From Islamic Modernism to Theorizing Authoritarianism: Bin Bayyah and the Politicization of the *Maqāṣid* Discourse

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Abstract

Since the beginning of the twentieth century, modernist Islamic reformers have proposed more "objectives of Islamic law" or *maqāṣid al-sharīʿah* and argued that the *maqāṣid*-oriented approach indicates that Islamic priorities include the modern principles of democracy, social justice, human rights, and government accountability. This paper considers the evolution of *maqāṣid* and its relationship with the traditional framework of *uṣūl al-fiqh*. Subsequently, it addresses how the new *maqāṣid* discourse has been politicized. It analyzes the use of *maqāṣid* by Shaykh ʿAbdullah Bin Bayyah in his recent declarations

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concerning the UAE's policies against regional democracy. This paper argues that Bin Bayyah's interpretation of *maṣlaḥah* (legal benefit) and his adoption of the idea of absolute obedience to the ruler (*walī al-amr*) are not based on the traditional interpretation of the sacred texts that have been adopted by Salafists and Traditionalists. Rather, it is deeply rooted in the *maqāṣid* discourse and rational reasoning related to Islamic modernism. The article includes a comprehensive examination of Bin Bayyah's justifications, as based on two basic points: first, the priority of peace as a higher objective (*maqṣid*) of *sharīʿah* than rights and justice; second, the verification of the *ratio legis* (*taḥqīq al-manāṭ*). This paper argues that this ideological interpretation could shift the purpose-oriented basis of *maqāṣid al-sharīʿah* to result-oriented objectives, which focus on specific ideologies to satisfy contradicting political ends.

Introduction

A widely-used term in the field of Islamic law is *maqāṣid al-sharīʿah*. It was initially used with reference to the betterment (*maṣālih*) of mankind, under the guidelines of the classical Islamic legal heritage that was expounded by al-Ghazālī.[1] However, by the beginning of the twentieth century, a new trend developed with regards to the adoption of the *maqāṣid*-oriented approach. This was related to the increase in the number of *maqāṣid* and promotion of alternative interpretations, as both religious scholars and modernists viewed these interpretations as the ideal approach for adapting *sharīʿah* to the modern context.

Though the modern scholars of *maqāṣid* have distinct perspectives, it can be argued that most of them have similar ideas, such as the suggestion to expand the scope of the *maqāṣid* beyond the five Ghazālian objectives of *sharīʿah* by highlighting 'public interest' and 'well-being' and rejecting the literal readings of sacred texts. They also propose that the application of *maqāṣid* should be expanded beyond the boundaries of Islamic law, and developed in line with new religious rulings that are consistent with the modern context.[2] This raises the question

of whether the *maqāṣid*-oriented approach is serving its purpose. This paper, therefore, evaluates the traditional approach of *maqāṣid* against how it has been utilised since the revival of the theory at the beginning of the twentieth century. Subsequently, it analyzes Shaykh ʻAbdullah bin Bayyah's latest fatwās and declarations concerning the UAE's normalized relations with Israel and the UAE's policies against regional democracy. It aims to demonstrate how the new *maqāṣid* discourse has been politicized, modified, and re-structured to promote authoritarianism.

Evolution of *Maqāṣid al-Sharīʻah*

Maqāṣid al-sharīʻah refers to the higher objectives of *sharīʻah,* aimed at promoting public benefit and preventing potential harm.[3] This section focuses on the main contributions and developments of the theory. Interestingly, the studies on *maqāṣid al-sharīʻah* have been based on various phases of development. They are either traditional, which is roughly between the eleventh and fifteenth century, or from the late nineteenth century onwards. However, the twentieth century was a period when there was an intensive application of the theory of *maqāṣid al-sharīʻah* by modernist Islamic reformers and thinkers, who considered values such as democracy, social justice, good governance, and human rights as 'Islamic' objectives and priorities.[4]

Considering the prevalence of the *maqāṣid*-oriented approach in modern Islamic literature—and with requests for its adoption as a foundational framework to develop new Islamic legal rulings that are consistent with the contemporary context—it is important to examine how such a traditional tool was developed in the contemporary world to meet the demands of its advocates. This could aid with understanding how this same approach could be utilized by different scholars with contradicting decisions and outcomes. Moreover, it is essential to examine the 'pre-*maqāṣid*' era, as well as the contextual background of the formative period with regards to the *uṣūl al-fiqh* (legal theory), since the birth of *maqāṣid al-sharīʻah* cannot be separated from the development of *uṣūl al-fiqh*.

