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Characteristics of The Modern Utilization of Maqasid Al-Sharia (objectives of Sharia)

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Abstract:

This research, titled “Characteristics of The Modern Utilization of Maqasid Al-Sharia (objectives of Sharia)”, addresses a fundamental question: Can the modern maqasid theory be considered a reformist call to adhere to the spirit of Sharia, or is it a form of cultural camouflage aimed at altering Sharia and following personal desires? The study consists of two main sections. The first section elucidates the characteristics of modern maqasid theorization, while the second section presents and critiques models of how modernists manipulate textual sources under the pretext of applying maqasid Al-Sharia. The research yields several key findings, notably that modernists often cloak their arguments in maqasid terminology as a means of renewing religious discourse. Unfortunately, their renewal lacks rigorous methodological controls and objective criteria, leading them to impose imaginary maqasid on definitive textual sources, thereby undermining established legal views in service of modernity and its objectives.

*** Dr. Miloud Lifa**

1. Introduction

Scholars of Usul Al-Fiqh (the principles of jurisprudence), both ancient and contemporary, have recognized the central importance of understanding the legal texts, comprehending their purposes, and discerning their objectives. They established rules and principles that govern the relationship between wording and meaning, ensuring protection against misinterpretation of Allah's intent and the intent of His Messenger, peace be upon him. These rules serve as a robust fortress against arbitrary interpretations of the Sharia texts and prevent deviation from their implications.

Recently, various intellectual currents and schools of thought have emerged, each adopting different methodologies and theories for interpreting the legal texts and understanding their connotations. Among these currents, the modernist trend has vigorously sought to liberate itself from the authority of the Sharia texts and disassociate from their legal implications. Modernists have employed diverse mechanisms and approaches, with one of the most perilous being their appeal to the maqasid (objectives) of Sharia. They have used Maqasid as a means to alter the Sharia, effectively replacing it with their own interpretations and undermining the religious framework.

This research aims to explore the characteristics of modernist utilization of maqasid al-Sharia. Through critical examination, it becomes evident that these modernists encroach upon the sciences of Sharia, and their intellectual arguments lack seriousness and objectivity in their treatment of this vital subject matter.

1.1 Research Problem:

Modernists have adopted the theory of maqasid-based interpretation of divine texts. Can the modernist maqasid theory be considered a reformist call to adhere to the spirit of Sharia, or is it a form of cultural camouflage aimed at altering Sharia and following personal desires?

This central issue encompasses several sub-questions, including:

- What are the distinctive characteristics and features of how modernists employ maqasid in their interpretation of religious texts?
- How do modernists apply the science of maqasid al-Sharia in their understanding of the legal texts?
- What are the consequences and implications of the modernist maqasid-based reading of texts?

1.2. The Importance of the Research

The importance of this research lies in the peril posed by modernist thought, which unfortunately has ensnared many intellectuals in the Islamic world. It has infiltrated various cultural domains, including journalism, media, literary clubs, universities, and scientific centers. Moreover, its adherents have assumed influential positions related to education, culture, and media within Islamic

countries. The danger intensifies when these individuals, even from within the Islamic knowledge system—such as proponents of maqasid al-Sharia—use their platforms to cast doubt on Muslims’ beliefs, blur their identities, and divert them from the light of guidance.

Therefore, it is crucial to expose their methodology, refute their approach, and highlight the flaws in their trajectory. By doing so, we prevent unwarranted deception and protect against the allure of their ideas, especially in an era where knowledge is scarce and ignorance prevails. The media inadvertently or intentionally promotes the narratives of those infatuated with Western civilization, further emphasizing the need for critical examination.

1.3 Research Objectives:

This study aims to:

1. To confront the adversaries of Islamic Sharia who aim to undermine the infallible revelation texts, even if they attempt to promote their falsehood by disguising it with Islamic sciences as a form of deception and fraud.
2. To critique the modernist tendency and demonstrate that their manipulation of Maqasid (objectives of Sharia) and their elevation of imagined benefits above revelation texts is merely intellectual evasion and promotional sophistry, intended to demolish religion by using religion itself.
3. To fortify Muslims against this Westernizing thought that aims to distort the Ummah (Muslim community) and make it a follower of others in falsehood.

1.4 The Method of Research:

In this research, I relied on the critical and analytical approach, to examining modernist interpretations of Islamic legal theory, particularly focusing on how they engage with the concept of Maqasid Al-Sharia (objectives of Islamic law). The research seeks to analyze and critique these modernist approaches, viewing them as potentially harmful to traditional Islamic understanding and practice..

2. Characteristics of Modernist Maqasid Theorization:

The discerning observer recognizes the clear deviation of modernist thought from the disciplined *usul al-fiqh* (principles of jurisprudence) methodology. Through this exploration, we gain insights into the maqasid-based tools employed by modernist discourse to negate the sanctity of legal texts and cast doubt upon their definitive nature and religious constants.

