

The Maqāṣidī Balance between Text and Maṣlaḥah in Mālikī Fiqh and Its Impact on Realizing Moderate Legislation

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Abstract:

This study examines the maqāṣidī balance in Mālikī jurisprudence as a scientific methodology that seeks to achieve equilibrium between the sharī text and maṣlaḥah (public interest), thereby preserving the fixed principles of Islamic Sharī'ah while accommodating contemporary variables. The research proceeds from the premise that Islamic Sharī'ah is an eternal legal system characterized by comprehensiveness and flexibility. Although its texts are finite in wording, their meanings and objectives are expansive and renewable. This renders maqāṣidī ijtihād essential for interpreting the texts and applying them to diverse realities.

The Mālikī school has given special attention to the maqāṣid of Sharī'ah, which has enabled it to harmonize sharī texts with considered interests without compromising outcomes or neglecting the consequences of actions. This has positioned the Mālikī school as a model of moderate jurisprudence capable of balancing continuity and renewal. Within this framework, the study addresses the problem of how to achieve a maqāṣidī balance between text and maṣlaḥah without falling into literal rigidity on one hand or unrestricted license in the name of maṣlaḥah on the other.

The study concludes that the relationship between text and maṣlaḥah is one of complementarity and harmony, not opposition. The maqāṣidī balance represents a fundamental tool for realizing moderate legislation and contributes significantly to constructing a balanced ijtihādī framework that considers consequences and achieves public interests without violating the foundational principles and constants of Sharī'ah.

Keywords: Maqāṣidī balance, moderate legislation, maqāṣid, text, maṣlaḥah.

Introduction:

Praise be to Allah, Who created the heavens and the earth in truth, sent His messengers with guidance and the religion of truth, and revealed His Sharī'ah as a mercy to all worlds. He made its rulings moderate, combining flexibility with firmness, thus rendering it wholly merciful, just, and beneficial. Prayers and peace be upon our master Muhammad, sent as a mercy and guidance to the worlds, and upon his family and all his companions.

Islamic Sharī'ah is distinguished by its comprehensiveness and permanence. It is a universal system valid for every time and place. Although its texts are limited in number, their meanings are expansive—this being the secret of its eternity. The text is sacred, and Allah intended it to contain His rulings: some are apparent and immediately evident to the mind, while others are subtle and understood only by scholars. All are intended and desired by the Lawgiver. Neither do the words alone suffice, nor do the

maqāṣid exist apart from the words; rather, the latter encompass and indicate the former. There is no verse in the Book of Allah that lacks a maqṣad or maqāṣid, as stated by Imam al-Ṭūfī (may Allah have mercy on him).

The Mālikī school is among the most prominent jurisprudential schools to have accorded the maqāṣid special and distinctive attention. Built upon solid foundations that combine adherence to the texts with the application of maqāṣid, it has been able to preserve core principles while accommodating change. This moderate and balanced methodology of the Mālikī scholars has ensured the elevation and sanctity of shar‘ī texts without neglecting interests, maqāṣid, or consequences. This undoubtedly reflects a profound awareness of the dialectical relationship between texts and maqāṣid.

First: Significance of the Study

The importance of this topic stems from its engagement with one of the most critical contemporary issues in Islamic thought: the relationship between the shar‘ī text and maṣlaḥah. This is particularly relevant amid current challenges facing contemporary ijtihād, which oscillate between two opposing tendencies: rigid adherence to the apparent meaning of texts on one side, and unrestricted license in the name of maṣlaḥah on the other. Thus, achieving a maqāṣidī balance represents a significant scholarly contribution to understanding and establishing the mechanisms of moderate ijtihād.

Second: Research Problem

Following the introduction of the topic of maqāṣidī balance and its importance, the central problem this study seeks to address revolves around the following fundamental question: How can a maqāṣidī balance between text and maṣlaḥah be achieved in Mālikī fiqh so as to produce moderate legislation that integrates continuity and renewal?

Third: Objectives of the Study

To clarify the concept of maqāṣidī balance and its theoretical dimensions.

To examine the relationship between text and maṣlaḥah and demonstrate their harmony and convergence upon the same subject.

To derive the impact of this balance on the formulation of contemporary moderate legislation.

Fourth: Research Methodology

This study adopts an analytical-inductive approach. It involves the induction of a range of uṣūlī and fiqhī texts from the Mālikī school and their analysis in light of the maqāṣid of Islamic Sharī‘ah, with the aim of identifying the method by which Mālikī scholars equally applied both text and maṣlaḥah, thereby producing a solid moderate thought.

Fifth: Research Plan

The study is divided into two main chapters, each containing two sections. The sections are further subdivided into subsections as required by the research. The first chapter investigates the concept of maqāṣidī balance and its status in Mālikī fiqh. It addresses the concept of maqāṣidī balance, its importance, and its controls. The second section clarifies the status of maqāṣid among Mālikī scholars and the relationship between text and maṣlaḥah, concluding the first chapter.

The second chapter, entitled “Maqāṣidī Balance and Its Impact on Realizing Moderate Legislation,” also comprises two sections. The first highlights the maqāṣidī balance, while the second explores its

impact on achieving moderate legislation. The study is concluded with a summary containing the most important findings and key recommendations.

Chapter One: The Concept of Maqāṣidī Balance and Its Status in Mālikī Fiqh

Section One: The Concept of Maqāṣidī Balance – Its Importance and Controls

Subsection One: The Concept of Maqāṣidī Balance

This subsection clarifies the concept of maqāṣidī balance by defining each component of this construct, first linguistically, then terminologically, culminating in a comprehensive definition of the term.

First: The Concept of Balance (Muwāzanah)

A. Linguistically: According to Mu‘jam Maqāyīs al-Lughah, the root (w-z-n) denotes adjustment, straightness, and equilibrium. Wazn refers to the measure of a thing. Hence, expressions such as “the scale of the day has stood” mean it has reached its midpoint with equal sides. “I weighed the thing” means I measured it. “This balances that” means it corresponds to it. “A balanced opinion” means a moderate one. A person of sound judgment and strong intellect is described as “possessing weighty judgment” (rājih al-wazn).

Overall, linguistic definitions revolve around the meanings of straightness, moderation, equality, centrality, and correspondence.