Pre-Maqāṣid Era

The comprehensive history of *maqāṣid al-sharīʿah* can be traced to the early stages of Islam, when various verdicts of the Qurān and prophetic teachings were being revealed. Their objectives and wisdom were generally accepted and understood by the first generation of Muslims, as this historiography narrates.[5] For instance, the second caliph ʿUmar ibn al-Khaṭāb is a notable example of someone issuing verdicts based on the objectives of *sharīʿah*. His administrations and decisions on conquered lands, spoils of war, *ḥudūd* (capital punishment), and the marriage of non-Muslims were sometimes explicitly premised on public interest or *maṣlaḥah*.[6]

Somewhat later, after the era of the Prophet's Companions, when Muḥammad b. Idrīs al-Shāfiʿī (d. 204/820) composed *al-Risālah*, he posited the principles and guidelines that form the broad framework for *sharīʿah*. Al-Shāfiʿī was concerned to justify how Qur'ān, Sunnah, Consensus, and Analogy (*qiyās*) act as the legal bases of the derivations of the rulings. The result was what many have referred to as the "legal theory" of *uṣūl al-fiqh*.[7] Although several academics have debated al-Shāfiʿī's status as progenitor of the science of *uṣūl al-fiqh* and indeed more broadly questioned its beginnings,[8] nonetheless al-Shāfiʿī is often regarded by Muslim sources as its "founder".[9] Al-Shāfiʿī's methodology limited rational reasoning to *qiyās*; however, he argued against the traditional jurists at that time, who rejected the use of reasoning to engage with the scriptures.[10] Ahmed El-Shamsy maintains that jurists' approaches before al-Shāfiʿī often relied on communal traditions, and it was al-Shāfiʿī's model that introduced a scientific interpretative system with the exclusive authority of textual sources and also independent from communal practices. Thus, El-Shamsy concludes that the legal theory, as developed by al-Shāfiʿī and further expanded by his students, was adopted by other jurists and led to the formation of the four recognized legal schools (namely Ḥanafī, Mālikī , Shāfiʿī, and Ḥanbalī).[11]

Like with those of the first Muslim generation, *maqāṣid al-sharīʿah* was embodied and reflected in various legal verdicts made in the four schools of Islamic jurisprudence, but within the limits of *uṣūl al-fiqh*.

Al-Raysūnī argues that the Mālikī school was particularly concerned with promoting human benefits and preventing potential harm and corruption under the name of *istiṣlāḥ*, and sometimes in the name of *qiyās*.[12] Other schools also employed *maṣlaḥah* but under different names, such as the term *istiḥsān* used by the Hanafīs[13] and the term *ikhālah* (convincing opinion) used by the Shāfiʿīs.[14] The Ḥanbalīs, however, at least declaratively emphasized that human reason is unable to achieve moral knowledge independently of the four sources of law. According to this position, good is what God ordered and evil is what he prohibited. Based on this, a *maṣlaḥah* is legitimate only if it is derived from the revealed law.[15] Although Mālikīs were more welcoming to the consideration of *maṣlaḥah* than others, al-Qarāfī (d. 1285) noted that the jurists of all schools made use of it as they all tested rulings' *munāsabah* (suitability), which is in turn the basis of *maṣlaḥah*.[16] Some justified their consideration of *maṣlaḥah* as a tool of attending to legal purposes.[17] However, many scholars directly incorporated it into their methodology as the base of *qiyās*. Such consideration would allow *maṣlaḥah* a tenuous yet notable space in classical legal reasoning.[18] According to Bin Bayyah, the relationship between *maqāṣid al-sharīʿah* and *uṣūl al-fiqh* was seen through several legal approaches that mediated the development of *maqāṣid al-sharīʿah*, such as reasoning by analogy (*qiyās*), juridical preference (*istiḥsān*), and public interest (*maṣlaḥah*).[19] However, *maqāṣid* itself was not considered a separate topic and did not receive special attention until the eleventh century, when scholars developed the most extensive records of the theory's applications.

