

Maqasid al Sharia

The Objectives of Islamic Law

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Introduction¹

This essay is presented in five sections beginning with a general characterisation of the Maqāṣid al-Šarīʿa and its origins in the Qurʿan. The next section addresses the classification of the Maqāṣid and a certain order of priority that is integrated into the structure of the Maqāṣid. Section three is devoted to historical developments and the contributions of some of the leading ʿulamāʾ especially that of Abu Ishāq Ibrahim al-Šātībī, to the theory of the Maqāṣid. Section four looks into the differential approaches the ʿulamāʾ have taken toward the identification of the Maqāṣid. The last section highlights the relevance of the Maqāṣid to Iğtihād and the ways in which the Maqāṣid can enhance the scope and calibre of Iğtihād².

Textual Origins

Maqāṣid al-Šarīʿa, or the goals and objectives of Islamic law, is an evidently important and yet somewhat neglected theme of the al-Šarīʿa. Generally the Šarīʿa is predicated on the benefits of the individual and that of the community, and its laws are designed so as to protect these benefits and facilitate improvement and perfection of the conditions of human life on earth. The Qurʿan is expressive of this when it singles out the most important purpose of the Prophethood of Muhammad (peace be on him) in such terms as: "We have not sent you but a mercy to the world" (21: 107). This can also be seen perhaps in the Qurān's characterisation of itself in that it is "a healing to the (spiritual) ailment of the hearts, guidance and mercy for the believers" (and mankind) (10: 57).

The two uppermost objectives of compassion (raḥma) and guidance (huda) in the foregoing verses are then substantiated by other provisions, in the Quran and the Sunna that seek to establish justice, eliminate prejudice, and alleviate hardship. The laws of the Qurān and the Sunna also seek to promote cooperation and mutual support within the family and the society at large. Justice itself is a manifestation of God's mercy as well as an objective of the Šarīʿa in its own right. Compassion (raḥma) is manifested in the realisation of benefit (maṣlaha) which the ʿUlamāʾ have generally considered to be the all-pervasive value and objective of the Šarīʿa and is to all intents and purposes synonymous with raḥma.

Educating the individual (taḥḍīb al-fard) is another important objective of the Šarīʿa so much so that it comes, in order of priority, even before justice and maṣlaha. For these are both so-

¹ Transkription der arabischen Begriffe im Text und ihrer Erklärungen in den Fußnoten sind von Mohamed Ibrahim

² Anstrengung in Bezug auf Erklärung, Anwendung oder Ableitung von Normen

cially-oriented values which acquire much of their meaning in the context of social relations, whereas “taḥḍīb al-fard” seeks to make every individual a trustworthy agent and carrier of the values of the Šarī‘a, and it is through educating the individual that the Šarī‘a seeks to realise most of its social objectives. The overall purpose of a great deal of the laws and values of the Šarī‘a, especially in the spheres of ‘ibādāt³ and moral teaching, is to train an individual who is mindful of the virtues of taqwā⁴ and becomes an agent of benefit to others.

The Qurān is expressive, in numerous places and a variety of contexts, of the rationale, purpose and benefit of its laws so much so that its text becomes characteristically goal-oriented. This feature of the Qurānic language is common to its laws on civil transactions (mu‘amalāt) as well as devotional matters (‘ibādāt). Thus when the text expounds the rituals of wudū‘ (ablution for prayer) it follows on to declare that "God does not intend to inflict hardship on you. He intends cleanliness for you and to accomplish his favour upon you" (5: 6). Then with regard to the prayer itself, it is declared that "truly salāḥ⁵ obstructs promiscuity and evil" (29: 45). With reference to ḡihād the Qur’an similarly proclaims its purpose in such term that "permission is granted to those who fight because they have been wronged" (22: 39). The purpose, in other words, of legalising ḡihād⁶ is to fight injustice (ḍulm) and the purpose of ṣalāḥ is to attain spiritual purity and excellence that is accomplished together with physical cleanliness through ablution before prayer. With reference to the law of just retaliation (qiṣās)⁷, the text similarly declares that "in qiṣās there is life for you, o people of understanding" (2: 179); and with regard to poor-due (zakāh)⁸, the Qur’an validates it "so that wealth does not circulate only among the wealthy" (57:7). According to another text, the believers are under duty to lower their gaze in their encounter with members of the opposite sex, "for this will help you to attain greater purity" (24: 30).