B. Terminologically: Balance is defined as “the equalization and equivalence between two considered and effective sides in order to choose one of them or to select a specific proportion of both according to particular criteria.”

Second: The Concept of Maqāṣid

A. Linguistically: The term qaṣd in Arabic denotes directing oneself toward something and aiming at it. It also relates to the arrow striking and killing its target precisely. In general, linguistic meanings of qaṣd revolve around clarity, straightness, aiming at something, moderation, and justice.

B. Terminologically: Ibn ‘Āshūr defined maqāṣid as: “The meanings and wise purposes observed by the Lawgiver in all or most instances of legislation, such that their consideration is not restricted to a particular type of shar‘ī ruling.” This includes the attributes and general objectives of Sharī‘ah, as well as meanings that legislation never lacks. It also encompasses purposes observed in many but not all types of rulings.

Although this definition did not explicitly include particular maqāṣid, Ibn ‘Āshūr later clarified them elsewhere, stating that particular maqāṣid are “the qualities intended by the Lawgiver to realize beneficial human objectives or to preserve their general interests in private transactions, so that their pursuit of private interests does not inadvertently undermine the general interests established for them—whether through negligence or through the sway of vain desire and false inclination.”

This definition by Ibn ‘Āshūr, regarded as the first systematic definition, is adopted here as it sufficiently clarifies the intended meaning.

Third: The Concept of Maqāṣidī Balance as a Construct

No prior explicit definition of “maqāṣidī balance” was found in the literature. Therefore, an operational definition has been formulated based on the linguistic and terminological definitions provided above:

“Maqāṣidī balance is the process of achieving harmony between the shar‘ī texts and their overall maqāṣid, such that the maqāṣid is observed without transgressing the text or nullifying its ruling.”

Subsection Two: The Importance of Maqāṣidī Balance and Its Controls

The maqāṣidī balance is an indispensable mechanism in jurisprudential reasoning. Any inclination toward one of the two poles of legislation constitutes a violation of the other, which is impermissible, as it leads to a distortion of the legislative framework and a failure to attain truth. Shar‘ī texts constitute the foundational basis upon which legal rulings are constructed, while maqāṣid represent the ultimate objectives for which those rulings were legislated. Consequently, the hallmark of sound ijtihād and correct reasoning lies in harmonizing the literal wording with the underlying structures, without neglecting the intended purposes and meanings. The evidence must be considered in its apparent form while being applied in a manner that realizes the divine objective and purpose. Any neglect of either aspect risks disrupting the coherent system of Sharī‘ah, which is strictly prohibited.

Maqāṣidī balance upholds a fundamental principle: there is no inherent contradiction between texts and interests; rather, the texts themselves protect and encompass those interests. Thus, maqāṣidī balance does not entail prioritizing maṣlaḥah over the text, nor does it involve rigid adherence to the apparent meaning of the text without regard for its wisdom and consequences. Instead, it represents a scholarly mediation between the text and its spirit, applying each in its proper place in a way that neither undermines the meaning at the expense of the text nor vice versa. This ensures that Sharī‘ah operates as a unified, coherent system free from internal contradiction.

The core idea to be clarified here is that maqāṣid are not an alternative to the texts but serve as a guiding reference for them and an aid in understanding the Lawgiver’s intent. Maqāṣid do not function to abrogate or suspend texts; rather, they reveal their flexibility and responsiveness to changing circumstances and new developments—without license or transgression against the text under the pretext of maṣlaḥah that fails to observe its conditions and controls. This is because the legally recognized controls are firmly anchored in the regulations of Sharī‘ah and inseparable from them. Conversely, the maqāṣidī perspective serves as a means to prevent stagnation and rigidity. Undoubtedly, abandoning ijtihād and refraining from renewal constitutes a profound deviation in religion.

Islamic Sharī‘ah is a unified whole and an indivisible structure. Nothing is weaker than a fragmented approach that attends to the outward form while neglecting the essence. Neither aspect can dispense with the other. Reasoning must consider particulars without disregarding universals, just as it is improper to delve excessively into universals without due regard for particulars—an issue that Imam al-Shāṭibī elaborated upon extensively.

Controls of Maqāṣidī Balance:

Priority of the definitive text: Maṣlaḥah must never be given precedence over a text that is qat‘ī (definitive in transmission and meaning).

Maqāṣid as servants of the texts: Texts are to be understood in light of maqāṣid, not in isolation from them.

Considered maṣlaḥah is regulated and does not conflict with the texts.

Section Two: The Status of Maqāṣid in the Mālikī School and the Relationship between Text and Maṣlaḥah

Subsection One: The Status of Maqāṣid in the Mālikī School and Its Relation to the School's Foundational Principles

The Mālikī scholars, like those of other jurisprudential schools, affirm that the primary source in legal reasoning and deduction is the text. Maṣlaḥah and maqāṣid are not independent sources of legislation but serve as criteria for understanding and applying texts, and for linking particulars to their universals. Many Mālikī authorities, such as Imam al-Qarāfī (may Allah have mercy on him), have elaborated on this, explaining that maqāṣid are universals to which particulars are referred. Ijtihād in branches (furū') is invalid without first establishing and regulating the principles (uṣūl).

Scholar Ibn 'Ashūr explicitly emphasized the necessity of employing maqāṣid as a criterion for regulating jurisprudential deduction. He sought to elevate the maqāṣid to the level of encompassing universals, rather than restricting the maqāṣidī perspective to mere particulars. Thus, the Mālikīs are masters of maqāṣid and among the schools that most actively apply and activate them according to a comprehensive scientific methodology. This approach is based on considering texts in light of maqāṣid and realizing maqāṣid in light of texts, without allowing either side to dominate the other. Their application of maqāṣid and consideration of interests is far removed from both absolute utilitarianism (which disregards the scales of Sharī'ah) and rigid literalism or superficial textualism.

One of the distinguishing features of Mālikī jurisprudence is its pioneering role in recognizing the maqāṣidī perspective, unlike other schools where such consideration appeared later. In the Mālikī school, it constitutes an authentic and integral component of the school's uṣūl. This is evident from the fact that the founder of the school himself relied more heavily on the spirit of the texts and their consequences than on strict adherence to their apparent wording and literal expressions.