The Formative Period of the Maqāṣid

According to al-Raysūnī, the Ḥanafi scholar al-Ḥakim al-Tirmidhī (d. probably 298/910) was the foremost jurist to dedicate a full book to *maqāṣid* in his work titled "The Objectives of Prayers," and he was among the earliest jurists to explain the underlining purposes (*al-ʿilal*) of Islamic legal verdicts by using experiential and figurative methods.[20] Similarly, al-Balkhī (d. 322/933) devoted his book *al-Ibānah ʿan ʿilal al-Diyānah* to explaining the purposes underlying Islamic juridical rulings. Later,

more scholars explained the wisdom and purposes of different Islamic legal injunctions, such as al-Qaffāl al-Shāshī (d. 356) in his book *Maḥāsin al-Sharīʿah*, and al-ʿĀmirī (d. 381) in his book *al-Iʿlām bi Manāqib al-Islam*.[21] However, it has been argued that their works do not provide an epistemological and methodological framework for the *maqāṣid* and Islamic legal theory of *uṣūl al-fiqh*. Their significance, rather, lies in the explanation of the virtues and the divine wisdom behind specific rules of Islamic law.[22]

The theory of *maqāṣid* and its applications were more fully manifested by Abū al-Maʿālī al-Juwaynī (d. 478/1085).[23] He is regarded as the architect of the three categories of *maqāṣid al-sharīʿah*, namely necessities, needs, and luxuries,[24] a categorization which was widely adopted and accepted by subsequent jurists.[25] Al-Juwaynī's disciple al-Ghazālī (d. 505/1111) introduced the five higher objectives of *sharīʿah*, namely religion, life, intellect, offspring, and property. These five refer to the essential priorities that should be preserved for the religious and social well-being of individuals, as their absence could result in corrupted and chaotic lives. Based on this, anything that protects these five priorities are considered *maṣlaḥah* (benefit), and whatever does not protect them is its opposite, namely *mafsadah* (harm).[26] The concept of *maṣlaḥah* was discussed extensively by al-Ghazālī and was then integrated into the framework of legal theory (*uṣūl al-fiqh*), as it legitimized new rulings and allowed jurists to address everyday occurrences that are not mentioned in the textual sources of the law.[27] To explain the considerations of *maṣlaḥah*, al-Ghazālī divides it into three types: *maṣlaḥah* that the *sharīʿah* acknowledges and is therefore undoubtedly authoritative; *maṣlaḥah* that is rejected by *sharīʿah* and is consequently plainly inadmissible; and finally, *maṣlaḥah* that is neither acknowledged nor rejected by the *sharīʿah*. Al-Ghazālī was critical of *maṣlaḥah* as an independent source of legislation apart from the Qurān, Sunnah, and Consensus, but he did validate it if it would promote any of the five higher objectives of *sharīʿah*.[28] He also asserted that it must be certain and universal (meaning that it must encompass all Muslims).[29]

These five higher objectives of *sharīʿah* were accepted by almost all subsequent jurists, such as al-Āmidī (d. 631/1233),[30] al-Qarāfī, al-Rāzī (d.

