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The Covenant Before Command: Rethinking Maqāsid Al-Sharī'a Through Taha Abdurrahman's Philosophy

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Abstract

The study of *maqāṣid al-sharīʿa* has become a significant topic in the contemporary Islamic legal discourse as an attempt to address modern legal issues from the perspective of Islamic law. The study of *maqāsid al-sharīʿa* was initially part of uṣūl al fiqh discussion that was implicitly explained among the classical Muslim scholars until it developed as a distinguished field of study after the publication of *al-Shāṭibī*'s work entitled *al-Muwāfaqāt*. However, contemporary maqāṣid discourse has developed into diverse intellectual discourse, which also raised concerns about the increasing emphasis on human reason, contemporary interests, and worldly *maṣlaḥa*. In order to address these developments, this article examines the ethical approach of *maqāṣid al-sharīʿa* by Taha Abdurrahman, a prominent Muslim scholar in Morocco. This research will first observe the social background of Taha Abdurrahman and continue with the notion of classical and contemporary *maqāṣid* trend before delving into understanding *maqāṣid al-sharīʿa* according to Taha, based on the ethical approach, to examine his response to contemporary developments in *maqāṣid* dicourse. This research will apply qualitative methodology through the analysis of books, journals, and related articles. This research finds that Taha Abdurrahman's ethical approach cannot be simply identified with either classical or contemporary approaches. Rather, his ethical reconstruction of *maqāṣid*, grounded in the trusteeship paradigm, reconsiders the relationship between divine purposes, human responsibility, and legal rulings. His approach seeks to prevent *maqāṣid* from being reduced to changing human interests by emphasizing the ethical dimension of the *sharīʿa*.

Keywords: *Maqāṣid al-sharīʿa, Taha Abdurrahman, ethical approach, trusteeship paradigm.*

Introduction

Maqāṣid al-sharīʿa is a crucial concept in the study of Islamic law as it studies to discover the purpose of the divine law *(maqāṣid)*. It has gained great scholarly attention in the last three decades by the emerging works on *maqāṣid al-sharīʿa*, such as books, theses, journals, and other academic studies. In contemporary Islamic legal thought, *maqāṣid al-sharīʿa* has increasingly been implemented as a framework for addressing a wide range of contemporary legal and ethical challenges, such as Islamic banking, gender equality, environmental issues, and other emerging issues.[1] In this regard, Auda asserted that the *maqāṣid* methodology is now expected to revive what has been done by the early legal theorists and scholars into the current context.[2] Accordingly, the contemporary *maqāṣid* discourse is increasingly expected to provide a framework for Islamic law that is compatible with the purposes and benefits intended by God in creating the law, rather than merely with the religious texts.[3]

For that reason, the study of *maqāṣid al-sharīʿa* has developed into a legitimate and central discourse in contemporary Islamic legal thought. The theory of *maqāṣid* is considered essential for the mujtahid in formulating *ijtihād*, as it provides a conceptual framework to realize benefits (*manfaʿa*) and prevent harm (*ḍarar*) in the pursuit of the common good (*maṣlaḥa*). Mohammad Hashim Kamali, for instance, asserts that *maqāṣid al-sharīʿa* represents the objectives of Islamic law aimed at enhancing the perfection and well-being of human life.[4] Likewise, Ibn ʿAshur maintains that every legal ruling serves a divine purpose, as nothing ordained by God is without meaning.[5] Accordingly, *maqāṣid al-sharīʿa* offers a foundational approach to addressing the question of "why" at all levels of Islamic legal reasoning.[6]

1 Royan Utsany, Afrizal Tw, and Khamim, "Women's Rights and Gender Equality: An Analysis of Jasser Auda's Thoughts and His Contribution to Renewal of Islamic Family Law in Indonesia," Journal of Islamic Law (JIL) 3 (2022): 54; Mohammad M.o and Shahwan S, "The Objective of Islamic Economic and Islamic Banking in Light of Maqasid Al-Shārīʿah: A Critical Review," Scopus, 2013, https://doi.org/10.5829/idosi.mejsr.2013.13.1885; Sabariyah Yaakub and Nik Ab Halim Nik Abdullah, "TOWARDS MAQASID SHĀRĪʿAH IN SUSTAINING THE ENVIRONMENT THROUGH IMPACTFUL STRATEGIES," International Journal of Islamic Business 5, no. 1 (June 30, 2020): 36–45, https://doi.org/10.32890/ijib2020.5.1.2.

2 Jasser Auda, *Re-envisioning Islamic Scholarship: Maqasid Methodology as a New Approach* (Claritas Books, 2022), 5.2022

3 Andrew F. March, *The Maqsad of Hifz Al-Din Is Liberal Religious Freedom Sufficient for the Shari'ah? | ICR Journal*, October 18, 2020, 359, https://icrjournal.org/index.php/icr/article/view/653.

4 Mohammad Hashim Kamali, *Maqasid Al-Shārīʿah Made Simple* (International Institute of Islamic Thought (IIIT), 2008), 1.

5 Ibn Ashur, *Maqasid Al-Shārīʿah al-Islamiyyah*, vol. 1 (Beirut: Dar al-Kutub al-Lubnan, 2011), 15.

6 Jasser Auda, *Maqasid Al-Shārīʿah: A Beginner's Guide* (International Institute of Islamic

Nevertheless, the expanding application of *maqāṣid al-sharīʿa* also raises questions concerning the foundations and limits of its interpretation. Its application requires a profound understanding of both the foundational principles *(uṣūl)* and the applied rulings *(furūʿ)* of the Sharīʿa.[7] Neglecting these essential components may lead to significant misinterpretations of maqāṣid. In contemporary Islamic legal disourse, maqāṣid may at times be employed selectively to legitimize particular positions and to make fiqh appear more compatible with modern intellectual trends without sufficient grounding in its legal and ethical foundations.[8] The problem, therefore, is not merely whether maqāṣid can address contemporary legal challenges, but also how its purposes can be understood without detaching them from divine purposes of the sharīʿa.

This issue provides an important point of entry into the thiught of Taha Abdurrahman, a prominent Moroccan philosopher whose work *al-Ta'sīs al-Iʾtimānī li ʿIlm al-Maqāṣid* introduces a paradigm rooted in ethical trusteeship.[9] His approach, here referred to as the "ethical reconstruction of *maqāṣid al-sharīʿa*," situates the objectives of Islamic law within a moral and spiritual framework, emphasizing ethical responsibility and divine accountability over legal pragmatism. Rather than treating maqāṣid merely as a methodological instrument for adapting legal rulings to changing circumstances, Taha directs attention toward the deeper relationship betweem God and human beings underlying the reception of divine law.