2.1. Prioritizing Interest over the Text:

Modernists have extensively celebrated the concept of “maqasid” (objectives) to the extent that they elevate presumed interest —driven by their flawed desires and tainted opinions—above the unequivocal and definitive legal texts. Hassan Hanafi, justifying their stance, asserts: “Interest takes precedence over both

textual evidence and consensus in cases of conflict, as denying consensus is possible, while denying interest is impossible.”¹ Similarly, Fahmi Huwaidi states: “When legal texts fail to serve the common good under any circumstance, the majority of jurists maintain that interest supersedes textual authority.”² Furthermore, he adds: “In cases of conflict between textual sources and changing human interests, the first is inapplicable, and interest prevails over the text.”³

Modernists prioritize interest in two ways:

1. **Interpretation Based on Interest:** Modernists attempt to interpret texts according to the perceived benefits they have established based on their desires. This approach aims to avoid hindering progress and modernization. As Hassan Hanafi states: “Just as texts are interpreted in favor of reason in cases of conflict, they are also interpreted in favor of interest when faced with contradictions.”⁴

2. **Explicit Contradiction with Texts:** When they find themselves unable to reconcile texts with their established interests, modernists explicitly diverge from the texts. They claim that while certain views were applicable in the past, changing circumstances render them inapplicable today. However, they often fail to distinguish between unchanging principles and temporary views influenced by societal contexts, locations, and times.

Mohammed Abu Zahra - may Allâh have mercy on him - states: "The attack on religious texts and the propagation of the idea of their abrogation or specification based on interests is a Shiite approach, intended to diminish the sanctity that the Islamic community attributes to the texts of the Lawgiver"⁵

Imam Al-Shatibi argues for the precedence of religious texts over perceived benefit, citing that "when the Arabs refused to pay Zakat, Abu Bakr resolved to fight them. Omar spoke to him about this, but Abu Bakr did not consider the potential benefit in refraining from fighting, as he found a religious text necessitating the opposite. They also asked him to recall Usama to seek his and his companions' assistance in fighting the apostates, but Abu Bakr refused due to the validity of the evidence he had against recalling what the Messenger of Allâh - peace be upon him - had dispatched"⁶.

Upon contemplation of the Sharia views, one finds that they were established to realize the welfare of people, never neglecting any benefit, and there is no contradiction between the religious texts and the established interests and objectives. The error here lies in basing the assessment of benefits on the reasoning and desires of the intellect.⁷ Al-Juwayni states: "In general, whoever assumes that the Sharia is derived from the reasoning of the intellectual elite and the requirements of the wise men's opinions has rejected the Sharia and used this argument as a pretext to reject religious laws. If this were permissible, it would

allow for the stoning of non-married adulterers in our time based on this person's imagination. It would permit execution based on suspicion in serious matters, and the elimination of those feared to be a threat to the core of Islam when signs and indications appear. It would also allow for an increase in the amount of Zakat when needs arise. These types of conjectures, if allowed to dominate the foundations of religion, would enable anyone with a modicum of intellect to fashion their thoughts into law, establishing it as deterrence and prohibition. Thus, the whims of the soul would take the place of divine revelation to the messengers, varying with different times and places. Consequently, the Sharia would have no stability or permanence. Far be it! Far be it! Following [the Sharia] has become burdensome for some people of this age, so they sought to make their intellect, which is limited in its capacity for guidance, the foundation in Allah's religion and the head of their approval, until they shake off its constraints and turn away in arrogance and recalcitrance" ⁸

The modernists' stance in prioritizing benefit over religious texts essentially says: "Wherever there is benefit & interest, there is Allah's law." However, this differs from the approach of Islamic jurists and scholars of jurisprudence, whose methodology can be summarized as: "Wherever there is Islamic law, there is benefit." Benefit is not the foundation of legislation; rather, Islamic law is the source of benefits, as it came to realize these benefits. The scholar examines the texts, principles, and rules of Sharia to identify these benefits, while modernists view benefit as the basis for legislation. Hassan Hanafi states: "All sources of legislation are based on a single source: benefit, considering it the primary source of legislation. The Quran is based on benefit, and the Sunnah is based on benefit"⁹. He also says: "Benefit is the foundation of legislation, not just one of its sources"¹⁰. This was also emphasized by Mohammed Abed al-Jabri when he said: "Considering benefit is what establishes the rationality of Sharia views, and consequently, it is the foundation of all foundations".¹¹