One can add many more examples of the law which show how the Qurān and the Sunna are expressive of their goal justification, cause and benefit in the affirmative sense, just as one finds numerous references to evil conduct and crime which is reprimanded and made punishable, in the negative sense, in order to prevent injustice, corruption and prejudice. In the area of commerce and mu‘amalāt⁹, the Qur’an forbids exploitation, usury, boarding and gambling which are harmful and jeopardise the objective of fair dealing in the market-place. The underlying theme in virtually all of the broad spectrum of the aḥkām¹⁰ is realisation of benefit (maṣlaha) which is regarded as the summa of the Maqāṣid. For justice is also a maṣlaha and so is “taḥḍīb al-fard”. The maṣāliḥ (pl. of maṣlaḥa), thus become another name for the Maqāṣid and the ‘Ulamā¹¹ have used the two terms almost interchangeably.

³ rituelle Handlungen, wie Beten, Fasten etc.

⁴ Gottesfurcht

⁵ das Gute

⁶ im Sinne von Widerstand oder sich verteidigen oder Unrecht beseitigen

⁷ Vergeltungsstrafen

⁸ eine genaue Erklärung ist: Der Teil des Vermögens, auf den bestimmte gesellschaftlichen Gruppen Anrecht haben

⁹ Soziales Handeln, zwischenmenschliche Beziehungen oder wie der Autor erklärt, zivile Interaktionen

¹⁰ Normen

¹¹ Gelehrte

Classification of Benefits

The ‘ulamā’ have classified the entire range of maṣāliḥ-cum-maqāṣid¹² into three categories in a descending order of importance, beginning with the essential maṣāliḥ, or ḍarūriyyāt, followed by the complementary benefits, or ḥaǧǧijjāt, and then the embellishment taḥsīnijjāt. The essential interests are enumerated at five, namely faith, life, lineage, intellect and property. These are, by definition, essential to normal order in society as well as to the survival and spiritual well being of individuals, so much so that their destruction and collapse will precipitate chaos and collapse of normal order in society. The Šarī‘a seeks to protect and promote these values and validates measures for their preservation and advancement. Ġihād has thus been validated in order to protect religion, and so is just retaliation (qiṣās) which is designed to protect life. The Šarī‘a takes affirmative and also punitive measures to protect and promote these values. Theft, adultery and wine-drinking are punishable offences as they pose a threat to the protection of private property, the well-being of the family, and the integrity of human intellect respectively. In an affirmative sense again, but at a different level, the Šarī‘a encourages work and trading activity in order to enable the individual to earn a living, and it takes elaborate measures to ensure the smooth flow of commercial transactions in the market-place. The family laws of the Šarī‘a are likewise an embodiment largely of guidelines and measures that seek to make the family a safe refuge for all of its members. The Šarī‘a also encourages pursuit of knowledge and education to ensure the intellectual well-being of the people and the advancement of arts and civilisation. The essential maṣāliḥ, in other words, constitute an all-encompassing theme of the Šarī‘a as all of its laws are in one way or another related to the protection of these benefits. These benefits are an embodiment, in the meantime, of the primary and overriding objectives of the Šarī‘a.

The second class of the interests, known as ḥaǧǧijjāt, or complementary interests, are not an independent category as they also seek to protect and promote the essential interests, albeit in a secondary capacity. These are defined as benefits, which seek to remove severity and hardship that do not pose a threat to the very survival of normal order. A great deal of the concessions (ruḥaṣ)¹³ such as the shortening of ṣalāh¹⁴, and opening of the fast for the sick and the traveller, which the Šarī‘a has granted, are aimed at preventing hardship, but they are not essential since people can live without them if they had to. In almost all areas of obligatory ‘ibādāt the Šarī‘a has granted such concessions. Similarly, in the area of criminal law, the ḥadīṭ which proclaims that "prescribed penalties are suspended in all cases of doubt" protects a secondary interest in that it regulates the manner in which punishments are enforced. These punishments are in turn designed to protect the essential interests through judicial action. In the sphere of mu‘amalāt, the Šarī‘a validated certain contracts, such as the sale of salam¹⁵, and also that of lease and hire (iǧārah) because of the people’s need for them notwithstanding a certain anomaly that is attendant in both. In the sphere of family law, once again the Šarī‘a permits divorce in situations of necessity by way, that is, of a concession, which is aimed, in

¹² Maqāṣid sind die Ziele. Erreichung dieser Ziele führt dazu: Nutzen = Maṣāliḥ zu verwirklichen. Die Vermischung der beiden Begriffe führt zu Ungenauigkeiten, die nicht selten in der Usūl al fiqh - Literatur zu finden sind.