Central to Taha's argument is the distinction between the concept of *sharʿī* and *mashrūʿ*. Rather than understanding the *sharīʿa* merely through commands and prohobitions, Taha draws attention to the prior covenantal relationship between God and human beings as the foundation of legal obligation. This perspective provides the basis for what this study refers ot as the "covenant before command" in Taha's reconstruction of *maqāṣid al-sharīʿa*. In this sense, Taha's ethical framework provides a distinctive approach for understanding the foundation of *maqāṣid al-sharīʿa* compared to other *maqāṣid* scholars.

This study begins by outlining the intellectual biography of Taha Abdurrahman to establish his authority in the field, followed by a critical examination of contemporary issues and trends in the discourse on *maqāṣid al-sharīʿa*. It explores his ethical reformulation of *maqāṣid*, contrasts it with the classical

Thought (IIIT), 2008), 2.

7 Aouidad Rachid, "Arab Modernists and Maqasid Shariah: A Critical Analysis," *BALAGH - Journal of Islamic and Humanities Studies* 1, no. 2 (2021): 332, https://doi.org/10.5281/zenodo.5552629.

8 Muhammad al-Marakeby, "Al-Ḥadātha Wa Taḥawwulāt al-Khitāb al-Maqāṣidī: Naḥw Fiqh Sāʾil?," *Journal of Islamic Ethics*, ahead of print, March 13, 2021, 25, https://doi.org/10.1163/24685542-12340028.

9 Taha Abdurrahman, *Su'āl Al-Akhlāq Musāhamah Fī Al-Naqd Al-Akhlāqī Li Al-Ḥadāthah Al-Gharbiyyah* (al-Markaz al-Thaqāfī al-'Arabī, 2000), 19.

methodology of *al-Shāṭibī*, and engages with modern classifications and critiques of *maqāṣid*. Adopting a qualitative approach, the study employs content analysis of primary sources consisting of Taha Abdurrahman's books, supplemented by other relevant works as well as secondary sources such as books, academic journals, and related literature, to demonstrate that his thought offers a novel and ethically grounded contribution to the contemporary understanding of *maqāṣid al-sharīʿa*.

Method

This study employs a qualitative library-based research design using content and textual analysis to examine Taha Abdurrahman's ethical philosophy of *maqāṣid al-sharīʿa*. The study focuses on how Taha conceptualized the relationship between sharʿī and mashrū, and the ethical and philosophical foundations of his understanding of maqāṣīd. The primary sources primarily of Taha Abdurrahman's *al-Ta'sīs al-I'timānī li ʿIlm al-Maqāṣid* (2022), as this work most directly explores his thought on *maqāṣid* and its ethical foundation. Other works of Taha are included to clarify the concepts that are connected and developed across his writing. Secondary sources consist of selected scholarly books, journal articles, theses, and other academic publications that are relevant to the Taha's philosophical thought, contemporary *maqāṣid* discourse and approaches discussed in this study.

The unit of analysis is the concepts, arguments, and textual formulations through which sources examined in this study of *maqāṣid*. The analaysis conducted in three steps. First, the relevant passages from the primary and secondary sources are identified and organized according to the main themes discussed in the study. Second, the passages are interpreted within the textual and conceptual context to examine the development of contemporary *maqāṣid* discourse and Taha's ethical reconstruction of *maqāṣid*. Third, Taha's formulation is compared with the relevant *maqāṣid* scholars to situate his critiques of their approaches.

Through these analytical stages, the study contextualize Taha's thought within the broader development of *maqāṣid* studies while recognizing the diversity of contemporary approaches. The analysis, therefore, examines the conceptual significance and limitations of his ethical reconstruction in relation to the broader debates surrounding *maqāṣid*.

Biographical and Intellectual Overview of Taha Abdurrahman

Taha Abdurrahman is a prominent thinker in the contemporary Arab world. He was born in the port city, El-Jadida, on May 28, 1944. He was raised in a religious family, and his father was recognized as *"faqīh"* or *"kuttāb"*. Inspired by his father, Taha grew up as a young man who loved writing, making him the youngest contributor to the Moroccan Union in 1960. How-

ever, his interest in poetry did not last long due to his enthusiasm in learning philosophy as a response to the 1967 Six-Day war, which later became his academic journey expertise.[10] Therefore, Taha studied languages such as German, French, English, Latin, and Greek to grasp philosophical works. He obtained two PhD studies in Paris; first, in 1972, with a thesis entitled "An Essay on the Linguistic Structures of Ontology," and second, in 1982, with a thesis entitled "An Essay on the Logic of Argumentative and Natural Reasoning." He then continued to get his professorship in logic and curricula for logic and linguistics from 1970-2005 at the college of literature and humanities Muhammad V University in Rabat.[11]

Taha achieved many awards for his various works and his field of research on issues related to language, ethics, and dialogue, such as the Moroccan Book Prize twice and the ISESCO Prize for Islamic Philosophy in 2006. As the philosopher, Taha positioned himself against Western modernity by promoting the concept of ethics, evidenced by his various works in the field of ethics, religion, and philosophy.[12] To some extent, his thought is influenced by the traditional tasawwuf, which is evident by some elaboration of his philosophical thought linked to the budshīshīyyah Sufi order. This Sufi order has a significant role in Moroccan's internal power structure.[13] In addition, Taha was one of the most influential Muslims, with other extraordinary persons worldwide in different fields. In particular, Taha was listed in scholarly with respected leaders who significantly impacted Islamic knowledge and culture.[14] It is shown that Taha Abdurrahman has a significant role in modern Muslim scholarship, especially in his country Morocco.

Having said that, Taha has been neglected in Arabic and Western studies for several years due to his complexities in language and his deep understanding of religiosity. However, he started to gain more attention from academics during the last ten years. For example, Wael Hallaq has published a distinguished book elaborating his modernity idea.[15] Until the present,

10 Mohammed Hashas, "1 The Trusteeship Paradigm," in *Islamic Ethics and the Trusteeship Paradigm: Taha Abderrahmane's Philosophy in Comparative Perspectives*, ed. Mohammed Hashas and Mutaz al-Khatib (Brill, 2020), 37.

