

# Maqaasid al-Shariah

The Objectives, purposes or goals of Islamic regulations and its belief system

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## Introduction

The Arabic noun *Maqaasid* is the plural of the noun *Maqsad*.

Literally, it means “Objectives, purposes, intents, reasons, aims or goals”.

Technically, *Maqsad* refers to the reason or reasons due to which divine imperatives and prohibitions or prophetic orders and prohibitions were promulgated or designed.

It thus attempts; through textual, contextual and other methods of interpreting the Quranic text or verses or authentic traditions of the prophet, Muhammad (SAW) to maximise, by personal and other human endeavour, the range of objectives that each order includes in order to maximise the applicational possibilities.

The *maqasid* of the shariah are not limited to finding reasons to modify the application of authentic regulations of the Shariah. It also refers to the objectives of life, in its various spheres, that Muslims require to adopt in order to have a fulfilling experience of their existence on earth.

It is thus that the objective of spiritual connection to Allah is intended to grant inner harmony and grant the human feelings of being close and associated with the Creator, while the very reflection into all existence and teachings of those who claimed genuine prophethood is meant to direct the human mind to a dynamic creator, Allah. This is, in Islamic terms, the main objective of human existence.

The general norm within Islamic law is that the literal meaning of the divine texts hold absolutely weight in terms of that which it states, orders or prohibits. However, there are many other ways in which a Quranic verse or prophetic statement is interpreted beyond the boundaries of literal connotation e.g. a verse may be interpreted by a prophetic statement or even be declared has annulled.

The concept of finding *maqasid* to these Islamic injunctions is actually implementing a process of gaining reasons, grounds and rationals for each of the orders through the use of non-divine human intellect so that, where possible, the literal text of the order does not restrict the meaning and application of the order but also for us to gain a comprehensive understanding of divine motivation in order to provide some degree of laxity in the application of the order if this is possible within the ambit of Islamic law.

The Islamic penal order that instructs with amputating the wrist or hand of a thief, although apparently very sever, creates a fear amidst members of society against stealing. This in turn leads to the protection of private and public property. This creates an almost theft-free society.

We, thus reason that the order relating to the amputation of the hands of a thief was designed to enable the protection of property within the parameters of the society that applied the penal codes of Islam. Amputation of the thief's hand is not something desirable. Placing the thief in prison, as preferred by non-Islamic jurists leads to the very criminal becoming the financial responsibility of society. The thief who was caught and had his hand amputated would think more than twice or a hundred times to commit the crime again. At the same time, it places others on guard.

Was it ever possible that the Shariah had designed the ruling to be only applied under normal conditions, and not in every case? The apparent text of the law is general and thus implies that it must be applied in every case. The second caliph, Umar did not want the ruling to be applied when there was widespread famine in society.

Apparently, his order violates the direct literal text of the Quran. This in Islamic terms, is generally seen to be almost equivalent to blasphemy since it means rejecting the order and words of Allah. However, the caliph Umar was not declared an apostate. His order was not challenged by his companions who were very stringent in applying the rules of the Quran. There is no prophetic precedence or statement that allows alternative interpretations to the Quranic order relating to theft.

We can only interpret his ruling to stem from his reading into the *maqasid* of the Shariah. Human life and limb has to be preserved and should not, unjustifiably, be destroyed. In other words, the Shariah does not accept the excuse of a thief for his theft in good economic circumstances since, even in cases of ultimate poverty, the society should have been the last resort for him to gain, at least, something upon which he survives.

However, since, during circumstances of general famine and poverty, it is highly possible that each member of society gives first preference to their own needs and then to the needs of those closest in relationship or otherwise. It is thus that theft in such a situation was possibly due to extreme poverty, which was not adequately addressed by the economic and social condition of society at that period. He thus felt, that applying the penal rule of amputation such circumstances would not only affect one person, but many others who maybe constrained to the same. This would be detrimental to the larger interests of society in terms of labour needs and having a population that is healthy and enabled to work instead of becoming dependent etc.

This is a clear example of how the concept of *maqasid* has been read into a divine ruling to an extent that it temporarily restricts the application of the law due to other objectives and needs of the society or individuals.

The legal concept of *Maqasid*, as a tool for interpreting law, was not contrived as a ruse to escape the divine injunctions. Rather, it was reasoned that including and considering it into some rules of jurisprudence, which are apparently void of any reasons would help to preserve one or more of the objectives intended by the Shariah.

Another example of this is when a pregnant female informed Nabi (SAW) that she had committed adultery. He did not immediately implement the Islamic penal injunction. He asked her to return after the birth of the child. He did not imprison her. Rather, he trusted her to return. Applying the Islamic order during pregnancy would have meant the loss of innocent life and injury to an innocent foetus or child. So, in as much as the order needed implementation, it should not encroach on to the rights of another, let alone destroy the rights of others. When she returned after childbirth, he asked her to return again after the child was weaned. It was possible that the child be stillborn. However, when the child had life, it was subject to death or harm if the mother did not breastfeed it. The Islamic penal order was thus deferred so that the rights of the innocent child were considered.

The contest in the domain of Islamic jurisprudence in regard to *maqasid* is intensive since a general allowance of a liberal reading *maqasid* into every order of Islamic law, subjects it to be inapplicable, or, in other words, to change Islam.

Would the *maqasid* be only those inferred by the earliest of khulafa and great Islamic jurists, or could contemporary scholars using the principles of Islamic jurisprudence (*usul al-fiqh*) also expand upon earlier views and regulations in a whole range of issues faced by contemporary Muslims.

Would the inference of incorrect *maqasid* alter the conservative Muslim into a liberal Muslim or a heretic? Would conservative Muslims fear to apply correct readings of *maqasid* due to fear of blasphemy or rejection of the orders held divine.

What needs to be identified and studied is whether particular or general verses of the Quran and prophetic traditions are correctly used to infer specific or broad objectives of the Shariah.

What degree of consensus would Muslims have in regard to the *maqasid* inferred by a limited amount of scholars in relation to those inferred by the majority of scholars.

On the contrary, a disregard of the *maqasid* of the Shariah, would be a negation of using human reason and intellect to preserve the religious and other needs of constantly evolving Muslim societies and individuals.

This means that if Rasulullah SAW used a camel to conduct his pilgrimage, the camel itself should not then be seen as part of the objectives of *haj* (major pilgrimage) since it was a tool to get to the destination of pilgrimage as well as to travel between the rites of pilgrimage. You are now permitted to fly from South Africa to Jeddah and then use a motor vehicle to get to the destination.

In conclusion, the *maqasid* are also evaluated within the broad parameters of the Shariah and have either general, restricted or limited application. The *maqasid* could be entrenched into Civil regulations of Islamic States as well as into the Shariah provisions.

We are fortunate that the *maqasid* could also have private and individual applications.