Imam Al-Ghazali refuted this approach of nullifying texts under the pretext of benefits, even before the emergence of this modernist thought that deviates from the path of truth and correctness. He explained that benefit is not an independent evidence separate from the sources of legislation. Rather, the benefit considered in Sharia is that which relates to achieving the known objectives of the Quran, Sunnah, and consensus. In Al-Mustasfa, he stated: "If it is said: You have inclined in most of these issues towards the consideration of benefits, then you included this principle among the illusory principles, so shouldn't this be added to the valid principles to become a fifth principle after the Quran, Sunnah, consensus, and reason? We say: This is one of the illusory principles, for whoever thinks it is a fifth principle has erred. We have referred benefit back to preserving the objectives of Sharia, and these objectives are known through the Quran, Sunnah,

and consensus. Any benefit that does not relate to preserving an objective understood from the Quran, Sunnah, and consensus, and is among the strange benefits that do not align with the actions of Sharia, is invalid and rejected. Whoever adheres to it has legislated, just as one who deems something good has legislated. Any benefit that relates to preserving a Sharia objective, known to be an objective through the Quran, Sunnah, and consensus, is not outside these principles".¹²

The reality of the modernists' approach in prioritizing benefit over text is that humans follow their interests wherever they may be. If the benefit aligns with the text, they follow the text in pursuit of the benefit, and if it contradicts it, they follow the benefit. This is precisely what Allâh condemned as a characteristic of the hypocrites, who only refer to religious texts when they believe they will find in them what serves their interests.

Allâh Almighty says: "And when they are called to Allâh (i.e. His Words, the Qur'ân) and His Messenger (peace be upon him) to judge between them, lo! a party of them refuses (to come) and turns away. But if the truth is on their side, they come to him willingly with submission." ¹³

The end result of the modernists' approach in discarding texts in favor of benefit is that the texts become futile and useless. If a person finds their interest in the text, they follow it; otherwise, they discard it and follow their interest. Thus, the existence of the text becomes pointless, deceptive, and merely a distraction for people. This is a natural consequence for those who view benefit through a lens different from that of Sharia.

The texts came with what benefits humans in this world and the hereafter. Assuming a contradiction between them and benefit is a flawed assumption because it presupposes that the text is something different from benefit. In reality, the texts only bring the most complete and noblest benefits. The contradiction is not between benefit and text, but between the benefits of Sharia brought by the texts and the false benefits brought by the whims of the soul.¹⁴

2.2. The Rationalist Tendency in Determining Objectives:

Modernists have made reason a central pivot in uncovering the objectives of Sharia, arguing that since Sharia addresses people's intellects and aims to safeguard their interests, reason should be the primary basis for legislation. They contend that interests are perceived through reason, not through religious law. Hassan Hanafi states: "Reason, with its capacity for inference, is the first principle in legislating for lived reality. If reasoning proves difficult, one can then seek guidance from the text, which may provide intuition or insight that aids reason in inferring public interests".¹⁵

Based on this, their understanding of objectives (maqasid) is founded on the notion that pure reason is the reference point in determining benefits, and it should

even take precedence over religious law when there is a conflict. They glorify reason at the expense of religious texts, making the goal of renewal in their view the rejection of texts and the appeal to reason. Hassan Hanafi says: "The task of heritage and renewal is to liberate from all types of authority, the authority of the past and the authority of inheritance. There is no authority except for reason, and no power except for the necessity of the reality we live in, and to liberate our contemporary conscience from fear, awe, and obedience to authority, whether it's inherited or transmitted".¹⁶

As you can see, this approach nullifies the authority of divine texts and establishes the authority of human intellect, replacing the infallible revelation's authority with the authority of speculative opinion. It is no wonder, then, that their views are corrupt and their goods in the market of truth are unsaleable, for they are the refuse of their minds, the chaff of their thoughts, and the whispers of their chests. Such ideas cannot appeal to those with sound nature, healthy intellect, and upright religion.

The modernists' claim that it's possible to reach knowledge of benefit through pure rational inference, without relying on divine revelation, is false. Scholars have long pointed out that reason alone cannot determine benefits; rather, the reference for this is the Sharia. Imam Al-Zarkashi stated: "The Lawgiver did not consider benefits absolutely, but with restrictions and conditions that reason alone cannot guide to. The utmost that reason can judge is that obtaining benefit is desirable, but reason must be guided by Sharia evidence in recognizing benefits. Even if reason can conceive of a benefit and judge it should be obtained, it cannot independently perceive the specific way. There must be Sharia evidence to show the specific way to recognize benefits and guide to understanding the objective".¹⁷ Al-Izz ibn Abd Al-Salam said: "As for the benefits of both worlds, their causes, and their harms, these can only be known through the Sharia".¹⁸

On the other hand, the modernists' notion that liberation from the authority of the text and appealing to reason is the only path to civilizational advancement and progress is an illusion that indicates their weak perception and shallow intellect. If their understanding were complete and their reason sound, they would certainly know that what the Sharia has decreed in terms of decisions based on people's interests in both the immediate and long term can never be contradicted by reason.