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Subsection Two: The Relationship between Text and Maṣlaḥah in Mālikī Fiqh (continued)

The prominent status of maqāṣid in the Mālikī school is clearly manifested through its reliance on a set of ijtihādī principles grounded in the realization of maṣlaḥah. Among the most prominent of these are:

The practice of the people of Medina ('amal ahl al-Madīnah).

Al-istiṣlāḥ or unrestricted maṣlaḥah (al-maṣlaḥah al-mursalah).

Blocking the means (sadd al-dharā'i'): as an authentic maqāṣidī principle based on preventing the means that lead to corruption, since it combines the jurisprudence of the text with the jurisprudence of consequences.

Al-istiḥsān: which involves departing from an apparent analogy in favor of a deeper one that more fully realizes the Lawgiver's intent. This makes it one of the clearest manifestations of balance between text and maṣlaḥah.

Subsection Two: The Relationship between Text and Maṣlaḥah in Mālikī Fiqh

The jurists of the Mālikī school sought to construct a balanced methodology that integrates respect for the literal wording and apparent meanings of the texts with their spirit and objectives. This approach

ensures that texts are not nullified in the name of *maṣlaḥah*, nor that *maṣlaḥah* is suspended in the name of the text. The Mālikīs demonstrated a profound awareness that the texts were revealed to realize the interests of humanity and to avert harm from them. Consequently, the application and embodiment of these texts can only occur through the *maqāṣid* and universals of Sharī‘ah. Applying texts in isolation from their *maqāṣid* and consequences may lead to the suspension of the spirit of Sharī‘ah. This early awareness among Mālikī scholars made their school a pioneering institution in reconciling the fixed and the variable—between the permanence of the texts and the changing nature of interests.

To understand the relationship between texts and interests and the nature of reconciliation in the Mālikī school, it is appropriate to clarify the meaning of both “text” (*naṣṣ*) and “*maṣlaḥah*,” along with the controls governing their consideration.

First: Clarification of the Concepts of Text and Maṣlaḥah

1. Concept of the Text (Naṣṣ)

A. Linguistically:

In Arabic, *naṣṣ* denotes elevation, rising, and culmination. The terms *naṣṣ* and *tanṣīṣ* refer to raising something and making it manifest. Hence, the bridal dais (*minṣah*) is so named due to its elevation and visibility. The word is also applied to elevated garments. “*Naṣṣa al-matā’*” means to stack items one upon another. “*Naṣṣa al-sayr*” means to raise it. It is also said that *naṣṣ al-amr* refers to its intensity. Linguistic definitions generally revolve around the meanings of elevation, manifestation, ultimate purpose, and designation.

C. Terminologically:

The term *naṣṣ* refers to the word whose meaning is clearly understood, or—as expressed by Imam al-Shāfi‘ī—“that which is self-sufficient through revelation and requires no further interpretation.” It is used to encompass the Qur’ān and Sunnah. The foundational sources are described as comprising *naṣṣ* and meaning, where “meaning” refers to analogy (*qiyās*), and *naṣṣ* denotes the Qur’ān and Sunnah. In *uṣūlī* terminology, *naṣṣ* denotes that which admits only one meaning or does not permit interpretation (*ta’wīl*). Hence the statement: “There is no *ijtihād* in the face of a *naṣṣ*.” Here, *naṣṣ* refers to that which indicates its meaning with definitive (*qaṭ‘ī*) evidence. Al-Bazdawī stated: “The *naṣṣ* is clearer than the apparent in expression because the evidence is inherent in the wording itself,” requiring no reflection, interpretation, or semantic shift; it admits only one meaning.

This type is one of three categories termed *naṣṣ* by *uṣūlīs*: (1) expressions that admit only a single meaning (e.g., cardinal numbers); (2) expressions that indicate a meaning definitively even if they may imply others (e.g., plural forms indicating generality, which definitively denote at least the minimum plural while permitting total inclusion); and (3) expressions indicating a meaning in any manner—the most common usage among jurists.

2. Concept of Maṣlaḥah

A. Linguistically:

Maṣlaḥah is the opposite of *mafsadah* (corruption). It shares the same morphological pattern and meaning. It is a verbal noun denoting soundness or integrity, similar to *manfa‘ah* denoting benefit. The root (*ṣ-l-h*) indicates the contrary of corruption. *Ṣalaḥa* means to be sound or righteous. The Qāmūs states:

“Al-ṣalāh is the opposite of corruption; aṣḥāḥ is the opposite of afsada; istaṣḥāḥ is the opposite of istafsada; and maṣḥāḥ is the singular of maṣāliḥ.”

B. Terminologically:

Imam al-Shāṭibī explains the meaning of maṣḥāḥ as: “That which contributes to the maintenance of human life, the perfection of living, and the attainment of what is required by human sensual and rational attributes in an absolute sense.” Ibn ‘Āshūr defined it as: “A description of an act that achieves pure or preponderant benefit, whether general or particular.” He further stated: “It appears to me that we should define it as a description of an act through which soundness—i.e., benefit—is attained, either always or predominantly, for the community or for individuals.” The consideration of maṣāliḥ and the construction of rulings upon them is a well-established and evident matter among Mālikī scholars.

3. Controls for the Consideration of Maṣḥāḥ

- A. It must not contradict a definitive text (naṣṣ qat‘ī) or an explicit consensus (ijmā‘ ṣarīḥ).
- B. It must be genuine, not illusory.
- C. It must align with the Lawgiver’s intent.
- D. It must be general rather than merely particular.

Second: Clarification of the Nature of the Relationship between Text and Maṣḥāḥ

The question of the relationship between text and maṣḥāḥ is among the most sensitive issues in the contemporary era. It has been the subject of extensive studies and considerable scholarly attention, especially as many contemporary mujtahids have increasingly employed the maṣḥāḥ perspective in determining rulings. However, such application must be undertaken with great caution to prevent the activation of maqāṣid from resulting in the neglect of texts—i.e., allowing the branch to invalidate the root, which is impermissible. Thus, the nature of the relationship between text and maṣḥāḥ can be discerned through the degree of complementarity and balance between them. When both are integrated harmoniously and each is applied appropriately by the researcher, they become a means to achieving moderate legislation.