¹³ Erleichterungsnormen

¹⁴ während der Reise darf man das Vor- und Nachmittagsgebet so wie das Abend- und Nachtgebet zusammen und in verkürzter Form als Erleichterung beten

¹⁵ Salam auch Salaf, ist ein spezieller Leihvertrag (Siehe, Ibn Ruṣd, bidājat al muǧtahid, Beirut, 1999, S.559ff)

the final analysis, at ensuring the well-being of the family and defending it against intolerable conflict.

A *maṣlaḥa* of the second class is elevated to the rank of the essential *maṣlaḥa* when it concerns the public at large. To illustrate this, the validity of *iğārah* may be of secondary importance to an individual but it is an essential interest for the society at large. Similarly, certain concessions that are granted in the sphere of *ʿibadāt* may be secondary to the survival of an individual but it becomes, a matter of primary interest for the community as a whole. In the event of a conflict arising between the various classes of interest, the lesser of these may be sacrificed in order to protect a higher interest. When there is a plurality of conflicting interests and none appears to be clearly preferable, then prevention of evil takes priority over the realisation of benefit. This is because the *Šarīʿa* is more emphatic on the prevention of evil, as can be seen in the *ḥadīth*¹⁶ where the Prophet (peace be on him) has reportedly said: "When I order you to do something, do it to the extent of your ability, but when I forbid you from something, then avoid it (altogether)".

The third class of *maṣāliḥ*, known as *taḥsīnijjāt*, are in the nature of desirabilities as they seek to attain refinement and perfection in the customs and conduct of people at all levels of achievement. The *Šarīʿa* thus encourages cleanliness of body and attire for purposes of prayer and recommends, for instance, the wearing of perfume when attending the congregational Friday prayer; contrariwise, it discourages the consumption of raw garlic on that occasion. The *Šarīʿa* also encourages charity to those in need beyond the level of obligatory taxes, and in *ʿibadāt*, it recommends supererogatory prayers, and so forth. In customary matters and relations among people, the *Šarīʿa* encourages gentleness (*rifq*), pleasant speech and manner (*husn al-ḥuluq*) and fair dealing (*iḥsān*). The judge and the head of state are similarly counselled not to be too eager in the enforcement of penalties, such a course being considered a desirable one to take. The purpose of all this is the attainment of beauty and perfection in all areas of human conduct.

This last category of interests is perhaps of special importance as it is pervasive and relates to all other *maṣāliḥ*. One can perform the obligatory *ṣalāḥ*, for example, in different ways, with or without proper concentration and giving each of its parts their due attention, or perform it in a hasty and thoughtless manner, and the difference between them is that the first is espoused with the attainment of both the essential and the desirable, and the second can at best be discharged as a duty. One can extend this analysis to almost every area of human conduct and the implementation of almost all of the *aḥkām* of the *šarīʿa*. It should be obvious, then, that the classification of *maṣāliḥ* need not be confined to the *aḥkām* of the *šarīʿa* or to religious matters alone as it is basically a rational construct that applies to customary, social, political, economic and cultural affairs and so forth. To build the first hospital in a town is likely to be necessary and essential, but to build a second and third may be only complementary and desirable. And then to equip each one with the latest and most efficient health care facilities may fall under the category either of the second or the third classes of interests, depending, of course, on the general conditions of each locality. From this analysis, it also appears that classifying a certain interest and *maṣlaḥa* under one or the other of these categories is likely to be

¹⁶ Aussagen des Propheten Mohammad (a.s.w s.)

relative and involve value judgement that contemplate the attendant circumstances of each case.

History in Brief

As a theme of the *Šarīʿa* in its own right, the *Maqāṣid* did not receive much attention in the early stages of the development of Islamic legal thought and, as such, they represent rather a later addition to the juristic legacy of the *madāhib*¹⁷. Even to this day many a reputable textbook on *Usūl al-Fiqh*¹⁸ does not mention *Maqāṣid al-Šarīʿa* in their usual coverage of familiar topics. This is partly due perhaps to the nature of the subject, which is largely concerned with the philosophy of the law, its outlook and objective, rather than the specific formulations of its text. Although the *Maqāṣid* as a distinctive theme of the *Šarīʿa* are obviously relevant to *Iğtihād*, they have not been treated as such in the conventional expositions of the theory of *Iğtihād*.