It has been established among scholars that clear reason does not contradict sound transmission. Ibn Taymiyyah stated: "What is known through clear reason can never be imagined to contradict the Sharia. Indeed, sound transmitted knowledge is never contradicted by clear reason at all. I have contemplated this in most of what people dispute about, and I found that what contradicts clear and authentic texts are corrupt doubts whose falsehood is known through reason. In

fact, reason establishes the opposite of these doubts, which is in agreement with the Sharia".¹⁹

It becomes clear, then, "that reason alone cannot comprehend benefits. If it could, it would have led polytheists out of their polytheism, communists out of their falsehood, injustice, and atheism, and capitalists away from their rejection of divine justice on earth and their frequent obstruction of Allah's path. It would have led Jews out of their nationalism, hatred, and disbelief, and would have led deviant sects, both ancient and modern, out of their contradictions and differences. Ultimately, it would have established a single nation and divine justice on earth.

These groups include rational people and even wise ones, so where are their intellects in determining benefits and averting harms? This Sharia came to govern human 'reason' and realize all people's interests while preventing them from following their intellectual whims. How, then, can the situation be reversed so that limited reason, bound by time and place, characterized by humanity, weakness, and limited knowledge, governs this Sharia that is not confined by time or place?

This Sharia, in which neither the ancients nor the moderns have written a single line, is rather a revelation sent down from the Wise, the Praiseworthy. Therefore, it is neither regional, nor local, nor temporal. Rather, Allâh revealed it to be His proof over the minds of His servants, from the first to the last, Arabs and non-Arabs alike. Hence, it is the arbiter of everything, distinguishing between imagined, illusory benefits and real, legal benefits. What it judges as a benefit is indeed so, whether known or unknown to people, and what it judges as harmful is indeed so, whether known or unknown to people".²⁰

However, how can these people be content with Sharia in determining objectives and benefits when they believe that "transmission alone does not prove anything, and 'Allâh said' or 'the Messenger said' is not considered evidence"²¹, and that "all transmitted evidence is speculative, even if it converges and agrees unanimously on something being true, it is not proven as such except through reason" ?²² It is as if they have not heard Allah's words: "It is not for a believing man or a believing woman, when Allâh and His Messenger have decided a matter, that they should [thereafter] have any choice about their affair. And whoever disobeys Allâh and His Messenger has certainly strayed into clear error".²³

2.3. The Materialistic Tendency in Determining Objectives:

The objectives that modernists invoke, and the benefits they brandish in the face of religious texts, are purely worldly interests. Hassan Hanafi states: "Benefits and harms relate to worldly matters".²⁴ Therefore, one can smell the stench of pragmatism in their corrupt analysis of objectives, as if Sharia only came to consider worldly interests. They give no consideration to otherworldly benefits, as objectives for them are limited to protecting "individual human rights and collective rights of peoples" ²⁵. They hardly recognize anything called the rights

of Allâh or religious interests, as religion for them is a personal matter unrelated to managing people's affairs socially, economically, or politically. Thus, you find them denying many Sharia views, even if they are among the established and constant principles, seeing no benefit in them simply because they do not achieve the modernity they aspire to.

Undoubtedly, realizing material and worldly interests is intended by Sharia, but this does not mean neglecting moral interests related to faith, worship, and the hereafter. Allâh Almighty created humans, indeed all creatures and the entire universe, only for the great purpose of realizing servitude to Allah, Lord of the worlds. He says: "And I did not create the jinn and mankind except to worship Me".²⁶

Therefore, scholars have emphasized that religion came to achieve both worldly and otherworldly interests, material and spiritual, and they explained the danger of prioritizing one aspect over another. Sheikh al-Islam Ibn Taymiyyah said: "Many people's vision falls short of knowing what Allâh and His Messenger love in terms of the benefits and harms of hearts and souls, and what benefits them in terms of the realities of faith and what harms them in terms of heedlessness and desire, as Allâh Almighty said: 'And do not obey one whose heart We have made heedless of Our remembrance and who follows his desire and whose affair is ever [in] neglect'.²⁷ And He said: 'So turn away from whoever turns his back on Our message and desires not except the worldly life. That is their sum of knowledge'.²⁸

You find many of these people in many Precepts see no benefits and harms except what returns to the benefit of wealth and body. The utmost that many of them reach, if they go beyond that, is to look at 'self-politics and moral refinement' with their level of knowledge, as mentioned by philosophers and Qarmatians like the authors of 'Epistles of the Brethren of Purity' and their likes. They speak about self-politics and moral refinement with their level of knowledge of philosophy, and what they thought to be from Sharia, and they in the utmost of what they reach are far below Jews and Christians as explained elsewhere.

Some people who go into 'jurisprudence principles' and justifying Sharia statutes with appropriate attributes, when they speak about appropriateness and that the Lawgiver's arrangement of judgments on appropriate attributes includes achieving the interests of servants and repelling their harms, and they see that interest is of two types: otherworldly and worldly, they make the otherworldly what is in self-politics and moral refinement of wisdom; and they make the worldly what includes preserving blood, wealth, honor, minds, and apparent religion. They turn away from what is in internal and external acts of worship of types of knowledge about Allâh Almighty, His angels, His books, His messengers, and the conditions and actions of hearts, such as love for Allah, fear of Him,

sincerity in religion for Him, reliance on Him, hope for His mercy and supplication to Him, and other types of interests in this world and the hereafter.