1. The Complementary Nature of the Relationship between Text and Maṣḥāḥ

The relationship between texts and interests is one of complementarity and harmony. This is necessarily so, for the text is the foundation of maṣḥāḥ, while maṣḥāḥ is its spirit, which guarantees its eternity and suitability for every time and place. Al-Shāṭibī’s inductive analysis demonstrates that Sharī‘ah was established for the interests of humanity in both worldly and otherworldly affairs. The foundation and structure of Sharī‘ah rest upon wisdom and interests; it is entirely justice, wholly mercy, entirely beneficial, and fully wise. Any issue that deviates from justice toward injustice, from mercy toward its opposite, from benefit toward harm, or from wisdom toward futility is not part of Sharī‘ah, even if introduced through interpretation.

In this regard, Ibn al-Qayyim’s statement is particularly relevant: “Everything that departs from maṣḥāḥ toward mafsadah is not part of Sharī‘ah, regardless of how it is forced into it.” Sharī‘ah’s concern for maṣḥāḥ is manifest, and in safeguarding these interests, the Lawgiver embedded them within His texts, which He undertook to preserve. This profound connection was expressed by al-Dīn al-Rayyisūnī as: “Sharī‘ah is maṣḥāḥ, and maṣḥāḥ is Sharī‘ah.” The evidence for the intimate link between text and maṣḥāḥ is abundant. As al-‘Izz ibn ‘Abd al-Salām stated: “Whoever practices Sharī‘ah

and understands the maqāsid of the Qur'ān and Sunnah knows that everything commanded is for the attainment of benefit or benefits, the averting of harm or harms, or both; and everything prohibited is prohibited for the repulsion of harm or harms, the attainment of benefit or benefits, or both. Sharī'ah is replete with this.”

Ibn al-Qayyim noted that the evidences supporting the consideration of maṣlaḥah exceed one thousand in diverse forms. Therefore, the connection between text and maṣlaḥah is evident, and separating them is impossible due to the profound bonds uniting them. Any claim of contradiction between them stems from ignorance of Sharī'ah. As the “Sultan of Scholars” observed, whoever truly engages with Sharī'ah realizes that the texts inherently encompass interests and that interests are in harmony with the texts.

2. Balance in the Relationship between Text and Maṣlaḥah

The disciplined relationship between text and maṣlaḥah is based on due consideration of both elements. Strict literal adherence to the apparent meanings of texts signals rigidity and the suspension of their objectives, while obstructing the dynamic nature of ijtihād that Sharī'ah seeks to sustain in response to contemporary developments and realities. Conversely, excess in pursuing what is claimed to be maṣlaḥah must be avoided, lest rulings become unmoored and the breach widens beyond repair under the pretext of maṣlaḥah.

Clinging exclusively to either extreme is detrimental. Rigid adherence to transmitted texts without renewal is a deviation in religion and ignorance of the maqāsid of Muslim scholars and the righteous predecessors. This underscores the necessity of enriching ijtihād and renewing scholarly inquiry, as realities change and circumstances evolve. Each generation must exercise ijtihād according to the conditions and requirements of its era, without sidelining or excluding the texts. How can maṣlaḥah be realized independently of the text that affirms and attests to it? Any interest achieved only through the abrogation of the text cannot be considered a legitimate shar'ī maṣlaḥah.

Legally recognized maṣāliḥ do not conflict with or contradict the texts; rather, they harmonize with them and proceed according to their pattern. Therefore, the adjudication of interests must be guided by the extent to which the Lawgiver has recognized them, as this recognition protects against the excesses of desires and inclinations. What constitutes a maṣlaḥah for one person may not for another, and what is beneficial now may become harmful later. Moreover, interests are not uniform in weight or type. A worldly interest may undermine an otherworldly one, in which case it is rejected upon consideration of consequences (mālāt). The worldly realm and all it contains is subordinated to the attainment of the Hereafter. Whatever undermines otherworldly interests cannot align with the Lawgiver's intent or fall under its scope; it is thus invalid.

The ruling of invalidity here is based on prioritizing otherworldly interests as the foundation for worldly ones. The subsidiary cannot invalidate its principle, as al-Shāṭibī established. Therefore, it is essential that maṣlaḥah be applied within the framework of the texts, thereby realizing the principle of balance and preventing license in the name of maṣlaḥah.

Chapter Two: Maqāṣidī Balance and Its Impact on Realizing Moderate Legislation

Section One: Maqāṣidī Balance

Subsection One: Balance through the Relationship between Constants and Variables

One of the most prominent foundations that rendered Mālikī jurisprudence a model of moderate fiqh is its profound awareness of the necessity of reconciling the fixed and the variable. Islamic Sharī‘ah is characterized by permanence, universality, and eternity, while simultaneously possessing flexibility, realism, and comprehensiveness. Constants (thawābit) refer to those rulings and universal principles from which deviation is impermissible and concerning which ijtihād is not exercised in terms of acceptance or rejection. Variables (mutaghayyirāt), by contrast, are those realities and events that may change according to temporal, spatial, and circumstantial conditions. Their variability must be taken into account in the deduction or application of rulings, provided that the fixed principles are neither violated in their essence nor subjected to alteration, as they are immutable and unchangeable.

A sound understanding of the true nature of constants and variables facilitates the proper placement of each in its appropriate domain without violation or transgression against either. Neglecting constants leads to dilution, while neglecting variables leads to extremism and excess. Sharī‘ah aims to uphold both, as it is established that the Lawgiver intended legislation to realize human interests in both this world and the Hereafter in a manner that preserves the integrity of the Sharī‘ah system—neither in its totality nor in its parts—across all its levels. Any potential disruption to its system or rulings is prohibited, since legislation is its subject matter and the Lawgiver intended it to embody absolute interests. Therefore, its formulation must be eternal, universal, and general across all types of obligations, obligated persons, and circumstances.

Sharī‘ah is general, consistent, and governing—both individually and collectively. Any apparent particularity in its texts or rational derivations ultimately returns to generality. This indicates that Sharī‘ah has not neglected any aspect of life, regardless of its rank, because it is an indivisible whole. Prioritizing one part over another introduces corruption into the entirety. Consequently, Sharī‘ah assigns every issue its due measure and appropriate attention within a comprehensive, balanced perspective that integrates texts and interests, constants and variables. It fulfills the requirements of every time and place in the most excellent and perfect manner, rendering alteration or substitution unnecessary.