11 Taha Abdurrahman, *A Global Ethic: Its Scope and Limits* (Tabah Papers Series, 2008), v.

12 Taha Abdurrahman, *Rūḥ Al-Ḥadātha Al-Madkhal Ilā Taʾsīs Al-Hadātha Al-Islāmiyya* (al-Markaz al-Thaqāfī al-'Arabī, 2006); Abdurrahman, *Su'āl Al-Akhlāq Musāhamah Fī Al-Naqd Al-Akhlāqī Li Al-Ḥadāthah Al-Gharbiyyah*; Taha Abdurrahman, *Bu's Al-Dahraniyyah Al-Naqd Al-I'timānī Li Faṣl Al-Akhlāq ʿan Al-Dīn* (Arab Network for Research and Publishing, 2014); Taha Abdurrahman, *Al-Ḥiwār Ufuqan Li al-Fikr al-Ḥiwār Ufuqan Li al-Fikr* (Arab Network for Research and Publishing, 2013).

13 Farid Suleiman, "The Philosophy of Taha Abderrahman: A Critical Study," *Die Welt Des Islams* 61, no. 1 (2020): 39, https://doi.org/10.1163/15700607-00600A10.

14 The Royal Islamic Strategic Studies Centre, *The Muslim 500: The World's 500 Most Influential Muslims, 2026* (The Royal Islamic Strategic Studies Centre, 2025), 142.

15 Wael Hallaq, *Reforming Modernity : Ethics and the New Human in the Philosophy of Abdurrahman Taha* (Columbia University Press, 2019).

Taha Abdurrahman still contributes to the scholarly debate in modern Islamic thought, particularly in the fields of ethics and philosophy, which is beneficial in many fields, including politics, economic, legal, and economics.[16] The latest book published by Taha contributed to the legal issues, *maqāṣid al-sharīʿa*, in his attempt to criticize the modern trend of *maqāṣid al-sharīʿa* that has neglected the divine purpose *(maqāsīd al-shārīʿ)*.

The Trend of Maqasid al-Shari'a in the Contemporary Era

The study of was not a distinctive discourse in the early stage of the development of Islamic legal discourse.[17] It was initially part of *uṣūl al-fiqh* studies until the work of *al-Shāṭibī*, *al-muwāfaqāt*, was published and significantly recognized.[18] Before al-Shāṭibī, various legal theorists *(uṣūliyyūn)*, such as Abu Bakr al-Baqillani (d. 403), Imam al-Haramain al-Juwayni (d. 410), and Abu Hamid al-Ghazali (d. 505), continued by the legal scholars *(fuqahā')* such as Abu al-Hasan al-Karkhi (d. 340), Abu Zayd al-Dabusi (d. 430), Al-Izz bin Abd al-Salam (d. 660), and many others have also contributed to the development of the study of *maqāsid al-sharīʿa*, signed that the study of the *maqāsid al-sharīʿa* is inseparable from the development of the *uṣūl al-fiqh* studies.[19]

Al-Shāṭibī (d. 790) mentioned that *maqāṣid* is the essence of everything *(rūh al-aʿmāl)* so that the fiqh without a *maqāṣid* will never be completed.[20] Accordingly, as the modern *maqāṣid* scholar, *al-Raysūnī* asserted that fiqh requires the understanding of the truth of the things *(al-ḥaqīqa)*, which will only be realized by the understanding of *maqāṣid* to understand the purpose of the *shārīʿa*.[21] Thus, since the first publication of *muwāfaqāt*, various prominent scholars discussed it and granted *al-Shāṭibī* a rank alongside al-Shafi'i because his exploration of the goals and objectives of the divine law has offered the way to escape from the rigidity of Islamic law introduced by al-Shafii through his idea of *uṣūl al-fiqh*.[22]

Understanding the importance of the *maqāsid al-sharīʿa* and the complexities of contemporary issues, modern scholarshave increasingly revisited and reformulated *maqāṣid al-sharīʿa* as a framework for addressing changing circumstances.[23] Rather than treating *sharīʿa* solely as a body of rules derived

16 Yousef Alqurashi, *Is Taha Abdurrahman a Contractarian Philosopher?*, 3 (October 2022): 704–21, https://doi.org/10.17613/ngj0-4b06.

17 Kamali, *Maqasid Al-Shārīʿah Made Simple*, 8.

18 Muhammad al-Habib Ibn Al-Khuja, *Muhammad Al-Tahir Bin 'Ashur Wa Kitabuhu Maqasid al-Shari'a* (Wizarat al-Awqaf wa al-Shu'un al-Islamiyyah, 2004), 1:412.

19 Ibn Al-Khuja, *Muhammad Al-Tahir Bin 'Ashur Wa Kitabuhu Maqasid al-Shari'a*, 1:413–14.

20 Al-Shatibi, *Al-Muwafaqat* (Dar Ibn Affan, 2008), 2:344.

21 Ahmad al-Raysuni, *Madkhal Ila Maqasid Al-Shārīʿa* (Cairo: Dar al-Kalimah, 2010), 18.

22 M. Khalid Mas'Ud, "Recent Studies of Shāṭibī's Al-Muwāfaqāt," *Islamic Studies* 14, no. 1 (1975): 66.

23 Mas'Ud, "Recent Studies of Shāṭibī's Al-Muwāfaqāt"; Mohammad Hashim Kamali, "'Ma-

from religious texts based on the classical methodology of *uṣūl al-fiqh*, contemporary *maqāṣid* implies the idea that divine law has a deeper purposes and benefits behind its revelation, which serves as a panacea for modernists and pragmatists in seeking their practical solution.[24] The attractiveness of the study on *maqāsid al-sharīʿa* is particularly considered beneficial for the communities in the context of Muslim minority countries to resolve the various contemporary problems and challenges in Islamic thought.[25] According to Auda, the study of *maqāṣid al-sharīʿa* is crucial as the methodology of Islamic reformation. It is introduced as the project for development and human rights, the basis of new *ijtihād*, the common grounds between Islamic law and different systems of faith.[26]

However, contemporary *maqāṣid* scholarship does not constitute an identical methodological trend. The approaches developed by modern scholars differ in their treatment of textual authority, human reason, contextual interpretation, and concept of *maṣlaḥa*. Subsequently, *maqāṣid* scholarship encompasses diverse methodological and intellectual approaches, which can broadly be discussed as classical, traditionalist, reformist, secular-oriented, and postmodernist approaches.[27] These categories are adopted as an analytical distinctions rather than as rigid or mutually exclusive classifications, since individual scholars may share characteristics across more than one approach.