Likewise, in what the Lawgiver legislated of fulfilling covenants, maintaining kinship ties, rights of slaves and neighbors, rights of Muslims over each other, and other types of what He commanded and prohibited to preserve good conditions and refine morals. It becomes clear that this is part of the interests that Sharia brought. So is the one who made the prohibition of wine and gambling merely for eating wealth unjustly; and the benefit that was in them merely for taking money".²⁹

Imam Al-Shatibi also highlighted that worldly interests are considered in Sharia to achieve otherworldly interests, saying: "The benefits sought by Sharia and the harms it repels are only considered in terms of establishing worldly life for the afterlife, not in terms of the soul's desires in bringing its usual benefits or averting its usual harms. The evidence for this is that Sharia only came to remove the accountable from the calls of their desires so that they become servants of Allah".³⁰

Before Ibn Taymiyyah and Al-Shatibi, Imam Al-Juwayni established that some Sharia judgments, even if they don't achieve apparent material interests, are not devoid of other objectives aimed at refining souls and subjugating creation to worship the Ever-Living, the Holy One. This realizes the purpose of trial for which Allâh created this world and the hereafter. Allâh Almighty says: "Who created death and life to test you [as to] which of you is best in deed".³¹

Imam Al-Juwayni gives an example of this with tayammum (dry ablution), saying: "Tayammum was established as a substitute not intended in itself, and whoever scrutinizes it properly will see that its purpose is to maintain practice in establishing the duty of purification... If a man were to perform prayer without purification or its substitute, his soul would become accustomed to praying without purification, and the soul becomes habituated to what you habituate it to. This might lead to the soul's inclination to its desires and its turning away from the prescriptions of obligation and their intent".³²

2.4 The Relativity of Objectives:

The modernist thought on objectives (maqasid) is characterized by relativity and instability. For modernists, benefits change with continuously changing circumstances, subject to the rule of evolution. Thus, we find Al-Jabri asserting that "relativity has characterized the application of Islamic Sharia throughout the ages".³³ Consequently, he considers benefit to be variable, "colored by the circumstances, cultural givens, and historical developments".³⁴ Hassan Hanafi says about benefit: it consists of "relative matters that differ according to individuals, conditions, circumstances, and perhaps eras and times".³⁵

From this perspective, objectives in the modernist discourse are not constants, but rather a set of variables. Each era forms its own objectives and interests. This is the contemporaneity that the modernist discourse seeks from the intentionalization of Islamic jurisprudence. For Sharia to keep pace with modernity and contemporaneity, we must make it relative so that we can impose upon it what we want.

Modernists have employed this relativistic view of objectives (maqasid) to change many Sharia judgments, arguing that these decrees are no longer suitable for human interests in our present era. An example of this is their persistent effort to abolish the prescribed punishment for apostasy from Islamic law and to dissolve the distinctions between Islam and disbelief. You also find them frequently calling for "unity of religions" and even "unification of humanity," all under the cover of maqasid. They claim that among the objectives established by human society today are "preserving peace," "achieving coexistence," and "respecting freedom of thought and belief," among other attractive slogans with which they adorn their falsehood and deceive Muslims weak in knowledge and insight, who are many. There is no power or strength except with Allah.

Jawdat Said states: "Disbelief is not a worldly sin; it is a sin for the hereafter. Allâh will hold the disbeliever accountable for it. The disbeliever has the right to live, and the atheist has the right to live respectfully. If the atheist can convince people of his atheism, there's no blame on him, but he doesn't impose his opinion by force. We must remove the labeling of disbelief... Every person has the right to disbelieve, and you have the right to disbelieve. Disbelief is not a worldly flaw; the worldly flaw is to oppress people and not give the disbeliever the right to live justly".³⁶

Mahmoud Abu Rayya says: "Because I have spent my entire life calling for the unity of religious men, as the principles of religions have united, and for them to renounce the disagreements that have arisen between them, which Allah, the Owner of Sovereignty, dislikes, and to hold fast to the rope of Allâh all together and not be divided, and to join hands in spreading what the true religion calls for in terms of noble manners and fundamental virtues, and to be good role models for the religious people behind them. By this, all people will be happy and live in comfort and purity, with no hatred or enmity between them. I have sought Allah's guidance in publishing this brief message to show my sincere brothers from all religions that the religion of Allâh on the tongues of His messengers - as we have read in their books - is one, emanating from one God. He, glory be to Him, intended by it to guide His creation of different races and colors in every time and place".³⁷

Thus, for the modernists, the objectives (maqasid) appear merciful on the surface, but beneath lies ruin. Is there any greater ruin than equating disbelief,

atheism, and heresy with monotheism, faith, and Islam? Equating truth and knowledge with falsehood and delusion? Through their alleged objectives - not to say the objectives of Sharia - they aim to undermine all the fundamentals and principles of religion, in its beliefs and laws, cast doubt on all edicts, and demolish the objectives of Sharia with the objectives of modernity. They seek to dismantle Sharia to build an immoral secularism and blatant modernism, and to transform the objectives regulated by Sharia texts and principles into a form of ambiguity by creating loose objectives that no verdict can withstand, no text can obstruct, and no established consensus can refute.