That which belongs to Sharī‘ah is either definitive (qaṭ‘ī) or reducible to a definitive principle. Definitive and universal elements are unaffected by change or alteration, even if obligation were to persist indefinitely. Alternatively, it may be subject to ijtihād, interpretation (ta’wīl), and the exercise of scholarly understanding and opinion. This contributes to its continuity, endurance, and ability to keep pace with realities and emerging circumstances. Thus, a genuine understanding of the dialectic between permanence and flexibility constitutes the greatest pathway to achieving moderate fiqh. The leading Mālikī scholars succeeded in this by harmonizing the fixed and the variable in their reasoning without neglecting either. They recognized custom (‘urf) and habitual practice, adjudicated according to them, and constructed rulings upon them in areas that do not conflict with or contradict constants—unlike those who open the door widely to customs and impose empirical reality and its rulings upon Sharī‘ah, thereby establishing a reprehensible relativism that opposes all forms of permanence, whether textual or purposive.

Even universal and fixed maqāṣid cannot be demoted from their rank of permanence, for subjecting the fixed to the variable renders it variable as well. Such change and alteration leads to the loss of controls

and restraints, the erosion of values and ethics, and the dissipation of foundational principles and constants upon which Islam as a whole is built.

The Mālikī school attained an unparalleled level in realizing moderate legislation through maqāṣidī balance. It extensively applied numerous rules and principles, transforming them into an extended bridge between the text and the fixed maqṣad on the one hand, and custom and relative, changing reality on the other. The rulings they issued were thus congruent with varying circumstances, places, and times. This resulted from their careful consideration of these two great aspects of Sharī‘ah and the utilization of each attribute in its proper domain. Consequently, the Mālikī school became both textual and maṣlahah-oriented simultaneously—preserving foundational principles while responding to the variables of reality. This is likely what Ibn Khaldūn alluded to when he described the Mālikī school as the broadest in considering interests, owing to its connection with people’s conditions, customs, and practices, making it most suitable for urban civilizations in managing their worldly affairs.

Subsection Two: Balance through the Relationship between Text and Maqṣad

The relationship between maqṣad and text is that of a branch to its root. By “text” (naṣṣ) we mean revelation, whether Qur’ānic or Prophetic. The Qur’ān is the root of all roots to which all evidence returns, including the noble Sunnah. Seeking maqāṣid outside the Qur’ān is to search for something that does not exist, for the Qur’ān is their source, origin, and the root from which their branches extend.

One might object that there exist maqāṣid in the independent legislative Sunnah for matters not explicitly addressed in the Qur’ān. We respond that the Sunnah in its entirety derives its authority from the testimony of the Noble Qur’ān. The intention here is to clarify the status of the Book, not to deny the authority of the noble Prophetic Sunnah. We shall first address the relationship between maqāṣid and the Qur’ān, followed by the relationship between maqāṣid and the noble Sunnah.

First: The Relationship between the Qur’ān and Maqāṣid

The relationship uniting the Qur’ān and the science of maqāṣid is profoundly deep. Imam al-Ṭūfī excellently portrayed and expressed it when he stated: “The Qur’ān is replete with interests, and there is no verse in the Book of Allah that does not encompass a maṣlahah or maṣāliḥ.” These interests, according to Dr. al-Khādīmī, constitute the core of the maqāṣid of Sharī‘ah and the intent of the Lawgiver.

As Imam al-Shāṭibī (may Allah have mercy on him) affirmed, the Book “is the totality of Sharī‘ah, the pillar of the religion, the fountainhead of wisdom, the sign of the Message, and the light of eyes and insights. There is no path to Allah except through it, no salvation without it, and no adherence to anything that contradicts it.” This requires no further affirmation or proof, as it is well-known within the religion of the Ummah. Therefore, whoever seeks to comprehend the universals of Sharī‘ah, aspires to grasp its maqāṣid, and wishes to join its people must take the Qur’ān as their constant companion and intimate friend, making it their daily associate through reflection and practice, not limiting themselves to one without the other.

The Qur’ān is an inexhaustible fountain of maqāṣid. Maqāṣid of all types—whether general or particular legislative maqāṣid, universal or specific, creational (qadarīyyah), or cosmic (which transcend legislative maqāṣid)—are derived from it. Even maqāṣid drawn from authentic Sunnah texts in areas where the Sunnah provides additional legislation ultimately return to the Qur’ān, since the Sunnah derives its authority from the Qur’ān’s testimony.

There are numerous verses that indicate causation (ta'lil) and clarify the maqṣad behind a ruling. Enumerating them is beyond the scope of this study. Instead, we refer to the statement of Ibn al-Qayyim (may Allah have mercy on him), who described the Qur'ān's methods and the Creator's styles in causation and purposiveness: "Sometimes it mentions the explicit lām of causation; sometimes the object for whose sake the act is performed, which is the maqṣad of the act; sometimes the explicit 'min ajl' in causation; sometimes the particle 'kay'; sometimes 'fa' and 'an'; sometimes the particle 'la'alla' that implies pure causation detached from the meaning of hope attributed to the creature; sometimes it explicitly draws attention to the cause; sometimes it mentions appropriate derived attributes for those rulings and orders them as effects are ordered upon their causes; sometimes it denounces those who claim that He created His creation and legislated His religion in vain and without purpose; sometimes it denounces those who suppose that He equates the dissimilar, which require different effects; sometimes it chooses with perfect wisdom and knowledge that necessitates neither equating similars nor differentiating dissimilars, and that He places things in their proper stations and ranks them according to their levels..."

Within each style lies a vast number of verses. One can imagine the number of maqāṣid indicated by the Qur'ān; the minimum would equal the number of its verses, since some verses encompass more than one maqṣad. This concerns the particular maqāṣid latent in every verse or Qur'ānic passage. There is no verse without an objective or purpose. Claiming otherwise would imply that Allah (Exalted is He) sent this Sharī'ah in vain, which He has negated concerning His Exalted Self. Even if we hypothetically assume the existence of a verse or verses without maqāṣid, the defect would lie with the reader whose intellect failed to grasp them—unless the matter pertains to what Allah has reserved for His exclusive knowledge, particularly in acts of worship. Apart from that, the verses of the Book are purposeful, for He, Glorified and Exalted, is Wise and does nothing in vain. He has emphasized this in His Noble Book:

{“Then did you think that We created you in vain and that you would not be returned to Us? So exalted is Allah, the Sovereign, the Truth. There is no deity except Him, Lord of the Noble Throne.”} (Qur'ān 23:115-116).