1209), and al-Taftazānī (d. 793/1390).[31] Although a number of scholars continued to contribute to the development of the *maqāṣid*, it is believed that, till the thirteenth century, most of the literature that was written on the discourse of *maqāṣid* after al-Juwaynī and al-Ghazālī were mostly repetitions or explanations of what both scholars had contributed to the theory.[32] This conception was then revised and expanded in the fourteenth century by Ibn Taymiyyah and was developed as a new theory of Islamic law by al-Shāṭibī.[33]

The Iraqi and Ḥanbalī jurist Najm al-dīn al-Ṭūfī (d. 1316) was among the most prominent jurists who challenged the traditional reservations about the authority of *maṣlaḥah*. Al-Ṭūfī witnessed the traumatic impacts of the devastating Mongol invasions that the Muslim world endured during the thirteenth century. He was occupied with the idea of bringing Muslim jurists together, and he found in *maṣlaḥah* a tool that could promote shared ground among jurists, based on their common interests.[34] He argued that since the validity and the importance of the consideration of *maṣlaḥah* were clearly affirmed and derived from the survey and scrutiny of the Qur'ān and Sunnah,[35] the authority of *maṣlaḥah* as a source of legislation should not be limited to scriptural resources. He concluded that if a divine text or consensus differed regarding *maṣlaḥah*, then they should be understood in light of those considerations, and not the opposite. Consequently, al-Ṭūfī argues that *maṣlaḥah* is stronger than consensus, because some scholars have questioned the authority of consensus as a valid source of law, unlike *maṣlaḥah*, which boasts unanimous agreement. Therefore, al-Ṭūfī places *maṣlaḥah* above all other sources of law.[36] Moreover, he asserted that the determination of *maṣlaḥah* relies on the considerations of custom (*'ādah*) and reason (*'aql*). Accordingly, he demanded that Muslim jurists use their reasoning to study the reality of their societies to determine what benefits society and what society itself perceives to be beneficial.[37] Al-Ṭūfī's position regarding the determination of *maṣlaḥah* thus departed from al-Shāfi'ī's theory of *uṣūl al-fiqh* and al-Ghazālī's criteria of *maqāṣid*, such as the compatibility with scriptural text and a direct connection to the five higher objectives of *sharī'ah*.

Al-Ṭūfī's position was based on the famous ḥadīth and legal maxim, "There should be neither harming (*ḍarar*) nor reciprocating harm (*ḍirār*)."

Given this essential principle, he argued that *maṣlaḥah* (not the scriptural resources) must be the basis for the legitimacy of all Islamic legal verdicts.[38] Although al-Ṭūfī's theory of *maṣlaḥah* received a lot of criticism from scholars of his time, it came to enjoy a new prominence among modern scholars and reformers at the beginning of the twentieth century. His treatise on *maṣlaḥah* was published by Rashīd Riḍā in *al-Manār* in 1906, with the annotations of the Syrian reformer Jamāl al-dīn al-Qāsimī (d. 1332/1914), who played a great role in popularizing al-Ṭūfī's discourse.[39] (We will return to modern contestations of this argument.)

The fourteenth century, however, was a time of relative peace and political stability in the Muslim world, which facilitated intellectual production. The Andalusian Mālikī jurist Abū Isḥāq al-Shāṭibī (d. 790/1388) resumed the development of the theory of *maqāṣid*. He markedly improved the notion of *maṣlaḥah*, establishing it as a methodology for overcoming the rigidity instructed by literalism and *qiyās*.[40] Al-Shāṭibī advocates that "The *sharīʿah* was put up for the promotion of the *maṣāliḥ* of the believers."[41] However, as ʿAbdallah Darāz, the commentator on al-Shāṭibī's book *al-Muwāfaqāt*, states, al-Shāṭibī reconstructed three major elements of the theory of *maqāṣid*. First, he treated *maqāṣid al-sharīʿah* as a visibly recognized legal entity. Second, he considered human objectives as another perspective of the whole theory. Third, he established methods and guidelines for identifying and considering the *maṣlaḥah*.[42] Al-Shāṭibī recognized the significance of the concept of *maqāṣid* and was sought to reconstruct the body of *uṣūl al-fiqh* to fit it, which became the unifying theme of problems and subjects that were discussed independently of each other. With his suggestions, *maqāṣid* became the axis of *uṣūl al-fiqh*. The objectives of the *sharīʿah* were now to be extracted from the texts through a process of induction, not by deduction.[43] The inductive reasoning proposed by al-Shāṭibī is significant for its opposition to the classical deductive method associated with al-Shāfiʿī's theory, which had come to prevail in most of Islamic legal reasoning. However, it is important to maintain that al-Shāṭibī's affirmation of inductive methods to explore the *maṣlaḥah* did not mean that he advocates a freewheeling exercise of human reason. Al-Shāṭibī strictly asserts that he does not call for abstract reasoning on morality

or utility and that human reason cannot determine what is *maṣlaḥah* independently of divine texts.[44]