Islamic legal thought is, broadly speaking, preoccupied with concerns over conformity to the letter of the divine text, and the legal theory of *Usūl al-Fiqh* has advanced that purpose to a large extent. This literalist orientation of the juristic thought was generally more pronounced in the approach of the tendency - the traditionist - the *Ahl al-Ḥadīṯ* - than that of the Rationalists - the *Ahl al-Raʿj*. The literalists thus tended to view the *Šarīʿa* as a set of rules, commands and prohibitions that were addressed to the competent individual *mukallaf*¹⁹ and all that the latter was expected to conform to its directives. The precedent of the leading Companions indicated, on the other hand, that they saw **the *Šarīʿa* both as a set of rules and a value system** in which the specific rules were seen as tangible manifestations of the overriding values. The textualist tradition of the first three centuries did not take much interest in *Maqāṣid al-Šarīʿa* and it was not until the time of *al-Ġazālī* (d. 505/1111) and then *al-Šātibī* (d. 790/1388) that significant developments were made in the formulation of the theory of *Maqāṣid*.

The basic outlook that was advocated by the theory of the *Maqāṣid* was not denied by the leading schools, yet the *Maqāṣid* remained on the fringes of the mainstream juristic thought that was manifested in the various themes and doctrines of *Usūl al-Fiqh*. Except for the *zāhiris*²⁰ who maintained that the *Maqāṣid* are only known when they are identified and declared by the clear text, the majority of *ʿulamāʾ* did not confine the *Maqāṣid* to the clear text alone. For they perceived and understood the *Šarīʿa* to be rational, goal-oriented and its rules generally founded on identifiable causes. A mere conformity to rules that went against the purpose and outlook of the *Šarīʿa* was, therefore, generally considered unacceptable. A totally different approach to the *Maqāṣid* was taken by the *Bātinjja* who held, contrary to the *zāhiris*, that the essence and objective of the *nusūs*²¹ were always to be found, not in the explicit words of the text, but in its hidden meaning (i.e. *bātin*), hence their name, the *Bātinjja*. There were also differences of orientation among the leading *madāhib* toward the *Maqāṣid*: some were more

¹⁷ Rechtsschulen

¹⁸ Quellen und Methodenlehre der Rechtsfindung im Islam

¹⁹ Rechtsadressat

²⁰ eine *Qurān*-Auslegungsschule, die sich in ihren Auslegungen nur auf die scheinbare Bedeutung des Wortlautes des *Qurāns* beschränkt.

²¹ bedeutet: a) die Texte selbst, b) was die Texte auszudrücken vermögen.

open to it than others, but elaboration into the goals and objectives of the Šarī‘a was generally not encouraged. This rather unspoken attitude contrasted with the fact that the Qurān itself exhibits considerable awareness of the underlying purposes and objectives of its laws and often expounds the causes and rationale on which they are founded. The general reticence of the ‘ulamā’ in respect of the identification of the Maqāšid might have partly been due to the elements of projection and prognostication that such an exercise was likely to involve. Who can tell, for sure, for example, that this or that is the purpose and overriding objective of the Lawgiver, without engaging in a degree of speculation, unless of course, the text itself declared it so. But then to confine the scope of the Maqāšid only to the clear declaration of the texts was also not enough, as I shall presently elaborate.

It was not until the early fourth century that the term “Maqāšid” was used in the juristic writings of Abū ‘Abd Allāh al-Tirmidī al-Ḥakīm (d. 320/932) and recurrent references to it appeared in the works of Imām al-Ḥaramajn al-Ġuwajnī (d. 478/1085) who was probably the first to classify the Maqāšid al-Šarī‘a into the three categories of essential, complementary and desirable (ḍarūrijjāt, ḥāğijjāt, taḥsinijjāt) which has gained general acceptance ever since. Al- Ġuwajnīs ideas were then developed further by his pupil, Abū Ḥāmi al-Ġzālī who wrote at length on public interest (mašlaḥa) and ratiocination (ta‘līl)²² in his works, Šifā’ al Ġalīl and al-Mustašfā. Al-Ġzālī was generally critical of mašlaḥa as a proof but validated it if it promoted the Maqāšid of the Šarī‘a. As for the Maqāšid themselves, Al-Ġzālī wrote categorically that the Šarī‘a pursued five objectives, namely those of faith²³, life, intellect, lineage and property which were to be protected as a matter of absolute priority.