The classical approch to *maqāṣid* developed within legal theorists *(uṣūl al-fiqh)* was progressively elaborated by scholars such as *al-Juwaynī, al-Ghazālī,* and *al-Shāṭibī*. While the discussion of *maqāṣid* can be traced earlier to legal theorist, *al-Shāṭibī*'s *al-Muwāfaqāt* developed the discussion more systematically. Although, there was no specific definition of *maqāṣid* in that era, scholars agreed that *maqāṣid* was a clear concept that did not required detailed explanation.[28] *Al-Shāṭibī's* approach later became a prominent reference point for later discussion of *maqāṣid*.

qāṣid Al-Sharī'ah': The Objectives of Islamic Law," *Islamic Studies* 38, no. 2 (1999): 193–208; Khaled Abou El Fadl, *Reasoning with God: Reclaiming Shari'ah in the Modern Age* (Rowman & Littlefield, 2014); Adis Duderija, "Contemporary Muslim Reformist Thought and Maqāṣid Cum Maṣlaḥa Approaches to Islamic Law: An Introduction," in *Maqāṣid Al-Sharīʿa and Contemporary Reformist Muslim Thought: An Examination*, ed. Adis Duderija (Palgrave Macmillan US, 2014), https://doi.org/10.1057/9781137319418_1.

24 March, *The Maqsad of Hifz Al-Din Is Liberal Religious Freedom Sufficient for the Shari'ah?*, 358.

25 March, *The Maqsad of Hifz Al-Din Is Liberal Religious Freedom Sufficient for the Shari'ah?*, 359.

26 Auda, *Maqasid Al-Shārīʿah*, 27.

27 Naura Safira Salsabila Zain, "Conceptualizing Maqāṣid through an Ethical Framework : Theoretical Exploration of Taha Abdurrahman's Philosophy" (Universitas Islam Internasional Indonesia, 2024), 14, https://hdl.handle.net/20.500.14576/252.

28 Farook Salami, "The Maqasid Theory in Imam Ghazali's View: Textual Analytical Study," *QURANICA - International Journal of Quranic Research* 3, no. 2 (2012): 64, 2.

The orientation most closely aligned with the classical approach is the traditionalist orientation, which maintains the principles formulated by classical scholars remain sufficiently dynamic to address social changes without requiring a fundamental reconstruction of their foundations.[29] From this perspective, attempts to substantially reformulate *maqāṣid*, particularly by giving excessive weight to human reason or contemporary utility, may risk separating legal objectives from their grounding in the *sharīʿa*. Among the scholars associated with this orientation are *Saʿīd Ramadān al-Būṭī* and *Abū Yaʿrub al-Marzūqī*, both of whom developed critical responses to contemporary developments in *maqāṣid* discourse.[30]

The reformist orientation emerged more prominently in the modern period as Muslim scholars attempted to reconsider Islamic law in response to changing social and legal challenges. This period also withnessed a growing tendency to treat *maqāṣid al-sharīʿa* as more distinct field of inquiry rather than merely a component of Islamic legal theorists. *Ibn Ashūr*, for instance, attempted to formulaye *maqāṣid* in a manner responsive to the contemporary challenges, such as equality and freedom.[31] *Ibn Ashūr*'s *maqāṣid* discourse can also be observed in his Quranic exegesis, in which he constextualized the Quran to the contemporary social challenges.[32] Therefore, issues such as human dignity, equality, freedom, and tolerance consequently received greater attention within *maqāṣid* discourse. Although this approach expanded the application of *maqāṣid* to contemporary concerns, textual interpretation continued to play an important role in determining legal meaning.

The expansion of reformist *maqāṣid* thought was followed by approaches that placed greater emphasis of human reason and contemporary interpretative methods. Particularly, secular-oriented approaches questioned whether the established Quranic exegesis alone could adequately respond to modern circumstances, arguing that accepting the sharīʿa does not necessarily discover the rationale behind every ruling. In this regard, Thinkers such as Fazlur Rahman, Hassan Hanafi, and Mohammad Shahrur attempted to reread the Quran through rational reasoning and linking it to the contemporary context.[33] Within this approach, *maqāṣid* may therefore be extended beyond those

29 Aydogan Kars, "Maqāṣid or Sharīʿa? Secularism, Islamic Reform, and Ethics in Modern Turkey," in *Maqāṣid Al-Sharīʿa and Contemporary Reformist Muslim Thought: An Examination*, ed. Adis Duderija (Palgrave Macmillan US, 2014), 140, https://doi.org/10.1057/9781137319418_6.2014

30 Abū Yaʿrub al-Marzūqī and Muḥammad Saʿīd Ramaḍān al-Būṭī, *Ishkāliyyat Tajdīd Uṣūl Al-Fiqh* (Dār al-Fikr, 2006).

31 Ibn Ashur, *Maqasid Al-Shariah al-Islamiyyah*, 1:229.

32 Lalu Supriadi B. Mujib and Khairul Hamim, "Religious Freedom and Riddah through the Maqāṣidī Interpretation of Ibn 'Āshūr," *HTS Teologiese Studies / Theological Studies* 77, no. 4 (2021): 1,4, 4, https://doi.org/10.4102/hts.v77i4.6928.

33 Zain, "Conceptualizing Maqāṣid through an Ethical Framework : Theoretical Exploration of Taha Abdurrahman's Philosophy," 27.

addressed by classical scholars.[34]

Furthermore, the posmodernist approaches emerged as a critical response to the modernism. Hence, postmodernism should not be understood merely as a chronological timeline following modernism, rather, it represents a critical response to modernism that can coexist with it within the modern period.[35] In contemporary *maqāṣid* discourse, this orientation can be observed in approaches that give greater attention both textual revelation and chanhing social realities. *Ṭahā Jābir al-ʿAlwānī*, for example, emphasizes the integration of reading revelation *(qirā'āt al-waḥy)* and reading the universe *(qirā'āt al-kawn)* in understanding the higher objectives of the *sharīʿa*,[36] while Tariq Ramadan similarly emphasizes the interaction between revelation and context in identifying broader objectives beyond the established formulation of *maqāṣid*.[37] Such approaches reflect a greater role for human interpretation and contextyal understanding in determining the objectives of the sharīʿa, while also raising questions concerning the limits of human reason and the possibility of relativisim in interpreting divine purposes.

