necessitates a comprehensive fusion of theoretical deliberation and empirical application. Notably, both classical and contemporary authorities have embedded these deliberations within their seminal works on *Usul al-Fiqh*, either integrally as part of broader treatises or as discrete works, acknowledging their autonomous significance in response to pressing exigencies.

The field of Islamic jurisprudence that requires the attention of researchers and scholars is the extraction and analysis of legal rulings and their guiding principles. This involves a comprehensive and intricate examination of all its branches. Particularly significant is the study of the objectives of Islamic law and their relationship with the detailed evidence of legal rulings. This encompasses the methodology of establishing legal authority, directing interpretation, and assessing the outcomes, as well as the requirements and implications for practitioners, urging both theoretical and practical jurisprudential engagement. It is noteworthy that both ancient and contemporary scholars have addressed these topics extensively in their writings on jurisprudential principles, either integrating them broadly or delineating them independently based on perceived necessity.

*Al-Maqasid* are rooted in *Usul al-Fiqh* in general, and this field requires necessary legal contributions for the attainment of sound legal reasoning. Just as a *Mujtahid* cannot deduce and

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### <sup>1</sup> To cite this article:

EL HADI, Sara, *Translation of Nouraddin KARRAT's Article: The Objectives of Islamic Law and Their Relationship with Legal Evidence*, Ijtihad Center for Studies and Training, Belgium, Vol. 1, Issue 2, December 2024, 363-382.

سارة الهادي، ترجمة لمقالة نور الدين قراط: مقاصد الشريعة وعلاقتها بالأدلة الشرعية، مجلة اجتهاد للدراسات الإسلامية والعربية، مركز اجتهاد للدراسات والتكوين، بلجيكا، مج. 1، ع. 2، ديسمبر 2024، 363-382.

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extract legal rulings from religious evidence without being grounded in the principles of Islamic jurisprudence (*Usul al-Fiqh*), the same applies to *Al-Maqasid*. Successful deduction can only occur when one possesses a thorough understanding of the general and specific objectives of the Sharia. Therefore, mastery of both *Usul al-Fiqh* and *Al-Maqasid* is indispensable for effective legal reasoning."<sup>1</sup>

It is notable that *Al-Maqasid* referred to herein pertain to the overarching general *Al-Maqasid* to which Sharia law is directed. These *Al-Maqasid*, namely the essential, complementary, and embellishing objectives, are exclusively derived from an inductive division stemming from a broad theme: that Sharia law exists for the benefit of mankind. Upon the legislator's examination of these benefits, it is found that this criterion indicates three measures: the most significant measure relates to necessities, followed by needs in terms of importance, then enhancements or supplements. This order is derived from the induction of Sharia law rulings, notably observed through the insight of reason.<sup>2</sup>

For the significance of this matter, we deemed it necessary to compose this article addressing the objectives of Sharia and their correlation with legal evidence. This aims to elucidate the intertwined relationship between the field of *Usul al-Fiqh* (Principles of Islamic Jurisprudence) and the theory of *Maqasid al-Sharia* (Objectives of Islamic Law). We structured the article into two sections: the first delves into the close interconnection between the principles of *Fiqh* and the objectives of Sharia, drawing from the perspectives of a range of jurists, scholars in Islamic jurisprudence, and specialists in *Al-Maqasid*. The second section is dedicated to the objectives of Sharia and the method of *Istiqrā'* (inductive reasoning), which forms a pivotal cornerstone in this discipline. Should the objectives of Sharia necessitate evidence, this evidence predominantly resides within the method of *Istiqrā'*, endowing the objectives with vigor and predominance in the process of juridical deduction, albeit without necessitating independent verification of the legal ruling.

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<sup>1</sup> Muhammad Bakr Ismail Habib, *Maqasid al-Shariah al-Islamiyyah Ta'assilan wa Taf'ilan*, Dar Tayyibat al-Khadra, Mecca, 1427 AH / 2006 CE, p. 88.

<sup>2</sup> Abdullah bin Bayyah, *Alaqa Maqasid al-Shariah bi Usul al-Fiqh*, Al-Furqan Foundation for Islamic Heritage, Center for Maqasid al-Shariah Studies, 2006, p. 90.