They openly declare that the objectives they want are contemporary objectives. Al-Jabri says: "What is required today is to rebuild the methodology of thinking about Sharia based on new premises and contemporary objectives".³⁸ They pay no heed to the Sharia objectives that scholars have spent their lives deducing from the texts of the Quran and Sunnah and the traditions of the predecessors, because they view these with contempt and disdain, claiming that these objectives have been surpassed by time. In their view, it is necessary to establish new objectives that are more civilized and humane, enabling the jurist to free himself from the authority of literal texts and granting him scientific audacity to legislate new laws that encompass all of humanity.

Making the purposes of Sharia (Maqasid al-Sharia) a relative factor that changes with social, economic, and political circumstances strips Islamic legal rulings of their binding nature. This leads to legislative chaos, where personal desires prevail and opinions differ. Allah, the Almighty, only revealed the Sharia to be followed and implemented. Allâh says: "Now We have set you 'O Prophet' on the 'clear' Way of faith. So follow it, and do not follow the desires of those who do not know 'the truth'".³⁹ This means, "Do not follow what those ignorant of Allah, who cannot distinguish truth from falsehood, call you to, lest you perish if you act upon it"⁴⁰.

These people are among "those who assume about Allâh an assumption of evil".⁴¹ They arrogantly and obstinately assume that their diseased minds and flawed ideas are better for people than the law of Allah, the All-Knowing, the Wise. Thus, the words of the Creator - Glorified and Exalted - apply to them: "And You harbored evil thoughts 'about Allah', and 'so' became a doomed people",⁴² and His words - Almighty and Majestic: "It was that 'false' assumption you entertained about your Lord that has brought about your doom, so you have become losers."⁴³

Therefore, their danger to religion is greater than the danger of the disbelievers, because the danger of the infidel is known to the young and the old, the educated and the ignorant, but the danger of these people is known only to those who have insight and were guided by God.⁴⁴

2.5 Prioritizing Universal Objectives at the Expense of Discarding Specific Ordinances:

The aim and ultimate goal of modernity is to abolish Islamic legal edicts and suspend religious texts. To achieve this, proponents have employed various methods and devious, convoluted approaches. One such approach is the claim that Islamic law was instituted solely to realize universal objectives, regardless of the means to attain them, which are, in reality, the specific laws of Islamic law. They argue that as circumstances and conditions have changed, these decrees are no longer capable of achieving those general objectives. Consequently, they assert that it is imperative to modify these edicts in order to embody the spirit and essence of Islamic law, expressed through these universal objectives. This reasoning is used to invalidate specific subsidiary decrees that have been associated since their legislation with "a particular temporal and historical moment".⁴⁵ They claim that only through this approach can we achieve a pivotal goal sought by the discourse of renewal: the establishment of new laws appropriate to contemporary realities within an open-minded civilizational framework.

Thus, it becomes apparent that the modernists' application of Maqasid (objectives) in the process of deduction and implementation serves as a means to dilute and undermine Islamic legal judgments. This is achieved through advocating for the realization of the higher objectives of Sharia while abandoning adherence to specific texts, arguing that these texts were not intended for their own sake. Hassan Hanafi states: "Linking decrees to their rationale in Quranic philosophy is not intended for its own sake, but rather the Lawgiver aims through it to achieve His objectives. Therefore, devotion in Sharia is the diligent pursuit to realize its higher objectives".⁴⁶ This statement can only be accepted through the Machiavellian principle: "The end justifies the means," implying that what matters is achieving the objective through any means we desire.

Al-Jabri, explaining his viewpoint on the necessity of prioritizing general objectives over specific texts when they conflict, says: "Al-Shatibi deeply understood that *ijtihad* (independent reasoning) in the old style had exhausted all its possibilities, and that reopening the door of *ijtihad* anew requires - in his words - 'grounding the fundamentals.' This is done by relying on the universals of Sharia and its objectives, instead of understanding the meaning of textual words and deriving verdicts from them... If we start from the premise that the objectives of Sharia ultimately amount to considering the public interest, and that the Sharia texts themselves aim to safeguard it, then public interest becomes the principle that must prevail over all else".⁴⁷

This critique of Al-Jabri's interpretation of Al-Shatibi's approach to Maqasid-based *ijtihad* (juristic reasoning) is well-founded. Al-Jabri's assertion that Al-

Shatibi's method involves disregarding specific texts in favor of universal objectives, and that adherence to specifics may undermine the implementation of universals, is neither accepted nor sound. This interpretation contradicts Al-Shatibi's own statements, as he clearly affirms that there is no conflict whatsoever between the particulars and universals of Sharia. Al-Shatibi argues that the universals of Sharia are fundamentally built upon the induction of its particulars. He questions how a conflict between them could be conceived when the universals are only termed as such due to their harmony with the particulars.