These diverse approaches demonstrate that contemporary *maqāṣid* discourse has expanded beyond the classical formulation in its engagement with reason, textual interpretation, context, and human welfare. Some approaches seek to rationalize the *shārīʿa (ʿaqlanat al-sharīʿa)* by examining the rationale of legal rulings, while others expand the established formulation of the five principles of *maqāṣid al-sharīʿa (iʿādat taʿyīn al-maqāṣid wa taʿrīfihā)*.[38] *Qarḍāwī*, for example, proposed additional points of human dignity and rights in his theory of *maqāṣid*.[39]

On the other hand, Auda emphasized that the context of the contemporary era requires a methodology that reflects the universality and flexibility of the shārīʿa, highlighting the importance of the shārīʿa as the human welfare in worldly life and hereafter.[40] The concept of shārīʿa is flexible *(murūna)* and indelible *(thabāt)* at the same time. It is universally applicable under all

34 al-Marakeby, "Al-Ḥadātha Wa Taḥawwulāt al-Khitāb al-Maqāṣidī," 18–19.

35 Adibah Sulaiman et al., "Islamic Spiritual Ethics and Postmodernist Moral Thought: Can There Be A Reconciliation?," *International Journal of Academic Research in Business and Social Sciences* 9, no. 1 (2019): 675, https://doi.org/10.6007/IJARBSS/v9-i1/5466.

36 Ṭaha Jābir Al-ʿAlwānī, *Al-Jamʿu Bayna al-Qirā'atayn* (Maktaba al-Shurūq al-Dawliyya, 2006), 18–19.

37 Tariq Ramadan, *Radical Reform: Islamic Ethics and Liberation*, 1st edition (Oxford University Press, 2008).

38 al-Marakeby, "Modernity and the Transformations of the Maqāṣidī Discourse," 15-19.

39 Jasser Auda, *Maqasid Al-Shari'ah as Philosophy of Islamic Law* (International Institute of Islamic Thought (IIIT), 2022), 5.

40 Jasser Auda, "A Maq??Id-Based Approach for New Independent Legal Reasoning (Ijtih?D)," in *Islamic Perspectives on the Principles of Biomedical Ethics*, Volume 1, Intercultural Dialogue in Bioethics, Volume 1 (WORLD SCIENTIFIC (EUROPE)/IMPERIAL COLLEGE PRESS, 2015), 70, https://doi.org/10.1142/9781786340481_0003.

circumstances and in all places as long as it does not exceed its fundamental boundaries.[41]

The implementation of the *maqāṣid al-sharīʿa* without concerning the fundamental principle of the *shārīʿa* will lead to the liquidity of the *maqāṣid* which will transform its concept from the divine purpose *(maqāṣid al-shāriʿ)* into human purpose (maqāṣid al-mukallaf). Thus, the study of the *maqāṣid al-shārīʿa* in the contemporary era must be critical to avoid misconceptions about understanding the divine law. In response, Taha Abdurrahman proposed the ethical approach to the study of *maqāṣid* al-sharīʿā to prevent the misconception in understanding the *maqāṣid al-sharīʿa*.

Taha Abdurrahman's Ethical Reconstruction of Maqasid al-shari'a

The previous discussion demonstrates that the development of *maqāṣid al-sharīʿa* has generated diverse approaches to the relationship between divine law, human reason, textual authority, and contemporary context. This development has expanded *maqāṣid* discourse and enabled it to address contemporary concerns, while at the same time raising questions regarding the relationship betweem human interpretation, contextual *maṣlaḥa*, and the divine purposes. It is within this intellectual context that Taha Abdurrahman developed his ethical reconstruction of *maqāṣid al-sharīʿa*. His apparoach cannot be understood simply as a continuation of either classical or contemporary *maqāṣid* approach. Rather, Taha introduced a distinctive ethical and philosophical framework. Specifically, Taha argues that *maqāṣid* scholars have not sufficiently emphasized the ethical dimension that highlights the relationship between human beings and sharīʿa. His reconstruction therefore seeks not merely to reformulate the objectives of Islamic law, but to reconsider the ethical foundation of understanding the *maqāṣid*.

Taha employed his philosophical understanding to emphasize that *maqāṣid al-sharīa* should be based on the divine purpose *(maqāṣid al-sharī)* rather than passing judgment on the divine purpose *(ḥukm alā ḥukm al-shāri)*. This implies that *talīl* (the rationalization of *shārīa*) should prioritize the alignment with the divine purpose, as failure to do so could result in passing judgment on the divine purpose. The first mentioned approach of *talīl* is named *(al-tasīs)* while another one is named *(al-taqṣīd)*.[42] In this context, Taha agrees with the perspective of *al-Shāṭibī* in his book, where *taqṣīd* is defined as the act of judging the words of Allah, likely saying "This is what is meant by Allah". However, it is not the capacity of human beings due to their limited knowledge.

To understand the *maqāṣid al-sharīa*, Taha emphasized the distinction

41 Ali Ahmad Muhammad Bakir, *Kitab Dirasat Fi Usul Al-Fiqh* (Majallat al-Jamia al-Islamiyyah bi al-Madinah al-Munawwarah, 1981), 174.

42 Taha Abdurrahman, *Al-Taʾsis al-Iʾtimani Li ʿIlm al-Maqasid* (Markaz Nuhud li al-Dirasat wa al-Buhuth, 2022), 14.

between the concept of *sharī* and *mashrū*. According to Taha, the understanding of *sharī* (lawful) and *mashrū* (legal) in the *shārīa* could be obtained in different ways. First, the *sharī* is obtained through the prophetic message *(al-balāgh al-nabawī)*, while the mashrū is obtained through the divine message *(al-khitāb al-īlāhī)*.[43] Since Allah has given the messages to human beings more than once before the prophetic message is delivered, it means that the prophetic message is only a reminder of what has been delivered by Allah for humans, and this implies that the legal things are acknowledged before the lawful things *(wujūd al-mashrūiyya sābiq alā wujūd al-shariyya)*. Hence, the relationship between God and human beings is classified into two; the realm of human testimony *(ḥālat al-muwāthaqa)* is the condition where human beings gain the divine message, and the realm of human interaction *(hālat al-muāmala)* is where human beings obtained the prophetic message.[44] Since human beings do not focus on *the hālāt al muwāthaqā*, Taha developed his concept of *maqāṣid al-sharīa* through the elaboration of hālāt al muwāthaqā.