Contemplating the Qur'ān, eliciting its meanings, and exploring its objectives requires knowledge of the Lawgiver's maqāṣid, consideration of consequences, and balance between competing interests and maqāṣid—always prioritizing the superior, in accordance with Sharī'ah's established method of preferring the greater good and averting the greater harm. The Wise Lawgiver is consistent in His legislation. When the mujtahid succeeds in understanding His intent (Exalted is He) and the wisdom of the legislation becomes manifest, his soul finds tranquility, his heart is reassured, his limbs are at rest, and he submits to his Lord and Master. This is the pathway to realizing the ultimate maqṣad of all maqāṣid: the exclusive worship of Allah.

Second: The Relationship between Maqāṣid and the Sunnah

The various categories of the Sunnah highlight its relationship with maqāṣid. The Sunnah either confirms a ruling, clarifies an ambiguous one, resolves difficulties, restricts the absolute, specifies the general, or, in other cases, independently legislates rulings. The Prophet (peace and blessings of Allah be upon him) was the most knowledgeable of people regarding the Lawgiver's intent and the most profound

in understanding legislative philosophy. Therefore, the independent maqāṣid of the Sunnah do not deviate from those of the Qur'ān.

Maqāṣid of Sharī'ah are learned through a comprehensive, holistic examination of the texts of the Book and the Sunnah, for the expression “maqāṣid of Sharī'ah” encompasses both. The principles of Sharī'ah are complete in the Qur'ān and the Sunnah; nothing is lacking, as inductive analysis confirms. Prophetic texts that explicitly indicate causation and point to the Lawgiver's maqāṣid in legislating rulings are too numerous to enumerate. Examples include the purpose behind the command to seek permission before entering, the prohibition of combining a woman with her paternal or maternal aunt in marriage, and other Sunnah texts that explicitly declare purposiveness.

In some cases, where the Qur'ān specifies certain maqāṣid of a ruling, the Sunnah specifies additional ones. A single ruling may thus involve multiple maqāṣid—primary and secondary, or those intended by the primary purpose and those sought by the secondary purpose. An example is the purpose of legislating marriage: the Qur'ān specifies the maqṣad of tranquility (sakan), while the Sunnah clarifies others, including procreation, lawful enjoyment, safeguarding chastity, and (where applicable) enjoyment of the woman's wealth.

All of this establishes the profound relationship binding maqāṣid to the texts of the Sunnah. The latter is the second primary source for deriving and revealing maqāṣid. The relationship is that of a branch to its root. The Sunnah is an authentic root for deriving maqāṣid and understanding the Lawgiver's intent and legislative objectives, by virtue of being the “sister” of the Qur'ān and being revealed inspiration, as previously established.

Section Two: The Impact of Maqāṣidī Balance on Realizing Moderate Legislation

The impact of maqāṣidī balance manifests through the following:

Subsection One: Regulating Jurisprudential Renewal

There are frequent calls for the necessity of jurisprudential renewal (tajdīd fiqhī), rejecting rigidity upon transmitted opinions, and refusing to live under the constraints of a bygone historical context. It is essential to produce knowledge and generate a fiqh that engages with our contemporary reality and present circumstances, just as our predecessors did. This statement is undoubtedly logical and represents the aspiration of every scholar who has understood Allah's purpose in ensuring the continuity of this Sharī'ah.

However, what some overlook—thereby distancing themselves from moderate legislation—is the need to regulate any renewal according to the controls of the Sharī'ah. By “regulating ijtihād,” we do not mean restricting or freezing it, but rather providing a methodological framework that ensures ijtihād proceeds upon legitimate foundations, safeguarding it from error and deviation from Allah's intent. This is achieved by making ijtihād an interactive process with emerging realities, firmly connected to constants and foundational principles. The Mālikī scholars accomplished this through a robust scientific methodology based on several key foundations, which we summarize as follows:

- A. Linking the text with the maqṣad.
- B. Conscious utilization of maqāṣidī jurisprudential rules.
- C. Consideration of reality, circumstances, and custom (‘urf).
- D. Weighing between texts and maqāṣid, and between maqāṣid themselves.

E. Achieving stability and preventing jurisprudential fragmentation.

Subsection Two: Establishing the Fiqh of Reality

The Mālikī school is among those that most strongly emphasize the fiqh of reality (fiqh al-wāqī'). This is clearly evident in the balance they established between texts and maqāṣid. They did not view rulings in isolation from people's realities, customs, and practices, which their Lord had already taken into account during the era of revelation. After the cessation of revelation, they judged analogous cases by adhering to the Lawgiver's established practice of considering people's customs. They affirmed that "what is known by custom is like what is stipulated by condition."

By fiqh al-wāqī', we mean the jurist's awareness of people's circumstances, customs, and conditions, enabling him to apply the text to reality in a precise and sound manner. For this reason, the Mālikīs prohibited a muftī from issuing a fatwa before understanding the people's circumstances sufficiently to determine what suits their condition. Al-Qarāfī stated that among the rules of fatwa is that if a man from outside your region seeks your opinion, you should not impose the custom of your country upon him. Rather, inquire about the custom of his country, apply it to him, and issue the fatwa accordingly, rather than according to the custom of your land or what is recorded in your books.

Thus, the fiqh of reality is not an intellectual luxury but a condition for the validity of ijtihād. Khalīl drew attention to this issue when criticizing those who err in fatwa by strictly following the opinions of earlier scholars. He clarified that it is not permissible for a muftī to issue a fatwa regarding divorce by declaring something ḥarām merely because it is recorded in the books from Mālik, unless he knows that the person belongs to a land where that custom applies. If the person is from another land, the muftī should rule according to the conditions of that person's country. Many jurists have overlooked this and issued fatwas based on earlier opinions after those customs had disappeared, thereby erring and violating consensus. Issuing a ruling based on a legal ground that no longer exists contravenes consensus. Hence, changes in customs from one country to another influence the fatwa.