## CHAPTER ONE: THE INTERCONNECTION BETWEEN THE PRINCIPLES OF JURISPRUDENCE AND THE OBJECTIVES OF SHARIA

The scholars of *Usul* did not address *Al- Maqasid* as evidence upon which legal rulings are based. Even if texts exist, they might be interpreted differently. This is exemplified in the statement attributed to Imam al-Shafi'i, as reported by *Imam al-Haramayn*, where he said: "Al-Shafi'i mentioned in his *Risala* a good arrangement. He said: 'When an incident occurs, the *mujtahid* needs to seek judgment in it. He first looks at the texts of the Quran, and if he finds a clear path to the ruling, that is what is intended. If he cannot find it there, he resorts to the well-established hadiths, and if he finds it, he acts accordingly. Otherwise, he resorts to the solitary reports, and if he finds its essence, he acts accordingly. If not, he turns to the apparent meanings of the Quran. If he finds an apparent meaning, he does not act upon it until he looks for the specific circumstances. If he finds a specific circumstance, he abandons acting based on the apparent meaning. If he does not find a specific circumstance, he dismisses acting based on the apparent meaning. Then, if he does not find an apparent meaning in the Quran, he goes down to the well-established hadiths, provided there is no specific circumstance. Then, he resorts to the solitary reports. If what is sought is not found in these levels, he does not resort to analogy afterward. However, he considers the entirety of the Sharia and its general interests."<sup>1</sup>

The matter gains further clarity when discussing the categorizations of defects and principles. *Imam Al-Shafi'i* states, "Regarding the first category: it pertains to instances grounded in necessity, thus the analysis by the jurist involves considering the components of the principle in relation to each other, as well as considering other principles in conjunction with the aforementioned principle if they align with the overarching principle. When considering individual components alongside the whole, while also taking into account the criteria for validity, this falls within the highest echelon of semantic analysis. One notable feature of this category is that while partial analysis may be evident, if it contradicts the

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<sup>1</sup> Al-Haramayn Abu al-Ma'ali Abdul-Malik bin Abdullah bin Yusuf, *Al-Burhan fi Usul al-Fiqh*, ed. Abdul Azim al-Dayyeb, College of Sharia, Qatar, 1399 AH, Vol. 1, p. 1337-1338.

comprehensive rule, precedence is given to the comprehensive rule over the apparent partial analogy."<sup>1</sup>

Additionally, it is noteworthy regarding the importance of considering *Al-Maqasid*, within the context of rebutting the *Mu'tazili* theologian *Al-Ka'bi*, renowned for negating permissibility in Sharia law<sup>2</sup>. He asserts, "...and whoever fails to recognize the presence of *Al-Maqasid* in commands and prohibitions lacks insight in formulating Sharia law."<sup>3</sup>

This highlights the importance of *Al-Maqasid* (objectives), as without them, the path of *Al-Mujtahids* cannot advance in discerning the positions of Sharia rulings and grasping their purposes, as is the case with *Al-Mujtahids*. We find *Taqi al-Din al-Subki* – (may God have mercy on him) - elaborating on what he considers a prerequisite for *Al-Mujtahid*, concluding with: "Thirdly: they must have practical experience and adherence to the objectives of Sharia, which provides them with the strength to understand the *Sharia's* intent and suitability to pass judgments in that regard, even if not explicitly stated. Just as one who associates with a king and is familiar with his affairs, when asked about his opinion on a certain matter, his inclination towards what he believes is most likely, even if not explicitly stated, based on his knowledge of the king's ethics and what is suitable for the issue. When a person reaches this level and attains these three aspects<sup>4</sup>, they achieve the rank of complete diligence "<sup>5</sup>.

From this text, we also understand that proficiency and attainment of competence through adhering to the objectives of *Shar'ia* law, understanding its various categories of rulings, and the distinctions within them, endow *Al-Mujtahid* with the strength that solidifies their insight. This insight assures them of the correctness of their diligence. Without this, they are prone to

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<sup>1</sup> Ibid., Vol. 2, p. 80.

<sup>2</sup> Ahmed al-Raissoni, *The Theory of Maqasid (Objectives) according to Imam al-Shatibi*, Dar al-Alamiyah lil Kutub al-Islamiyyah, 1992, Vol. 1, p. 34.

<sup>3</sup> Al-Juwayni, *Al-Burhan fi Usul al-Fiqh*, Vol. 1, p. 101.

<sup>4</sup> The perfection of the rank of legal reasoning relies on three main elements: Firstly, the cultivation of expertise in disciplines that refine the mind, such as Arabic language and the principles of Islamic jurisprudence. Secondly, a comprehensive grasp of the majority of Islamic legal principles established by Islamic law. Thirdly, the acquisition of practical experience and adherence to the objectives of Sharia, which grants the scholar the strength to discern the intent of Islamic law.

<sup>5</sup> *Al-Ibhaaj fi Sharh al-Minhaaj* (The Elucidation in Explaining the Minhaaj), by Taqi al-Din Abu al-Hasan Ali ibn Abdul-Kafi ibn Ali ibn Tamaam ibn Hameed ibn Yahya al-Sabki, with his son Taj al-Din Abu Nasr Abdul-Wahhab, Dar al-Kutub al-Ilmiyyah, Beirut, 1416 AH - 1995 CE, Vol. 1, p. 8-9.

hesitation and lack the ability to issue Fatwas and understand legal rulings. Additionally, we find *al-Shatibi* summarizing the conditions of Ijtihad by condensing them into two conditions. He states: "The attainment of the level of Ijtihad is achieved by possessing two qualities":

Firstly, understanding *Maqasid Al-Shariah* to its fullest extent.