In addition, Taha divided the *halāt al-muwāthaqa* into three pillars; covenant of testimony *(mīthāq al-ishhād)*, which explains the relationship of the *sharīa* with the *fiṭra*, covenant of entrustment *(mīthāq al-isti'mān)*, which explains the relationship between the *shārīa* and will *(al- irāda)*, and covenant of mission *(mīthāq al-irsāl)* which elaborates the relationship between the *shārīa* and purification *(tazkiya)*.[45] Taha further mentioned that *mīthāq al-ishhād* distinguishes the fitra from the instinct *(al-gharīza)*. The instinct expresses human nature *(al-muyūlāt al-ṭabīiyya)* meanwhile, the *fiṭra* expresses the ethical value and spiritual meanings derived from the names of Allah *(asmā' al-ḥusnā)*. Second, *mīthāq al-Isti'mān* discussed the various meaning of the *amāna* and exploration of the *irāda*, which is divided into linguistic will *(irādā al-lughawiyya)* and conscious will *(irāda al-shuūriyya)*. Last, *mīthāq al-irsāl* implies the goods *(maṣlaha)* of what Allah has determined in the shārīa.[46]

Therefore, the theory of *maqāṣid al-sharīʿa* by Taha is grounded in what he termed *al-ta'ṣīs al-i'timānī*, or the trusteeship foundation. Rather than understanding the *sharīʿa* merely through commands and prohibitions, Taha situated them within a prior covenantal relaionship between God and humanity, established in the *ḥālat al-muwāthaqa*, or covenantal state. Subsequently, *ḥālat al-muʿāmala* is expressed through the prophetic message *(al-balāgh al-nabawī)* in the form of commands and prhohibitions. Thus, what appears at the level of *sharʿī* rulings in the realm of command is connected to what is already established as *mashrūʿ* in the covenantal realm.

43 Human beings have witnessed to God in the metaphysical world and hence, their life is to implement what is committed by them in metaphysical dimension in the physical dimension. See: Abdurrahman, *Bu's Al-Dahraniyyah Al-Naqd Al-I'timānī Li Faṣl Al-Akhlāq ʿan Al-Dīn*, 19.

44 Abdurrahman, *Al-Taʾsis al-Iʾtimani Li ʿIlm al-Maqasid*, 22.

45 Abdurrahman, *Al-Taʾsis al-Iʾtimani Li ʿIlm al-Maqasid*, 23.

46 Abdurrahman, *Al-Taʾsis al-Iʾtimani Li ʿIlm al-Maqasid*, 342.

The command-oriented dimension *(al-ta'sīs al-i'timārī)*, according to Taha Abdurrahman, has received disproportionate attention in common juristic reasoning. The *faqīh al-iʿtimārī* tends to approach religion primarily through what is commanded and prohibited by God, together with the legal consequences attached to such rulings, instead of recognizing God comprehensively theough his attributes in *asmā' al-ḥusnā*.[47] Taha asserted that this may reduce the meaning of religion by treating the Quran primarily as *kitāb al-tashrīʿ*, or book of legislation, while overlooking its broader function in shaping the human being as an ethical and responsible trustee. In contrast, *al-ta'sīs al-i'timānī* paradigm understands the Quran also as *kitāb al-takhlīq*, a book of creation, where the level of *takhlīq* is in metaphysical world, meanwhile the level of *tashrīʿ* is limited only in physical world.[48]

Accordingly, the significance of *al-ta'sīs al-i'timānī* lies not rejecting the command dimension of the sharīʿa, but in positioning it within a more fundamental ethical commitment. The *sharʿī* and *mashrūʿ* are therefore not contradictory as what is encountered as divine commmand in the realm of *muʿāmala* is grounded in covenantal commitment established in the realm of *muwāthaqa*. From this perspective, obedience to the *sharīʿa* is not merely the fulfillment of an external command, but an expression of the human being's commitment and responsibility to God, grounded in a covenant before their existence in this world. This ethical foundation represents the central significance of Taha's trusteeship approach to *maqāṣid al-sharīʿa*. See Figure 1 for the distinction between *sharʿī* and *mashrūʿ* according to Taha.

47 Taha Abdurrahman, *Dīn Al-Ḥayā' Min al-Fiqh al-I'timārī Ilā al-Fiqh al-I'timānī* (The Arabian Establishment for Thought and Innovations, 2017), 82.