Modernist Approaches to the Maqāṣid: New Priorities and Reinterpretation

Toward the end of the 13th/19th century, the theory of *maqāṣid* emerged again as a central topic within different forums and dialogues of Islamic modernism. Muslim modernists and reformers were concerned about how the approach of expounding and implementing Islamic law did not match the major changes within Muslim societies. They called for a rethinking of the legality and compatibility of the traditional framework of the four sources of the law (the Qurān, the Sunna, Consensus, and Analogy) and, therefore, shifted toward *maṣlaḥah* and the purposes of the divine law as a basis for law-finding. Juridical opinions turned away from looking for the *maṣlaḥah* of individuals and, instead, explored its relevance to wider areas of law and public policies.[45] It is important to note that such calls for reforming the methodological resources of Islamic law were expressed during a period of great social, political, and economic turmoil in the Muslim world.[46] Ottoman jurists began conversations rethinking long-established methods of legislation, in order to promote modernization against the downfall of the Ottoman Empire.[47] These conversations continued among reformists in Egypt, Morocco, Tunisia, and Syria. Similarly, various Muslim governments proposed reform initiatives that resulted in major transformations in areas of education as well as the economic and legal codes that were initially heavily dependent on Western models. Such transformations resulted in the revival of the classical doctrine of *maqāṣid*.[48]

During his visit to Tunisia, Muḥammad ʿAbduh (1849-1905) came across the work of al-Shāṭibī and encouraged his students to benefit from his theory in their struggle for reform. Al-Shāṭibī's seminal treatise *al-Muwāfaqāt* was then published and edited by ʿAbduh's student ʿAbdullah Drāz (1894-1959), and subsequently became a major source for the modern Islamic debate on the maqāṣid. Tunisian modernist scholar Muḥammad al-Ṭāhir Ibn ʿĀshūr (1886–1970) and the Moroccan Muḥammad ʿAllāl al-Fāsī (1910–1974), perhaps under the influence

of ʿAbduh and his student Rashīd Riḍā (1865–1935), took this project further.[49] It has been argued that reformers like al-Qāsimī, al-Fāsī, and Rashīd Riḍā played a vital role in popularizing the discourse of *maṣlaḥah* through the emerging printing press, not only by reproducing and reintroducing al-Ṭūfī and al-Shāṭibī's work, but also by empowering a new generation of reformers and scholars to engage with the traditional discourse of *maqāṣid* and improve it for social change.[50]

Ibn ʿĀshūr proposed for *maqāṣid* to be independent of *uṣūl al-fiqh* in a new scientific discipline. Asserting that Islamic legal theory is inadequate and generally revolves around the technicalities of the law-finding process, Ibn ʿĀshūr argued that the classical legal theory failed to attain or serve the purpose of the *sharīʿah*. He, therefore, rejected the idea that the rules of *uṣūl al-fiqh* are certain (*qaṭʿiyyah*) and explained his worries about the differences in opinions between the jurists.[51] By adopting a *maqāṣid*-oriented approach, Ibn ʿĀshūr sought to define the certain objectives of the *sharīʿah*, against which the validity of Islamic legal rules can be weighed. Therefore, Ibn ʿĀshūr added new objectives and priorities of law to the theory of *maqāṣid*, such as moderation, freedom of thought, maintenance of order, freedom, and equality.[52] While Ibn ʿĀshūr's major motive for *maqāṣid* was to expand the scope of the objectives of *sharīʿah* so that it covered all areas of positive law, particularly financial transactions and the judiciary, other reformers (such as al-Fāsī, who was a political activist and a Muslim scholar) aimed to show secular reformers the progressive nature of Islamic law and to assure Islamic traditionalists of its compatibility in the process of postcolonial state-building. Al-Fāsī's significant addition to the traditional theory of *maqāṣid* was the inclusion of human rights as the essence of the higher objectives of *sharīʿah*.[53]