Secondly, having the ability to deduce rulings based on this understanding. The second condition serves as a servant to the first. The first condition is the cause of reaching this level, as it is the primary objective, while the second is the means."<sup>1</sup>

With this profound understanding of the prerequisites of *Al-Mujtahid*, it alludes to a general concept that some express as follows: by prioritizing general principles over specific instances, as *Imam al-Haramayn* indicated, reiterated in the discussions of *Taqi al-Din* and his father *Taqi al-Din al-Subki* in their exegesis of "*al-Minhaj*".<sup>2</sup> This prompted Sheikh Ibn Ashur to say: "The actions of *Al-Mujtahids* in Islamic jurisprudence (*Fiqh Al-Shariah*) fall into five areas:

First: Understanding its statements and deriving their implications, based on linguistic usage and according to the linguistic rules that guide Islamic jurisprudential reasoning. This is largely covered by the knowledge of *Usul al-Fiqh*.

Second: Investigating what contradicts the evidence available to *Al-Mujtahid*, and thoroughly examining its implications to ensure the validity of the evidence, eliminating any factors that might nullify its validity or require amendment. When assured of the soundness of the evidence over its contradiction, they act accordingly, considering how to apply both pieces of evidence together or favoring one over the other.

Third: Analogizing what has no explicit ruling in the words of the Sharia to what does, after understanding the reasons behind established legislations through the recognized paths of identifying the causes mentioned in *Usul al-Fiqh*.

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<sup>1</sup> Al-Shatibi, Ibrahim ibn Musa ibn Muhammad al-Lakhmi al-Gharnati, *Al-Muwafaqat*, ed. Abu Ubaydah Mashhur ibn Hasan Al Salman, Dar Ibn Affan, 1417 AH / 1997 CE; Vol. 2, p. 76.

<sup>2</sup> Excerpts from *Al-Maqasid*, Abdullah bin Al-Sheikh Al-Mahfouz bin Bayyah, Islam Today Foundation in Saudi Arabia, 2010 AD-1431 AH, p. 140.

Fourth: Issuing a ruling on an action or incident that occurs among people when *Al-Mujtahid* do not have evidence from Sharia, nor a similar precedent to base their judgment on.

Fifth: principle entails that receiving some established rulings of *Shar'ia* law without understanding the reasons behind them or the wisdom of *Shar'ia* legislation is akin to the reception of one who is unaware of the underlying principles of these rulings. Such an individual incriminates themselves for failing to grasp the wisdom of the law, thus undermining their knowledge in the broader scope of Sharia law. This type of approach is termed as "devotional." Therefore, *Faqqeh* (the jurist) is in need of understanding the objectives of *Shar'ia* law across all its aspects.<sup>1</sup>

These are some texts from the early *Usuli* scholars through which we discern the value of comprehending the objectives of *Sha'ria* within the framework of the tools of *Ijtihad*. We observe this, for instance, in the words of *Imam al-Haramayn*.

To elucidate what *Abu al-Maqasid* and *Abu Ishaq al-Shatibi*, and the esteemed scholar *Sheikh Taher Ben Achour* –( may Allah have mercy on them) - have whispered about, *Sheikh Ben Bayeh* clarifies the intended meanings by stating:

"The intent behind '*Al-Istinjad*' is to comprehend the nature of dealing with objectives (*Al-Maqasid*) and by the objectives, realizing that they are not merely mental luxuries or general culture that journalists and social scientists engage in, nor are they abstract philosophical subjects or theories. Instead, they are tools for deducing the five legal principles (*al-ahkam al-khamsa*), and therefore, they must descend from the realm of theory to the ground of practical knowledge, from mental conceptualization to the field of applications. Reliance on objectives extends to more than thirty aspects of fundamental jurisprudential issues."<sup>2</sup>

One can borrow the terms "*al-Mahair*" (treasures) and "*al-Aknas*" (brooms) for them, as they are the sources of wisdom and the brooms of the objectives, with roots that emanate their fragrance and branches that signify their kinds. After the Sheikh has reviewed these aspects of '*istinjadh*' with *Al-Maqasid*, he said: "These aspects, recorded for the first time, if we were to

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<sup>1</sup> Ibn Ashour, *Maqasid Sharia*, ed. Muhammad Al-Habib ibn Al-Khawaja, Ministry of Awqaf and Islamic Affairs, Qatar, 1425 AH - 2004 AD, Vol. 3, p. 40-51.