48 Abdurrahman, *Dīn Al-Ḥayā' Min al-Fiqh al-I'timārī Ilā al-Fiqh al-I'timānī*, 83–85.

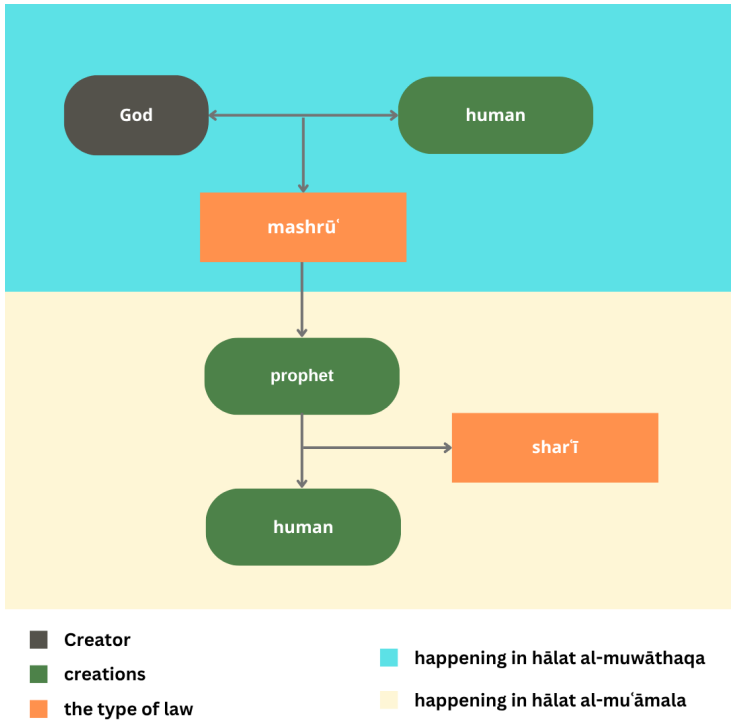


Figure 1. The distinction between sharʿī and mashrūʿ according to Taha

Critiques of the Modern Trends of Maqasid

The concept proposed by Taha Abdurrahman is distinguished from either classical scholars or the modern approach of *maqāṣid al-sharīʿa*.[49] His concept is deeply influenced by the trusteeship paradigm, which emphasizes ethics and morality as a commitment between humans and God in the metaphysical realm even before their existence in the physical world.[50] Thence, Taha emphasize three important bases of the *shārīʿa* with his ethical approach to understanding; *fitra, irāda*, and *tazkiya*, which led to the new classification of the *maqāṣid al-shārīʿa*. From his theory on *maqāṣid*, Taha criticized the cur-

49 Abdurrahman criticized both Muslim and Western scholars as they imitated the other cultures to influence their thought. See: Abdurrahman, *Rūḥ Al-Ḥadātha Al-Madkhal Ilā Taʾsīs Al-Hadātha Al-Islāmiyya*.

50 For further reading on trusteeship paradigm, read: Abdurrahman, *Su'āl Al-Akhlāq Musāhamah Fī Al-Naqd Al-Akhlāqī Li Al-Ḥadāthah Al-Gharbiyyah*; Abdurrahman, *Su'āl Al-Akhlāq Musāhamah Fī Al-Naqd Al-Akhlāqī Li Al-Ḥadāthah Al-Gharbiyyah*; Ramon Harvey, "1 The Trusteeship Paradigm," in *Qurʾanic Values and Modernity in Contemporary Islamic Ethics: Taha Abderrahmane and Fazlur Rahman in Conversation*, ed. Mohammed Hashas and Mutaz al-Khatib (Brill, 2020).

rent approach of the *maqāṣid* as follows:[51]

1. Currently, there is confusion in *maqāṣid* between the concepts of fiṭra and instinct *(al-gharīza)*. Consequently, many modern approaches of *maqāṣid* primarily focus on preserving the goods *(maṣlaha)* within worldly life, neglecting the broader spiritual aspect.

2. It undermines the values, decreases the ethics, ignores the meaning of *tazkiya* and limits the meaning of *ikhlāṣ*.

3. There is confusion in understanding the meaning of "divine purpose". The modern *maqāṣid* concepts define the divine purpose as similar to human desires and claim them as a divine purpose.

4. The modern *maqāṣid* concepts only focus on the meaning implied from the texts *(mafhūm)* rather than the divine purpose of it *(maqṣūd)*.

5. The modern *maqāṣid* concepts neglect the concept of freedom of choice *(al-ʿabdiya al-ikhtiyāriyya)* as the primary aspect in *maqāṣid al-sharīʿa*.

Therefore, Taha's concept on the *maqāṣid al-sharīʿa* is offered as his attempt to solve this problem, which elaborates on the following:

1. The differentiation between fitra and gharīza and classification of the *hālat al-muwāthaqa* and *hālat al-muʿāmala*. As for him, *Al-gharīza* represents the physical aspect *(khuḍūrī/badanī)*, whereas *fiṭra* pertains to the metaphysical dimension *(khiṭābī/rūḥī)*. Thus, one could not reach the maṣlaḥa for worldly life and hereafter by neglecting the fiṭriyya. For example, *hifẓ al-māl* that only relies on the *gharīzā* without preserving the fitra will lead to an extravagant lifestyle.

2. The detailed explanation of the relationship between maṣlaḥa and mafsada. According to Taha, the *mafsada* is a contradictory *(al-taḍād)* of the maṣlaha, not its contrary *(al-tanāquḍ)*.[52] So, one could not preserve maslaha and prevent the mafsada simultaneously. For example, when people focus only on preserving maṣlaha, they will neglect the prevention of the mafsada itself.

3. The implementation of values that is important for the concept of *maqāṣid* and *istinbāṭ al-aḥkām*.

4. The derivation of *qiyam al-fiṭriyya* (the values of fitra) from the names of

51 Abdurrahman, *Al-Taʾsis al-Iʾtimani Liʿlm al-Maqasid*, 504–5.

52 Abdurrahman, *Al-Taʾsis al-Iʾtimani Liʿlm al-Maqasid*, 443.

Allah *(asmā' al-ḥusnā)*. The values of fitra are derived from the names of Allah, so a good value of things is called khayr, and a bad value of things is called *(shar)*.[53] Hence, this value will be a standard of things.

5. The differentiation between *al-qaṣd al-shuʿūrī*; motive (bāʿith), commitment *(ʿazm)*, intention *(niyya)*, sincerity *(ikhlāṣ)*.

6. The differentiation between trust *(amāna)* and volition *(irāda)*, and the relationship between volition *(irāda)* and ownership *(al-milk)*.

7. The relationship between goods *(maṣlaḥa)* and values *(qīma)*.

8. The formation of new principles in the necessities of *maqāṣīd*. The main division of the necessities of *maqāṣid* used by various scholars consists of five, initiated by the classical approach of the *maqāṣid*. According to *al-Shāṭibī*, most scholars believe that the *sharīʿa* aims to protect the religion, self, posterity, property, and intellect.[54] In response, Taha criticized the mentioned classification for its overlapping points, pointing out that, for instance, the protection of religion encompasses the preservation of life, intellect, posterity, and property. Hence, He constructs his *maqāṣid* theory into three pillars; protection of the belief, intellect, and act *(ḥifẓ al-ʿāqīda, ḥifẓ ʿaql, and ḥifẓ al-ʿamal)*.[55] As for him, *ḥifẓ al-ʿaqīda* could only be maintained by preserving the fiṭra. Meanwhile, since the *ḥifẓ ʿaql* and *ḥifẓ al-ʿamal* are within the *gharīza* realm, it could not be obtained except by bringing them alongside the *fiṭra*. Hence, it requires the purification of the soul *(tazkiya)*.

9. The formation of various important values in maqāṣīd concept; *al-qiyam al-rūhīyya*, *al-qiyam al-ʿaqadiyya*, *al-qiyam al-ʿamaliyya*, *al-qiyam al-ʿaqliyya*, *al-qiyam al-ḥayawiyya*, and *al-qiyam al-mādiyya*.