Rashīd Riḍā also suggested additional higher objectives of *sharīʿah*, including reason, awareness, wisdom, evidence, freedom, self-sufficiency, political and economic reform, and women rights.[54] As previously mentioned, Riḍā was one of the first modern legal reformers who was attracted to al-Ṭūfī's model of *maṣlaḥah*. However, he further departed from the traditions by asserting that the *maqāṣid* approach should be used without any traditional limitations related to *uṣūl al-fiqh*.[55] Riḍā asserted that it is a common misconception that the traditional jurists questioned

the authority of *maṣlaḥah* as a legal source; in fact, in *Tafsīr al-Manār*, Riḍā affirmed that traditional jurists such as al-Shāfiʿī, al-Qarāfī, and al-ʿIzz ibn ʿAbd al-Salām considered principles like "no harming, nor reciprocating harm" (which was al-Ṭūfī's main principle on *maṣlaḥah*) alongside the legal maxim "the harm is to be removed and the benefit is to be preserved" as the main reference to deal with new political, judicial, and military matters. Riḍā wrote that traditional jurists restricted the use of *maṣlaḥah* to the limits of *uṣūl al-fiqh* out of fear that such principles might be abused by oppressive rulers to satisfy their desires or legitimize their autocratic policies in the name of *maṣlaḥah*. Therefore, to limit the scope of ruler's misuse of *maṣlaḥah*, Rashīd Riḍā argued that traditional jurists had opted for deriving all legal rulings directly from the textual resources, closing the door to the potential politicization of *maṣlaḥah*. Yet oppressive rulers never failed to find jurists who would justify their tyranny and legitimize their oppression; therefore, Riḍā argued, the ideal way to prevent such politicization is not in denying the idea of *maṣlaḥah* or limiting it. Rather, one must refer such matters to *ahl al-ḥall wa al-ʿaqd* (those who loosen and bind), which according to Riḍā includes contemporary equivalents to classical jurists among its members. They must act as a binding check on the ruler's use of *maṣlaḥah*.[56]

Many modernist scholars and jurists supported the *maqāṣid*-oriented approach for different aims.[57] They argued that this approach enabled a more genuine and adaptable contribution to contemporary Muslim societies and governments, based on Islamic purposes and goals, and without any restrictive reliance on the Islamic legal methodologies.[58] However, in a critique of the implications of the new approach to *maqāṣid*, Wael Hallaq points out that the adoption of the *maqāṣid*-oriented approach has westernized most Arab societies.[59] Hallaq argues that the modernist discourse of *maqāṣid* is a new development that was not adopted by traditional scholars, including al-Shāṭibī. To him, only al-Ṭūfī might be a possible forerunner to the modernists' discourse. Hallaq further claims that modernists and reformers' understanding is predominantly based on the notions of *maṣlaḥah*, public interest, and necessity. In his opinion, this is a utilitarian approach that runs against the traditional interpretation of Islamic law. He argues that modernists modified and restructured

classical Islamic legal theory to support their approach, making the law nominally Islamic and fundamentally utilitarian.[60]

Likewise, Opwis argues that modernists, who wrote on *maṣlaḥah* from the 1940s until the 1960s, were engaged with the secular legal system and were willing to reshape the traditional body of Islamic law. They adopted al-Shāṭibī's theory of *maqāṣid*, whereby *maṣlaḥah* is utilized as an independent legal indicant. Opwis believes that, if fully applied, this utilization of *maṣlaḥah* could potentially shift the traditional body of Islamic legislation as well as some of its theological doctrines.[61]