<sup>2</sup> Ibn Bayyah, *Al-Maqasid*, p. 139-165.



publish them as books do, would constitute a large part". However, our intention here is to indicate that *Al-Maqasid* the very foundations of *Usul Al-fiqh*. These aspects and insights are examples of intimate desires, interdependence, and communication. If we scrutinize further and delve deeper into thought, we would add more to them. So, I say to the seeker of knowledge: delve into this manner... With what we have presented, we have laid to rest the theory of the independence of *Al-Maqasid* from *Usul Al-Fiqh* with precision, and we have built integration between them, the integration of the spirit into the body and the counted into the count.<sup>1</sup>

Likewise, and not far from this point, it has become apparent from what we have transmitted from the aforementioned scholars of Usul that they almost considered understanding *Al-Maqasid* al Sharia as one of the primary prerequisites for Ijtihad. Naturally, this understanding is not isolated from the other necessary and well-known conditions.

## CHAPTER TWO: THE OBJECTIVES OF SHARIA AND THE METHODOLOGY OF DEDUCTIVE REASONING IN JURISPRUDENCE

As for contemporary scholars, their views on *Al-Maqasid* vary widely, ranging from exaggeration in considering them to be transcending their general boundaries, where they make them absolute and all-encompassing, overlooking or ignoring the specific qualifications and obstacles inherent in generalizations. They nullify the rulings of particular cases that have their own specific meanings, claiming that they fall under a comprehensive objective. However, the risks and hazards inherent in this approach within the realm of principles of Sharia law as a whole are evident.

One aspect of focusing on *Al-Maqasid* concerning specific texts extends to the point of nullifying the objectives, meanings, and rulings that oppose the specific text, limiting its applicability and indicating its contingency. Such restrictions act as constraints, limiting its consideration to the extent of calling for the nullification of interests.

The correct approach lies in striking a balance between these extremes, giving due consideration to both the comprehensive and the specific aspects. It allocates each its rightful share and places the particular within its appropriate context.<sup>1</sup>

From this perspective, Dr. Jamal al-Din Attia pursued the topic of Purposeful Ijtihad in the writings of contemporary scholars but found nothing that rises to the level of establishing new evidence beyond what the scholars of Islamic *Fiqh* have mentioned. He concluded that this serious inquiry lacks clear mechanisms for utilizing *Al-Maqasid* in the process of Ijtihad. Nonetheless, it represents a step forward nonetheless. Ultimately, we concluded that Purposeful Ijtihad, as presented, does not deserve to be labeled with this term. In reality, it is nothing more than public interest or reform, a legal evidence discussed by Islamic jurists since ancient times. What we have done is merely development of their ideas and building upon them.<sup>2</sup>

Based on this, the ruling on deducing purposes can be formulated as follows: The religious purpose resembles the religious ruling; just as it is futile and impermissible to describe the ruling as religious or attribute it to Sharia without evidence, so too the religious purpose requires evidence. In both cases, speaking without evidence about God is considered an act of injustice, as stated in the Quran: " Who does more wrong than those who fabricate lies against Allah to mislead others without 'any' knowledge? Surely Allah does not guide the wrongdoing people." (*Surah Al-An'am* 144). If *Maqasid Al-Shariah* require evidence, then the method of inference, in general, provides this evidence, granting *Al-Maqasid* the strength to dominate the entire process of Ijtihad without relying on inference to prove the religious ruling itself:

1) *Al-Maqasid* is not primarily aimed at establishing the religious ruling itself, but rather at elucidating the objective behind that ruling and the outcome intended to be achieved by the obligation<sup>3</sup>. This serves as a reminder to the individual obligated [to follow the ruling] that

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<sup>1</sup> Ibid., p. 166.

<sup>2</sup> Gamal al-Din Attia, *Towards Activating the Objectives of Islamic Law*, The International Institute of Islamic Thought, Islamic Methodology Series, 1422 AH / 2001 CE, p. 197.

<sup>3</sup> The book *The Conflict between Verbal Expression and Intended Meaning in the Fundamentals of Jurisprudence and Jurisprudential Rules: A Theoretical and Applied Study* includes The conflict between legal wording and what is understood as the legal objective. The conflict between the mandated wording and its intended meaning. See: Khalid bin Abdulaziz bin Suleiman Al Suleiman, the Publications of the Saudi Jurisprudence Society, Fundamental Studies -8-, Dar Arkanuz Ashbiliya for Publishing and Distribution, 1434 AH - 2013 CE, Vol. 1, p. 273-280.

their intention in performing the action should align with the intention behind its legislation <sup>1</sup>. It is acknowledged that the desired outcome may or may not be realized, and the non-realization of the outcome does not necessarily invalidate the obligation. For example, the verse " O believers! Fasting is prescribed for you as it was for those before you so perhaps you will become mindful 'of Allah'." (Quran, *Surah Al-Baqarah* 2:183) establishes the ruling of obligatory fasting and the overarching purpose of achieving righteousness. However, if righteousness is not attained through fasting, or if righteousness is achieved without fasting, this does not imply the invalidation of the obligation to fast.