Subsection Three: Reviving the Spirit of Sharī'ah

Maqāṣid represent the spirit and essence of Sharī'ah. The maqāṣidī perspective serves as the connecting link between people's realities and the textual legislations. Texts cannot interact with realities and emerging issues in isolation from maqāṣid. The latter contribute to the continued vitality and dynamism of the texts, enabling them to keep pace with developments in every era, region, and sphere of life, without undermining the status of the text or transgressing it. The maqāṣidī perspective is what guarantees the achievement of moderate balance that integrates respect for constants and adherence to them with the pursuit of renewal that does not violate foundational principles.

The maqāṣidī balance that distinguishes Mālikī jurisprudence is the optimal path for realizing the eternity and continuity of Sharī'ah as a civilizational beacon that illuminates humanity, bringing it forth from darkness into light. Religion is not merely a set of dry commands and prohibitions that disregard reality or fail to serve interests. On the contrary, our religion is realistic without submitting to reality. It seeks to improve people's conditions, preserve their religious and worldly interests, within a comprehensive, holistic, and non-fragmented vision. Among the most important principles upon which religion is based is the principle of balance and prioritization. For this reason, many scholars have defined fiqh as "knowing the better of two goods and the worse of two evils." Religion aims to realize and attract

pure benefits while repelling and preventing harms. The processes of attraction and repulsion are based on prioritizing the more beneficial aspect. A *maṣlaḥah* that conflicts with a superior *maṣlaḥah* is undoubtedly rejected.

Conclusion

In conclusion of this study, we praise Allah, by Whose grace righteous deeds are completed. The research has arrived at a number of findings and recommendations, which we present as follows:

First: Key Findings

In the Mālikī school, the *maqāṣid* of Sharī‘ah constitute a central axis in the construction and deduction of rulings. This stems from the comprehensive approach adopted by Mālikī scholars in dealing with Sharī‘ah as a divine system established to realize the interests of humanity in both this world and the Hereafter.

Maqāṣidī balance in the Mālikī school rests upon precise scientific rules that enable the jurist to apply apparent meanings in their proper contexts and consider *maqāṣid* in their appropriate domains, according to a meticulous interest-based perspective. This perspective is grounded in the principle that interests do not oppose texts and that texts inherently encompass interests. Whatever contradicts this cannot be considered a legitimate *maṣlaḥah*, even if forcibly introduced.

The diversity and abundance of foundational principles in the Mālikī school have provided sufficient flexibility to achieve a balanced and moderate *maqāṣidī* legislation.

The moderate legislation produced by the Mālikī jurisprudential methodology is characterized by moderation and realism. It is a legislation that considers human necessities, interests, customs, practices, and realities without excess or deficiency—neither nullifying texts in the name of *maqāṣid* nor neglecting *maqāṣid* in the name of texts.

The secret behind the continuity and widespread dissemination of the Mālikī school across Islamic societies lies in its distinctive *maqāṣidī* balance, which has granted it greater capacity to adapt to variables without compromising constants and foundational principles.

Second: Key Recommendations

Strengthening *maqāṣid* studies within Sharī‘ah educational curricula and clarifying their role in regulating *ijtihād* and preventing jurisprudential fragmentation.

Activating the methodology of *maqāṣidī* balance when addressing contemporary issues, to avoid excess in facilitation or strictness, and to achieve moderation in applying rulings to reality.

Benefiting from the Mālikī methodology in formulating modern laws and legislations in Islamic countries, considering it a successful model for harmonizing authenticity with contemporaneity.

Footnotes

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See: Al-Rāzī, Muḥammad ibn Abī Bakr, Mukhtār al-Ṣiḥāḥ, ed. Yūsuf al-Shaykh Muḥammad, al-Maktabah al-‘Aṣriyyah / Dār al-Namūdhajjiyyah, Beirut, Lebanon, 1420 AH/1999 CE, p. 254.

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Muḥammad al-Ṭāhir ibn ‘Āshūr, Maqāṣid al-Sharī‘ah al-Islāmiyyah, ed. Muḥammad al-Ḥabīb ibn al-Khawjah, Ministry of Endowments and Islamic Affairs, Qatar, 1425 AH/2004 CE, 1st ed., vol. 2, p. 21.

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See: Al-Qarāfī, Anwār al-Burūq fī Anwā’ al-Furūq, ‘Ālam al-Kutub, n.d., n.ed., vol. 1, p. 177.

See: Al-Shāṭibī, al-Muwāfaqāt fī Uṣūl al-Sharī‘ah, op. Cit., vol. 3, p. 7 ff.

See: Al-Qarāfī, Sharḥ Tanqīḥ al-Uṣūl, ed. Ṭāhā ‘Abd al-Ra’ūf Sa‘d, Sharikat al-Ṭibā‘ah al-Fanniyyah al-Muttaḥidah, 1393 AH/1973 CE, 1st ed., p. 161.

See: Ibn ‘Āshūr, Maqāṣid al-Sharī‘ah al-Islāmiyyah, op. Cit., vol. 2, p. 254.

See: Ibn Fāris, Mu‘jam Maqāyīs al-Lughah, op. Cit., vol. 5, p. 356; Ibn Durayd al-Azdī, Jamharat al-Lughah, op. Cit., vol. 1, p. 145.

See: Ibn Manzūr, Lisān al-‘Arab, op. Cit., vol. 7, pp. 97–98; and al-Rāzī, Mukhtār al-Ṣiḥāḥ, op. Cit., p. 688.

See: Al-Tahānawī, Muḥammad ‘Alī, Kashshāf Iṣṭilāḥāt al-Funūn wa-al-‘Ulūm, op. Cit., vol. 2, p. 187.

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See: Al-Tahānawī, Muḥammad ‘Alī, Kashshāf Iṣṭilāḥāt al-Funūn wa-al-‘Ulūm, op. Cit., vol. 2, p. 156.

See: Al-Bukhārī, ‘Abd al-‘Azīz, Kashf al-Asrār Sharḥ Uṣūl al-Bazdawī, Dār al-Kitāb al-Islāmī, n.d., n.ed., vol. 1, p. 47.