Al-Shatibi states: "It is necessary to consider these particulars in light of these universals when applying specific evidence from the Quran, Sunnah, consensus, and analogy. It is impossible for the particulars to be independent of their universals. Whoever takes a text regarding a particular matter while disregarding its universal, has erred. Just as one who considers the particular while ignoring its universal is mistaken, so too is one who adheres to the universal while disregarding its particular. This is because our understanding of the universal only comes through examining and inducting the particulars; otherwise, the universal as a universal is not known to us prior to knowledge of the particulars".⁴⁸

Furthermore, prioritizing general objectives at the expense of neglecting specific decrees can lead to conflicting universal objectives. This is because the specific decrees that was disregarded in favor of one universal objective is likely to fall under another universal objective. Consequently, this approach results in implementing one universal objective at the expense of another, leading to inconsistency in Sharia. For example, if we were to claim that Sharia aims to achieve freedom and consequently discard the ordinances of hisbah and commanding good and forbidding evil, we would be neglecting the general objectives that Sharia aims to achieve through these ordinances. To avoid such contradictions and maintain the integrity of Sharia, detailed decisions were established to ensure the realization of its general objectives. Sharia did not limit itself to merely stating universal objectives because human intellect alone is incapable of fully comprehending the details of what benefits it in both immediate and long-term contexts without the guidance of infallible revelation.

2.6 Adapting Maqasid to Make Guidelines Responsive to the Constraints of Reality:

In order to limit the role of Islamic legal texts and diminish their effectiveness in organizing the affairs of contemporary human life, modernists have turned to the Maqasid al-Sharia (objectives of Islamic law) to justify an illegitimate reality. They do this by removing the authority of texts and establishing the authority of reality in determining the objectives and interests that must be established and entrenched in this era. Hassan Hanafi states: "We must liberate ourselves from all types of authority, the authority of the past and the authority of heritage. There

should be no authority except for reason, and no power except for the necessity of the reality we live in".⁴⁹

Nasr Hamid Abu Zayd says: "Reality, then, is the foundation and cannot be disregarded. The text was formed from reality, its concepts were formulated from its language and culture, and through its movement by human agency, its significance is renewed. Reality comes first, second, and last. Disregarding reality in favor of a rigid text with fixed meaning and significance transforms both into myth, by discarding its human dimension and focusing on its metaphysical aspect".⁵⁰

We find that modernist discourse seeks to characterize the objectives of Islamic law (Maqasid al-Sharia) as a dynamic, renewable methodology subject to reality and responsive to its requirements. Since decisions are considered subordinate to objectives and interests that change with changing reality, it becomes necessary, in their view, to impose reality as an influencing factor in reformulating decrees to suit and align with contemporary circumstances and conditions. Mohammed Said Al-Ashmawi states: "What truly distinguishes Islamic law is not the decisions it stipulates, nor the rules derived from these edicts, but rather the precise dynamic methodology that can reshape society and the individual, making each just, virtuous, and pious. It is this methodology that should be relied upon and emphasized, because it alone is capable of constant renewal and continuous adaptation, providing appropriate verdicts for any society at any time and producing upright individuals. In this sense, it is suitable for application in all times and places, as long as its nature remains dynamic, its foundation remains adaptability, and its fabric remains the coupling of humanity and the universe".⁵¹

Hassan Hanafi acknowledges that Muslim scholars have traditionally approached texts to understand and apply their decrees to people's reality. However, he notes that modernists today seek to invert this approach, making reality the judge of religious texts' applicability. He states: "If the arrangement of the ancients was descending from text to reality, then the arrangement of the modernists is ascending from the text".⁵²

Revelation, therefore, is Allah's word to humankind, meant to govern and oversee reality, affirming what is correct and rectifying what is wrong. It is not meant for revelation to be subject to reality, conforming to its norms and adapting to its laws.

If we aim to clarify the relationship between text and reality, we can say that texts indicate two types of judgments: fixed and variable.

Fixed Islamic decisions do not change with changing realities, conditions, and circumstances. These include doctrinal and metaphysical decrees, as well as

specific religious prescriptions such as the number of prayers, zakat amounts, inheritance shares, and other judgments that remain constant throughout ages.

Variable decisions are those that are legally tied to a condition or cause, alerting the jurist to the necessity of adapting the verdicts based on its applicability in different human situations. Therefore, it has become an established principle, even a given, in applied jurisprudence that verdicts based on customs and norms can change. Imam al-Qarafi stated in "Al-Furuq": "Decree based on customs revolve with them however they revolve, and become invalid when they become invalid".⁵³ Imam Ibn al-Qayyim affirmed, "This is unanimously agreed upon".⁵⁴

Thus, we understand that constants based on definitive texts in their authenticity and meaning, and agreed upon by the Muslim community, cannot be subject to deviant reality. In other words, changing decisions cannot be based on the pressures of reality without evidence from the Quran or Sunnah. Rather, it occurs through a disciplined methodology that aligns with and operates under the objectives of the texts.