2) If it were permissible for overarching purposes (*Al-Maqasid*) to independently establish the rulings of *Shari'ah*, it would lead to three invalid implications.

First, it would neutralize or marginalize detailed evidence from fulfilling its intended purpose (*Al-Maqasid*), which is to elucidate the rulings of *Shari'ah*. Many overarching religious purposes (*Maqasid Shari'ah*) encompass generalities that seemingly cover all or most rulings of *shari'ah*, tempting observers to forgo detailed evidence.

Second, opening avenues to achieve objectives through unauthorized means contradicts the legislator's intent, as the legislative intent, as defined, refers back to the legislator. Thus, this objective can only be achieved and realized through means that align with the established Shariah guidelines outlined in the detailed evidence. <sup>2</sup>

Third, when meanings are confined by the principles and regulated by the provisions, they become restricted to the regulation of the legislator. If they are not required to be based on the principles, they do not become regulated, and matters widen, returning *Shari'ah* to following the opinions and emulating the wisdom of the wise. In this case, those endowed with sagacity become like prophets, attributing what they see to the wisdom of *Shari'ah* rather than adhering to the essence of *Shari'ah*. In reality, this leads to the degradation of the prominence of

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<sup>1</sup> Therefore, "the sale of anything is prohibited if it is known that the buyer intends to use it for a purpose that is not permissible, such as selling a slave girl to people of corruption or a slave." See: Hashiyat al-Dusuqi 'ala al-Sharh al-Kabir by Muhammad bin Ahmad bin 'Arifah al-Dusuqi al-Maliki (died: 1230 AH), Dar al-Fikr, Vol. 3, p. 7, (no edition date).

<sup>2</sup> Khalid bin Abdulaziz bin Suleiman Al Suleiman, *The Conflict between the Linguistic Meaning and the Intended Meaning in Usul Al-fiqh and the Islamic Jurisprudential Rules*, Vol. 1, p. 273.

*Shari'ah*, and each individual acts according to their own perception, which varies with time, place, and the nature of creation, deviating from the path set by the predecessors.<sup>1</sup>

3) If the comprehensive objectives were to independently establish *Shari'ah* rulings, and there was a complete disregard for specifics, harms would enter and benefits would be lost, contradicting the intent of the legislator. This is because safeguarding the entirety serves the mutual interests of its components, and seldom does a detail exclude consideration of the three principles. It is known that some may conflict with others, and precedence is given based on what is specified in the book of prioritization. Relevant texts and considered analogies encompass this pursuit of perfection.

Therefore, it is necessary to consider the specifics of the particulars alongside their general considerations, and vice versa. This represents the ultimate scope of the scholars' examination in a comprehensive manner, and their deliberations in the realms of *ijtihad* lead to this conclusion.<sup>2</sup>

4) The comprehensive objectives encompass a breadth and generality in implication that necessitate detailed evidentiary support. For instance, the alleviation of hardship, the establishment of justice, the preservation of the five essentials, and the prevention of disputes and contention in transactions—all of these represent broad objectives that require specificity, restriction, and elaboration. Without such delineation, chaos ensues in *Ijtihad*, estimations diverge, interests conflict, and desires clash.<sup>3</sup> Imam Ash-Shatibi, may Allah have mercy on him, stated: "Regarding ordinary matters and many acts of worship, there is a discernible meaning, which is the regulation of interests. For if people were left without supervision, disorder would spread, and regulation would be difficult to maintain without recourse to a clear *Shari'ah* principle. Regulation is closer to compliance with what has been found to be a way, so the legislator set specific measures for limits and known causes, such as the eighty lashes for false accusation of adultery, and the one hundred lashes and exile for committing adultery without marriage. He distinguished cutting the hand with the elbow and the specified amount,

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<sup>1</sup> Al-Juwayni, *Al-Burhan*, Vol. 2, p. 162.

<sup>2</sup> Al-Shatibi, *Al-Mawafaqat*, Vol. 3, p. 180.