See: Ibrāhīm Muṣṭafā et al., al-Mu‘jam al-Wasīṭ, op. Cit., vol. 2, p. 926.

See: Ibn al-Najjār, Abū al-Baqā’ al-Futūḥī, Sharḥ al-Kawkab al-Munīr, ed. Muḥammad al-Zuḥaylī and Nazīh Ḥammād, Maktabat al-‘Ubaykān, 1418 AH/1997 CE, 2nd ed., vol. 3, p. 479; and al-Ghazālī, al-Mustaṣfā min ‘Ilm al-Uṣūl, op. Cit., vol. 2, pp. 60–61.

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Ibn Fāris, Mu‘jam Maqāyīs al-Lughah, op. Cit., vol. 3, p. 303.

See: Ibn Sīdah, al-Muḥkam wa-al-Muḥīṭ al-A‘ẓam, op. Cit., vol. 1, p. 464.

See: Al-Fīrūzābādī, al-Qāmūs al-Muḥīṭ, op. Cit., vol. 1, p. 229.

See: Al-Shāṭibī, al-Muwāfaqāt fī Uṣūl al-Sharī‘ah, op. Cit., vol. 2, p. 25.

See: Ibn 'Āshūr, Maqāṣid al-Sharī'ah al-Islāmiyyah, op. Cit., p. 278.

See: Khallāf, 'Abd al-Wahhāb, 'Ilm Uṣūl al-Fiqh, Dār al-Qalam, Arab Republic of Egypt, n.d., 8th ed., p. 86; and al-Būṭī, Ḍawābiṭ al-Maṣlaḥah fī al-Sharī'ah al-Islāmiyyah, op. Cit., p. 113.

Al-Shāṭibī, al-Muwāfaqāt fī Uṣūl al-Sharī'ah, op. Cit., vol. 2, p. 262.

See: Ibn Qayyim al-Jawziyyah, I'lām al-Muwaqqi'īn 'an Rabb al-'Ālamīn, ed. Muḥammad 'Abd al-Salām Ibrāhīm, Dār al-Kutub al-'Ilmiyyah, Beirut, 1411 AH/1991 CE, 1st ed., vol. 3, p. 11.

See: Al-Rayyisūnī, Aḥmad, "al-Naṣṣ wa-al-Maṣlaḥah bayna al-Taṭābuq wa-al-Ta'āruḍ," article published on Aḥmad al-Rayyisūnī's website, dated 09 April 2019, link: <https://raissouni.net>, p. 2.

See: Ibn 'Abd al-Salām, al-Fawā'id fī Ikhtisār al-Maqāṣid, ed. Iyād Khālīd al-Ṭabbā', Dār al-Fikr – Damascus, 1416 AH/1995 CE, 1st ed., p. 53.

See: Al-Qarāfī, Anwār al-Burūq fī Anwā' al-Furūq, op. Cit., vol. 1, p. 177.

See: Al-Shāṭibī, al-Muwāfaqāt fī Uṣūl al-Sharī'ah, op. Cit., vol. 2, p. 387.

See: Ibid., vol. 2, p. 285.

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See: Al-Yūbī, Maqāṣid al-Sharī'ah al-Islāmiyyah wa-'Alāqatuhā bi-al-Adillah al-Shar'iyyah, Dār al-Hijrah lil-Nashr wa-al-Tawzī', Riyadh, 1418 AH/1998 CE, 1st ed., p. 432 ff.

See: Ibid., p. 436.

See: Al-Shāṭibī, al-Muwāfaqāt fī Uṣūl al-Sharī'ah, op. Cit., vol. 1, p. 52.

See: Al-Yūbī, Maqāṣid al-Sharī'ah al-Islāmiyyah wa-'Alāqatuhā bi-al-Adillah al-Shar'iyyah, op. Cit., p. 438 (with slight adaptation).

See: 'Abd al-Raḥmān ibn Muḥammad ibn Khaldūn, Muqaddimat Ibn Khaldūn, ed. De Slane (al-Mustaṣhriq Kātrimīr), Maktabat Lubnān, Sāḥat Riyāḍ al-Ṣulḥ, Beirut, 1996 CE, 1st ed., vol. 3, p. 9.

See: Al-Ṭūfī, al-Ta'yīn fī Sharḥ al-Arba'īn, ed. Aḥmad Ḥājj Muḥammad 'Uthmān, Mu'assasat al-Rayyān, Beirut, Lebanon, 1419 AH/1998 CE, 1st ed., p. 23.

See: Al-Khādimi, 'Ilm al-Maqāṣid al-Shar'iyyah, op. Cit., p. 39.

See: Al-Shāṭibī, al-Muwāfaqāt fī Uṣūl al-Sharī'ah, op. Cit., p. 240.

See: Ibn Bayyah, Mashāhid min al-Maqāṣid, op. Cit., p. 81 ff.

See: Ibn Qayyim al-Jawziyyah, Miftāḥ Dār al-Sa'ādah wa-Manshūr Wilāyat al-'Ilm wa-al-Irādah, op. Cit., pp. 22–23.

See: Al-Ṭūfī, al-Ta'yīn fī Sharḥ al-Arba'īn, op. Cit., p. 244.

See: Ibn Qayyim al-Jawziyyah, Shifā' al-'Alīl fī Masā'il al-Qaḍā' wa-al-Qadar wa-al-Ḥikmah wa-al-Ta'līl, ed. Muḥammad Badr al-Dīn Abū Firās al-Na'sānī al-Ḥalabī, Dār al-Fikr, Beirut, 1398 AH/1978 CE, 1st ed., p. 190.

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See: Al-Shāṭibī, al-Muwāfaqāt fī Uṣūl al-Sharī'ah, op. Cit., p. 322.

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See: Ibn Taymiyyah, Majmū‘ al-Fatāwā, ed. ‘Abd al-Raḥmān ibn Muḥammad ibn Qāsim, Majma‘ al-Malik Fahd li-Ṭibā‘at al-Muṣḥaf al-Sharīf, Madinah, Kingdom of Saudi Arabia, 1416 AH/1995 CE, 1st ed., vol. 10, p. 512.

The footnotes are now properly numbered in sequential order and translated in a consistent academic style suitable for an international journal.