This is contrary to how modernist discourse portrays it, seeking to change all Islamic decisions, even doctrinal ones, to conform to reality. Hence, we find modernists not considering beliefs as constants, as they view them merely as "perceptions contingent on the level of awareness and the evolution of knowledge in each era".⁵⁵

This argument effectively refutes the modernist approach of making reality the arbiter over religious texts. It is important to recognize that texts often descended to denounce and refute existing realities, demanding their change or reversal.

Examples include:

1. The prohibition of alcohol and domestic donkey meat, which led to the overturning of cooking pots in the streets of Medina.
2. The most prominent clash between text and reality is the call for monotheism in the texts versus the prevailing polytheism in society.

A striking example of how texts governed and led reality is the transformation of societies from polytheism and idolatry to monotheism, and from tribal fanaticism and clan wars to brotherhood in faith and obedience to Allâh and His Messenger (peace be upon him).⁵⁶

This is how the texts and objectives of Islamic law are meant to make reality subservient, not dominant. This understanding led Imam al-Shatibi to declare that "the legal objective of establishing Sharia is to remove the individual from the call of his desires, so that he becomes a servant of Allâh by choice, as he is a servant of Allâh by necessity".⁵⁷

2.7 The dominance of Western civilization over the modernist system of Maqasid (objectives) :

This seventh point is related to the previous one, but I have separated it to emphasize that the reality-dependent Maqasid advocated by modernists are ideologically driven, influenced rather than influencing, following the logic of "the conquered's infatuation with imitating the conqueror." For them, "realistic Maqasid" refers to Western reality, culture, and civilization. This is no wonder, because Arab modernity is born of Western civilization, and this is what the owners and critics of modernist discourse agreed on.⁵⁸

These thinkers believe that boarding the train of enlightenment, emerging from darkness, achieving renaissance, and attaining progress can only happen through a complete emotional and cognitive break from Islamic civilization and Arab heritage, and full integration into Western civilization and thought. They claim that our only salvation lies in following a path that is "clear, straight, without crookedness or deviation, unique and singular, which is to follow the ways of Europeans, to walk their path, to be their equals, to be their partners in civilization - its good and bad, its sweet and bitter, what is loved and what is hated, what is praised and what is criticized. Whoever claims otherwise for us is a deceiver or deceived".⁵⁹

This represents blind imitation of the West, in good and evil, in the loved and the hated, in the praiseworthy and the blameworthy, all in the name of progress and civilization, advancement and enlightenment.

They go even further, asserting that it is the West, not Muslims, who are following the path of Sharia, its objectives, and its spirit. Mohammed Said Al-Ashmawi states: "Western civilization in its present state follows the approach of Sharia, in the aforementioned concept that Sharia is a precise methodology that reshapes the individual and society, to be on the path of constant progress, continuous growth, and ongoing contribution".⁶⁰

The modernist approach to Maqasid (objectives) thus begins by establishing values, interests, and objectives that align with Western civilization. They then seek out religious texts that might justify these values and interests, even through far-fetched, projective interpretations laden with their Westernizing ideas. If they fail in this, they exclude those religious texts on the grounds of their historicity, claiming they have been surpassed by time.

It's not surprising, then, that this starting point leads their unrestrained Maqasid-based reasoning to establish decisions that contradict definitive texts and certain consensuses. For example, they might say: "Maintaining views such as polygamy, male guardianship over women, inheritance (inequality between male and female), prescribed punishments, retaliation... hostility towards and fighting against non-believers... and apostasy, is not only an obstacle to societal progress, but these are also signs that, in the view of others, the contemporary era, and some

enlightened Muslims, indicate the Muslim's violence, ferocity, backwardness, and primitiveness".⁶¹

This reveals an overt ideology and blatant secularism aimed at distorting the ummah by displacing the authority of Islamic heritage - its texts, verdicts, and objectives - from guiding the reality of life, and establishing the authority of human reason, specifically Western reason.

3. Conclusion:

The modernist discourse has deliberately made the Maqasid-based interpretation open to various subjective orientations, rendering the Maqasid relative, subservient to their desires and passions, and subject to their purely worldly perspective. This undermines the integrity of their Maqasid project and challenges the credibility of its epistemological results.

Modernists have cloaked themselves in the Maqasid under the pretext of renewing religious discourse. Unfortunately, their renewal has come unrestrained by scientific methodological controls and devoid of even the most basic standards of objectivity. They have relied on illusory objectives and projected them onto established, definitive texts to invalidate the prescriptions these texts indicate, in service of modernity and its goals.

From all of the above, we can never consider the modernist discourse in its Maqasid-based renewal dimension as a construction and activation of the objectives of Sharia. Rather, it is a demolition and destruction of these objectives.

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