<sup>3</sup> Khalid bin Abdulaziz bin Suleiman Al-Sulaiman, *Contradiction between the Significance of the Expression and the Intention in Usul Al-fiqh and Qawaed-Fiqhiyyah*, Vol. 1, p. 282.

and made the absence of a foreskin a limit in many matters. The same applies to the months and the count in zakat, and what cannot be regulated is returned to the trusts of the responsible, expressed in secrets, such as purity for prayer, fasting, menstruation, and ritual purity, and all that cannot be referred back to a specific, obvious origin. This is what may be considered the legislator's inclination towards the objective.<sup>1</sup>

5) The specific objectives, despite being more precise than the general objectives, cannot operate independently of detailed evidence for two reasons:

First : It is often the case that while we may understand the general objective of a specific ruling, many of its intricacies remain elusive. For instance, we understand that the purpose and benefit of stoning an adulterer who is married serve as a deterrent<sup>2</sup>. However, the rationale behind employing stoning as a method of deterrence seems incomprehensible, especially when alternative methods such as execution by beheading or lethal lashing could achieve the same end. Therefore, this level of generalized knowledge about the benefit of the ruling should not be the sole basis upon which decisions are made, as it may lead to the misapplication of the law and the violation of its principles. It is often the case that while we may understand the general objective of a specific ruling, many of its intricacies remain elusive. For instance, we understand that the purpose and benefit of stoning an adulterer who is married serve as a deterrent. However, the rationale behind employing stoning as a method of deterrence seems incomprehensible, especially when alternative methods such as execution by beheading or lethal lashing could achieve the same end. Therefore, this level of generalized knowledge about the benefit of the ruling should not be the sole basis upon which decisions are made, as it may lead to the misapplication of the law and the violation of its principles.<sup>3</sup>

Second: In the initial assessment of a command or prohibition, it is often perceived to have a utilitarian meaning, only for us to later realize the error in this understanding. This realization may occur due to encountering another textual reference, the discovery of new scientific knowledge that alters our understanding of the benefit of the ruling of *shari'ah*, or for other reasons.

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<sup>1</sup> Al-Shatibi, Vol. 5, p. 526-527.

<sup>2</sup> Al-Sulayman, Vol. 1, p. 284.

<sup>3</sup> Abdullah Duraz, *Commentary on Al-Muwafaqat*, Vol. 3, p. 409, Margin 1.

From this perspective, we understand that establishing *Maqasid Al-Shariah* (objectives of Islamic law) in rulings of *Shari'ah* can be challenging, as it necessitates specific evidence for delineation. This delineation itself constitutes a broad legal objective in Islam <sup>1</sup>. Ibn Ashur articulated this objective as "the precise and detailed determination of legislation. <sup>2</sup>" Just as rulings of *Shari'ah* require detailed evidence for determination, these detailed evidences do not suffice without the objectives of Islamic law (*Maqasid al-shariah*). *Al-Maqasid* assist in selecting the appropriate detailed evidence, understanding it correctly, deriving proper benefits from it, and potentially reinforcing and strengthening the inference. If there is no detailed evidence addressing a particular situation, *Al-Maqasid* aid in constructing it, while remaining accessible to this detailed evidence and the derived ruling.

This detailed evidence, which the objectives help construct, could be either *Istislah* (Seeking Benefit) if the objective is comprehensive, or *qiyas* if the objective is partial, each representing direct evidence for the ruling within established guidelines and mechanisms of inference. The objective serves as the link between them and the textual evidence upon which the objective is based, leading to the ruling being derived from *Istislah* or *qiyas*, both of which are derived from the objective, and the objective is derived from the *Quran*, *Sunnah*, or *Al Ijma'*

The clarification of this matter lies in the fact that *Al-Maqasid* can be either partial or comprehensive. If it is partial, it implies that it has partial evidence, and therefore, the ruling is derived from that evidence. *Al-Maqasid* aids in understanding and directing that evidence. However, if the situation is novel and the objective and wisdom behind the ruling address it without explicitly mentioning the evidence, then we arrive at the extension of the ruling to this new situation based on its wisdom. This entails the widely discussed issue of justifying rulings based on wisdom, even in the absence of explicit textual evidence.<sup>3</sup>

According to the permissibility argument, the evidence lies in *qiyas* (the analogy) established by wisdom and the partial objective, not in the essence of wisdom and objective themselves. An example of a situation where the evidence explicitly mentions is the statement

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<sup>1</sup> Al-Sulaiman, *Ta'arudh Dalalat al-Lafdih wal-Qasd*, Vol. 1, p. 285.

<sup>2</sup> Ibn Ashour, Vol. 3, p. 164.

<sup>3</sup> Al-Sulaiman, Vol. 1, p. 286.

of the Prophet Muhammad, peace be upon him: "No one should perform the Asr prayer except in the territory of *Banu Quraiza*." <sup>1</sup>

The situation pertains to missing the Asr prayer time before reaching the territory of *Banu Qurayzah*. When Sahabah prayed Asr on the way, they inferred from the current circumstances that the literal meaning of the hadith was not intended, but rather, it was about hastening. Therefore, they endeavored to hasten. However, when they were unable to reach before the time expired, they performed the Asr prayer at its designated time. Their justification for this action was the same hadith whose interpretation was influenced by the intended objective.