A number of prominent writers continued to contribute to the Maqāšid, not all of them consistently perhaps, yet important to the development of ideas. Sajf al-Dīn al-Āmidī (d. 631/1233) identified the Maqāšid as criteria of preference al-tarğīḥ²⁴ among conflicting analogies and elaborated on an internal order of priorities among the various classes of Maqāšid. Al-Āmidī also confined the essential Maqāšid to only five. The Mālikī jurist, Šihāb al-Dīn al-Qarāfī (d. 684/1285) added a sixth to the existing list, namely the protection of honour (al-‘ird) and this was endorsed by Tağ al-Dīn ‘Abd al-Wahhāb ibn al-Subkī (d. 771/1370) and later by Muhammad ibn ‘Alī al-Šawkānī (d. 1250/1834). The list of five essential values was evidently based on a reading of the relevant parts of the Qurān and the Sunna on the prescribed penalties (ḥudūd). The value that each of these penalties sought to vindicate and defend was consequently identified as an essential value. The latest addition (i.e. al-‘ird) was initially thought to have been covered under lineage (al-nasl, also al-nasab)²⁵, but the proponents of this addition relied on the fact that the Šarī‘a had enacted a separate ḥad punishment for slanderous accusation (al-qadf)²⁶, which justified the addition. ‘Iz al-Dīn ibn ‘Abd al-Salām (Sulamī’s) (d. 660/1262) renowned work, Qawā‘d al-Aḥkām²⁷, was in his own characterisation a work on ‘Maqāšid al-aḥkām’ and addressed the various aspects of the Maqāšid especially in relationship to ‘illah (effective cause) and mašlaḥa (public interest) in greater detail. Thus he

²² Begründung von Normen

²³ es ist hier wichtig darauf hinzuweisen, dass Al Ġzālī das Wort „DIN“ an dieser Stelle benutzt hat. „Din“ kann im Sinne von Lebensweise bzw. gesellschaftlicher Ordnung verstanden werden.

²⁴ Abwägung

²⁵ Nachkommenschaft bzw. eindeutige Identifikation der Vaterschaft

²⁶ Die Behauptung, dass jemand, Mann oder Frau, einen Ehebruch begangen hat

²⁷ grundlegende (oder Grundlage der) Normen

wrote at the outset of his work that "the greatest of all the objectives of the Qurān is to facilitate benefits (maṣāliḥ) and the means that secure them and that the realisation of benefit also included the prevention of evil". Ibn ʿAbd al-Salam (Sulamî) added that all the obligations of the Šarīʿa (al-takālīf)²⁸ were predicated on securing benefits for the people in this world and the next. For God Most High is Himself in no need of benefit nor is He in need of the obedience of His servants. He is above all this and cannot be harmed by the disobedience of transgressors, nor benefit from the obedience of the righteous. The Šarīʿa is, in other words, concerned, from the beginning to the end, with the benefits of God's creatures.

Taqij al-Dīn ibn Tajmojjah (d. 728/1328) was probably the first scholar to depart from the notion of confining the Maqāṣid to a specific number and added, to the existing list of the Maqāṣid, such things as fulfilment of contracts, preservation of the ties of kinship, honouring the rights of one's neighbour, in so far as the affairs of this world are concerned, and the love of God, sincerity, trustworthiness, and moral purity, in relationship to the hereafter. Ibn Tajmojjah thus revised the scope of the Maqāṣid from a designated and specified list into an open-ended list of values, and his approach is now generally accepted by contemporary commentators, including Ahmad al-Raysuni, Yusuf al-Qaradawi and others. Qaradawi has further extended the list of the Maqāṣid to include social welfare and support (al-takāful)²⁹, freedom, human dignity and human fraternity, among the higher objectives and Maqāṣid of the Šarīʿa. These are undoubtedly upheld by both the detailed and the general weight of evidence in the Qurān and the Sunna.

I propose to add economic development and strengthening of R & D in technology and science to the structure of Maqāṣid as they are crucially important in determining the standing of the Umma in the world community. It would appear from this analysis that the Maqāṣid al-Šarīʿa remain open to further enhancement which will depend, to some extent, on the priorities of every age.