Taken together, these reconstructions demonstrate that Taha's contribution lies not merely in modifying the classifiction of *maqāṣid* but in providing a deeper ethical grounding for understanding legal obligations. By relating the *sharīʿa* to the trusteeship paradigm, he understand that human obedience as an expression of responsibility and commitment toward God before their existence in the physical world. The distinction between *fiṭra* and *gharīza* is particularly important in this regard. While *fiṭra* represents the innate orientation through which human beings can recognize their responsibility and purpose, *gharīza* refers to their instinctive dimension and immediate incli-

53 Abdurrahman, *Al-Taʾsis al-Iʾtimani Li ʿIlm al-Maqasid*, 141.

54 Al-Shatibi, *Al-Muwafaqat* (Dar Ibn Affan, 2008), 1:31.

55 Abdurrahman, *Al-Taʾsis al-Iʾtimani Li ʿIlm al-Maqasid*, 506.

nations. The concept of *tazkiya*, *amāna*, and various values proposed by Taha can therefore be understood as a means of preventing immadiate desires or worldly interests from being mistaken for the divine purpose of the *sharīʿa*. In this sense, his reconstruction provides a more grounded basis for *maqāṣid* reasoning by directing the individual to understand *sharīʿa* within the broader framewrok of their responsibiliyu to God, rather than determining them primarily through changing circumstanes or perceived utility.

This ethical grounding, for example, shapes Taha's understanding of *taʿlīl*. His criticism of *al-Shāṭibī*'s *istiqrā'* illustrates that his concern is not only what objectives are identified, but also how those objectives are identified. Taha argued that *istiqrā'* commonly remain limited to the causal reasoning, and therefore risk identifying *maqāṣid* through *gharīza* rather than *fiṭra*.[56] He consequently distinguishes causal reasoning *(al-taʿlīl al-sabābī)* from teleological reasoning *(al-taʿlīl al-ghā'ī)*, regarding the former as an intermediary means *(wasīla)* that does not by itself reach the ultimate purpose *(ghāya)*. His example of the concession *(rukhṣa)* to break the fast illustrates this distinction: illness or travel may constitute the immediate conditions for the concession, but the deeper purposes is *al-taysīr*, or facilitation.[57] The ruling is therefore not fully understood merely by identifying its immediate cause, its ethical value and ultimate purposes must also be considered. See Figure 2 for the illustration of the distinction between causal reasoning and teleologial reasoning.

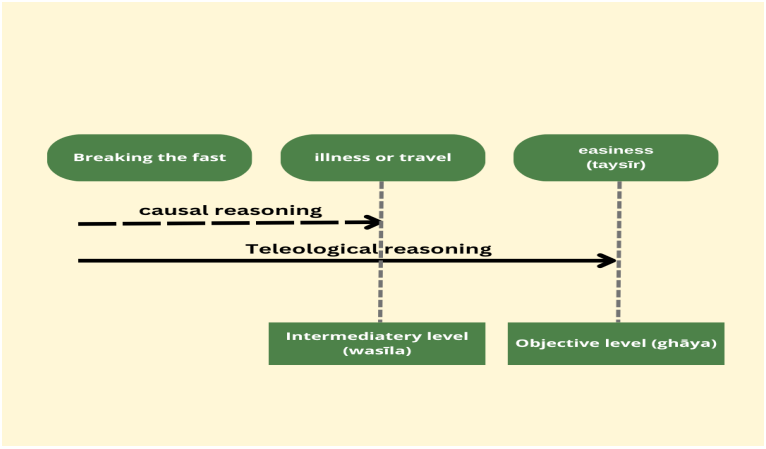


Figure 2. The distinction between causal reasoning and teleologial reasoning.

The significance of Taha's approach therefore lies primarily at the philosophical and ethical level rather than in providing a direct mechanism for re-

56 Taha Abdurrahman, *Tajdīd Al-Manhaj Fī Taqwīm al-Turāt* (al-Markaz al-Thaqāfī al-'Arabī, 1994), 119.

57 Abdurrahman, *Tajdīd Al-Manhaj Fī Taqwīm al-Turāt*, 120.

solving every contemporaty legal problem. His reconstruction seeks to shape the worldview of understanding the *sharīʿa* as a legal ruling is not merely an external command to be adjusted according to contemporary challenges, nor is *maṣlaḥa* simply whatever appears beneficial to human beings at particular moment. Rather, legal understanding is situated within a prior responsibility of human being to their God before and oriented toward the purpose of human creation. Such an orientation may be particularly relevant in contemporary circumstances characterized by increasingly complex interests, competing interpretations, and changing social conditions, where immediate desires or contextual utility can easily shape the understanding of *maṣlaḥa*. By returning the individual to the distinctions between *fiṭra* and *gharīza*, and by emphasizing *tazkiya, amāna,* and ethical values, Taha's approach seeks to preserve a consciousness of the deeper purpose for which human beings were created.

Conclusion

Contemporary developments in *maqāṣid al-sharīʿa* have expanded the discussion beyond its classical formulation, particularly through greater attention to reason, context, and contemporary human interests. While these developments have contributed to the relevance of *maqāṣid* in addressing modern issues, they have also raised concerns about reducing *maqāṣid* to human interests and worldly benefits. In response to these developments, Taha Abdurrahman offers an ethical reconstruction of *maqāṣid al-sharīʿa* based on trusteeship paradigm.

Taha's approach differs from both classical and contemporary approaches by understanding the *sharīʿa* not merely as a set of commands and prohibitions, but as an expression of the commitment and responsibility between human beings and God that was established before human existence, Through the distinction between the *sharʿī* and *mashrūʿ*, what is commanded at the level of human practice is connected to what was already established through this prior commitment. Obedience to the *sharīʿa*, therefore, is not merely compliance with a command, but a conscious fulfillment of the responsibility entrusted to human beings.

The significance of Taha's approach lies less in providing another practical method for deriving legal rulings than in changing how those rulings are understood. His reconstruction provides a way of understandnig the *sharīʿa* as a commitment that precedes human choice and should not be reduced to changing desires or contemporary interests. In this sense, his contribution is primarily philosophical, offering a worldview that can guide human beings back to the fundamental purpose of their creation and their responsibility to God.

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