An example of a situation not explicitly addressed by textual evidence is the statement of the Prophet Muhammad (peace be upon him): "A judge should not give verdicts while he is angry".<sup>2</sup> This hadith carries a derived ruling, rationale, and wisdom. The ruling is *At-Tahrim* (the prohibition) of issuing judgments while angry. The rationale behind *At-ahrim* is anger, and the wisdom and partial objective behind *At-ahrim* are to prevent the harm resulting from mental agitation, which includes the failure to fully comprehend arguments. For instance, if a judge experienced a severe traffic accident on his way to work, and its effects lingered during his work, causing mental agitation, would he be allowed to adjudicate between litigants? This is a new situation addressed by the objective and wisdom, without the explicit wording of the hadith. Thus, based on the mental agitation experienced by both parties and the resulting harm from not fully comprehending arguments, it is prohibited to adjudicate in this scenario by analogy to the angry judge.

If the objective (*Al-Maqsid*) is comprehensive, it falls under the category of moral generality, also relying on converging evidence. However, it does not negate the need for detailed evidence. This is because it is established that the majority of the rulings of Shari'ah defined by the Quran are comprehensive rather than partial. What is comprehensive does not suffice to understand detailed rulings. If this is the nature of the Quran, then it is more appropriate to derive comprehensive objectives from it or from the Prophetic Sunnah.

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<sup>1</sup> Sahih al-Bukhari, book: *Sabu Salat Talib Wa Almatlub Rakiban wa Imaa*, Hadith No. 946, ed. Muhammad Zuhair ibn Naser al-Naser, Dar Touq al-Najah, 1422 AH, Vol. 2, p. 15.

<sup>2</sup> Sahih al-Bukhari, book: *Can a Judge or a Mufti give Verdicts while Angry*, Hadith No. 7158, Vol. 9 p. 65.



Moreover, the generality and inclusiveness realized in comprehensive objectives are not limited to specific rulings but extend to the entire process of *Ijtihad*.

Examples illustrating the need for comprehensive objectives to rely on detailed evidence are as follows: one of the objectives of worship is humility, submission, and obedience to the commands of Allah. However, this objective cannot be achieved without detailed evidence elucidating the types of worship, their timings, and their characteristics. If reliance solely on *Al-Maqsid* were allowed, it would neglect the specifics of *Al-Maqsid* themselves. Similarly, one of the objectives of punishments is deterrence. However, if reliance solely on objectives were permitted, a judge could justify ruling for the execution of a thief or a murderer under the pretext that it would be more effective in deterrence. Another may claim that deterrence can be achieved without resorting to capital punishment. In cases where direct detailed legal evidence is unavailable, a jurist (*Al-Mujtahid*) may resort to employing comprehensive objectives to establish evidence for reform. In this process, comprehensive objectives serve as a link between the general textual evidence and the identified benefit. The jurist (*Al-Mujtahid*) perceives that there is some benefit, albeit without explicit evidence in the *Quran*, *Sunnah*, or *AL-ijma'*. However, this benefit aligns with the broader objectives derived from the comprehensive assessment of evidence. Thus, the ruling is then based on this benefit, which constitutes the overarching and connecting principles between them and the textual evidence. In other words, based on the foregoing, a ruling must have detailed evidence, which guides its derivation and specification; this process is known as "*Istislah*" or considering the public interest. The ruling adheres to general principles and comprehensive guidelines, staying within the scope of overarching objectives derived from general texts.

Here arises a potential dilemma, wherein general texts often exhibit conflicts. If one text indicates that a certain benefit is intended by *Shar'ia*, while another denies it, the question arises: which of them should we follow?

The response to this dilemma lies in prioritizing what aligns closest with the scope of benefit. If the benefit pertains to transactions, for example, and there is a general text concerning transactions (such as texts that prohibit actions leading to disputes) juxtaposed with another text



about the general principles of Sharia (like texts that facilitate matters), and there exists a contradiction between them, precedence is given to what concerns transactions.<sup>1</sup>

The scholar Ibn Ashur highlighted this issue by stating that some scholars may fall into error when deriving *Shar'ia* rulings by solely focusing on the literal meanings of texts. They may persist in interpreting and analyzing texts, hoping to extract their essence, while neglecting to draw upon the rich context provided by indicators, terminologies, and contexts. Consequently, they may fail to grasp the underlying reasons, wisdoms, and objectives. The most accurate and necessary approach to guide interpretation, therefore, lies in employing the comprehensive resources available within the discourse of indicators, terminologies, and context, which are indispensable in the legislative process<sup>2</sup>