Identification of Maqāṣid

As already indicated the ʿulamāʾ have differed in their approach to the identification of the Maqāṣid. The first approach to be noted is the textualist approach, which confines the identification of the Maqāṣid to the clear text, commands and prohibitions, which are the carriers of the Maqāṣid. The Maqāṣid, according to this view, have no separate existence outside this framework. Provided that a command is explicit and normative it conveys the objective maqṣūd³⁰ of the Lawgiver in the affirmative sense. Prohibitions are indicative of the Maqāṣid in the negative sense in that the purpose of a prohibitive injunction is to suppress and avert the evil that the text in question has contemplated. This is generally accepted, but there are certain tendencies within this general framework. While the Zāhiris tend to confine the Maqāṣid to the obvious text, the majority of jurists takes into consideration both the text and the underlying ʿillah and rationale of the text. The chief exponent of the Maqāṣid, al-Šātībī, has spoken affirmatively of the need to observe and respect the explicit injunctions, but then he added

²⁸ Aufforderungsnormen

²⁹ materielle und immaterielle Solidarität

³⁰ Singular von Maqāṣid

that adherence to the obvious text should not be so rigid as to alienate the rationale and purpose of the text from its words and sentences. Rigidity of this kind, al-Šātībī added, was itself contrary to the objective (maqsūd) of the Lawgiver, just as would be the case with regard to neglecting the clear text itself. When the text, whether a command or a prohibition, is read in conjunction with its objective and rationale, this is a firm approach, one which bears greater harmony with the intention of the Lawgiver. Al-Šātībī elaborated that the Maqāṣid that are known from a comprehensive reading of the text are of two types, primary (ašlijjah) and secondary (tabaʿijjah). The former are the essential Maqāṣid or ḍarūrijjah which the mukallaf must observe and protect regardless of personal predilections, whereas the supplementary Maqāṣid -ḥāğijjah- are those which leave the mukallaf with some flexibility and choice.

A comprehensive reading of the textual injunctions of the Šarīʿa has given rise to such questions as to whether the means to a wāğib³¹ or ḥarām³² should also be seen as a part of the objective that is pursued by that injunction; whether the means to a command, in other words, is also an integral part of that command. Another question raised is whether avoiding the opposite of a command is integral to the goal and objective that is sought by that command. The general response given to these questions is that the supplementary aspects of commands and prohibitions are an integral part of their objectives, although disagreements have emerged over details. There is a general agreement that the opposite of a command amounts to a prohibition in the event where that opposite can be clearly identified. Most of the injunctions of the Šarīʿa are easily understood, and their objectives as well as their opposites can be known and ascertained from the reading of the clear text. It is thus noted that whatever might be necessary for the carrying out of a command or a wāğib is also a part of that wāğib. Al-Šātībī has similarly concluded that whatever is complementary to the Maqāṣid and in the service thereof is also a part of the Maqāṣid. The question then arises regarding the silence of the Lawgiver in respect of a certain conduct in situations especially where a general reading of the relevant evidence sheds light on the value of that conduct. The question may be put as follows: We know that the Maqāṣid are known from clear injunctions, but can they also be known from a general reading of the nusūs by way of induction? This is where al-Šātībī has given an original response, and this is what we take up next.

Induction (istiqrāʿ) to al-Šātībī is one of the most important methods of identifying the Maqāṣid of the Šarīʿa. There may be various textual references to a subject, none of which may be in the nature of a decisive injunction. Yet their collective weight is such that it leaves little doubt as to the meaning that is obtained from them. A decisive conclusion may, in other words, be arrived at from a plurality of speculative expressions. Al-Šātībī illustrates this by saying that nowhere in the Qurān is there a specific declaration to the effect that the Šarīʿa has been enacted for the benefit of the people. Yet this is a definitive conclusion which is drawn from the collective reading of a variety of textual proclamations. al-Šātībī then adds that the benefits (mašāliḥ) are to be understood in their broadest sense which is inclusive of all benefits pertaining to this world and the hereafter, those of the individual and the community, material, moral and spiritual, and those which pertain to the present as well as the interests of the future generations. This broad meaning of benefits also includes prevention and elimination of

³¹ Pflicht

³² Verbot

harm. These benefits cannot always be verified and ascertained by human reason alone without the aid and guidance of divine revelation.

The typical classification of the Maqāṣid into the three categories of essential,-complementary and desirable, and the conclusion that the Lawgiver has intended to protect these are based, once again, on induction-as there is no specific declaration on them in the textual sources. On a similar note, the ruling of the Shari'ah that the validity of an act of devotion (ʿibāda) cannot be established by means of Ijtihād is an inductive conclusion which is drawn from the detailed evidence on the subject, as there is no specific injunction in the sources to that effect. These conclusions are, in the meantime, of great overall importance; they are not open to doubt, nor is their credibility a matter of speculative reasoning. It is also the same inductive method which has led the ʿulamāʾ to the conclusion that the protection of the five values of faith, life, intellect, property and lineage is of primary importance to the Shari'ah - there being no textual ruling to specify any category or number of values in that order.