From this standpoint, scholars emphasize that the jurisprudence of purposes and legislation grants the deducer mastery over controlling the movement of meaning within the text. Moreover, it facilitates intellectual and emotional conviction regarding the deductions drawn from the text. This conviction is no less important than the duty to articulate the meanings implied by the texts<sup>3</sup>. Indeed, the renewal of the principles of Islamic jurisprudence (*Ilm al-Usul*) requires us not to view *Al-Maqasid* in a manner that separates them from this field of study. Rather, it requires us to consider them as a means to it. All textual and rational evidence aims for and is guided by *Al-Maqasid*. Changes in rulings due to shifts in customs, time, and place are but manifestations of the continuous evolution of these evidences within the realm of *Shari'ah* objectives (*Maqasid Al-Shariah*).<sup>4</sup>

Perhaps this is what Shaykh Ibn Bayyah meant when he said: "Our intention here is to indicate that *Al-Maqasid* are the very foundations of jurisprudence (*Usul al-fiqh*) Therefore, he called for activating the foundations of jurisprudence in light of *Al-Maqasid* in their structure, to broaden the scope of approval, reform (*Istihsan*), analogy derivation (*istislah*), consideration of consequences, and legal means..."

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<sup>1</sup> Al-Sulaiman, Vol. 1, p. 290.

<sup>2</sup> See: Ibn Ashur, p. 135-136.

<sup>3</sup> Mahmoud Tawfiq Saad, *Methods of Deduction from the Quran and Sunnah: A Critical Analytical Study*, Al-Amana Press, 1413 AH / 1992 CE, p. 25.

<sup>4</sup> Mohamed Al-Dasuqi, *Towards a New Approach to the Study of the Science of Usul al-Fiqh*, p. 145.

In light of our exposition, we have artfully examined the theory positing the autonomy of *Al-Maqasid* from the Principles of Islamic jurisprudence, and we have forged an integration between them, akin to the fusion of soul and body, where they interweave and complement each other.

In the absence of full autonomy, they intertwine much like how a sibling benefits from the nourishment provided by their mother's milk.

The statement delineates that overarching principles exist within the framework of Islamic Jurisprudence principles, surpassing the realm of fundamental Islamic jurisprudence. These principles are intertwined with general principles within jurisprudential discussions, while some are more specific yet serve as detailed supplements. The system of Sharia law does not isolate rulings from wisdom, nor does wisdom elude its system.<sup>1</sup>

This implies that by considering the objectives of Islamic law, one can avoid the extremism into which some researchers fall, as they often interpret texts in a manner that suits only a particular group, neglecting the universality of its application across time, place, and individuals. For instance, *Ibn Hazm* and those who agreed with him argued that commercial transactions are exempt from *zakat*, even if their value reaches significant amounts. The flaw in this opinion stems from neglecting the purposes of Islamic law regarding the rulings of *zakat* and confining analysis solely to the literal wording of texts, without considering the general principles and objectives intended by the legislator.<sup>2</sup>

## CONCLUSION

The result is that the discussions on the objectives of Islamic law (*Maqasid Al-shariah*) are considered among the ultimate goals toward which the efforts of legislators and jurists converge. Their aim lies in safeguarding the law "*Shari'ah*" preserving it from obscurity, contraction, stagnation, rebuttals, and distortions, thus preventing various forms of manipulation perpetrated by those who attempt to undermine it. This task is facilitated by Allah's provisions within it, ensuring its preservation through means inherited by its scholars

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<sup>1</sup> Abdullah bin Bayyah, *The Relationship between Maqasid Sharia and Usul Al-fiqh*. p. 131, 133, 134, 137.

<sup>2</sup> Yusuf al-Qaradawi, *Ijtihad in Islamic Sharia with Analytical Perspectives on Contemporary Ijtihad*, Dar al-Qalam, Kuwait, 1410 AH-1989 AD, p. 46-47.

and experts, passed down from one generation to the next, as articulated by *Imam Ash-Shatibi* when discussing the specific insight resulting from piety. He cited the words of *Malik*: "It is incumbent upon a person not to know, then to know. Have you not heard the saying of Allah, the Exalted: "If you are mindful of Allah, He will grant you a decisive authority", [Quran:*Al-Anfal* 8:29] Also, 'Indeed, wisdom is the lost property of the believer; he should seize it wherever he finds it.' He further said, 'Wisdom is a light which Allah casts into the heart of His servant.' Moreover, 'I am convinced that wisdom is understanding in the religion of Allah, an affair Allah causes to enter into hearts by His mercy and favor.'<sup>1</sup>

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<sup>1</sup> Al-Shatibi, Vol. 5, p. 24.

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