Nevertheless, though the *maqāṣid*-oriented approach did not receive much attention from traditional scholars who generally did not support the idea of excluding *uṣūl al-fiqh* from the jurisprudential practice, it was considered by modernists and reformists as a tool that offered jurists the opportunity for more subjectivity and flexibility with the texts. More recently, with the growth in secular legislation in modern nation-states, many contemporary modernist and jurists support the *maqāṣid*-oriented approach for different aims and goals. They argue that this approach allows for a more genuine and adaptable contribution to contemporary Muslim societies and governments based on Islamic purposes, without having to rely on the enormous Islamic legal methodologies, and thus, this aids in evading the literalism and the limitations of *uṣūl al-fiqh* and makes the *sharīʿah* more accessible.[62]

Yūsuf al-Qaraḍāwī (b. 1926), one of the highest-profile *maqāṣidī* scholars, promoted an approach called "Wasaṭiyyah" (moderation), which can be wielded against autocracies and extremist groups alike.[63] He adopted a transnational approach to Islamic law and the Muslim world and utilized media and technologies to spread his thoughts, which also allowed him to engage in issues affecting Muslims in Europe and the Middle East.[64] He also established the European Council for Fatwā and Research and the International Union of Muslim Scholars in recognition of the biases found within government-controlled centres of learning. Like Rashīd Riḍā, al-Qaraḍāwī also proposed extending al-Ghazālī's five-fold classification of the higher objectives that the *sharīʿah* protects. He suggested that the priorities of *sharīʿah* should include social welfare support, human dignity, peace, rights, freedoms, and justice.[65]

Al-Qaraḍāwī argues that the traditional catagorization of *maqāṣid* lacks important objectives related to the protection of human rights and dignity against autocracy and injustice. He writes that traditional jurists considered such crucial objectives to be supplements rather than treating them as the essence of all legal rulings.[66]

Similarly, Muḥammad al-Ghazālī (1917-1996) added justice and freedom to the list of higher objectives. He stressed that justice is the ultimate purpose behind the divine revelation, which requires the law be established to control governments by preventing those in power from encroaching on the liberties and freedoms of citizens.[67] Tāha Jābir al-ʿAlwānī (1935-2016) also added the concept of developing civilization on earth;[68] Kamālī added economic growth, as well as research and development in science and technology.[69] On the other hand, ʿAttia expanded the five higher objectives of *sharīʿah* to twenty-four objectives, which are prioritized across four different realms: the individual, the family, the ummah, and the rest of wider humanity.[70]

Contemporary modernists do not only suggest expanding the scope of the five higher objectives of *sharīʿah*, they also offer new interpretations to al-Ghazālī's five objectives. For instance, Rachid al-Ghannouchi (b. 1941), the leader of Tunisia's Ennahda Islamist politica party, reinterpreted the objective of 'preserving religion' to 'Freedom of faith' and 'Freedom of belief', arguing that the right of religious minorities to exercize their religion and promote it is also to be guaranteed.[71] Al-Qaraḍāwī also reinterpreted the preservation of intellect to regard the right of education and learning, rather than the classical understanding of protecting the mind from all types of intoxications.[72] Likewise, the Egyptian academic Jāsser ʿAuda (b. 1966) proposed that the early concepts such as preservation of religion, life, mind, honour, and money must be reinterpreted into such *maqāṣid* as protecting human rights, freedom of faith, family care, the pursuit of knowledge, and economic development.[73] A more radical approach was introduced by the Swiss intellectual Tariq Ramadan. He argues that juristic adaptation of the *maqāṣid*-oriented approach is also inadequate for providing answers to Muslims' problems in light of the modern contexts and realities. He, therefore, advocates a radical transformation of *sharīʿah* into a framework of ethics rather

than preserving it as a system of legal norms.[74] Ramadan's reform proposal suggests that God revealed twin books, namely the Qurān and the Universe, and that both 'books' equally constitute a source of the higher objectives of *sharīʿah* and applied ethics.[75]

According to David Warren, though Ramadan's theory of the two revelations acknowledges Islamic legal authority in articulating the *maqāṣid al-sharīʿah*, it also promotes a non-juristic trend by giving non-jurist specialists equal authority in formulating new legal opinions.[76] Interestingly, a similar call was proposed by al-Qaraḍāwī, who advocated that non-jurist expertise be involved with jurists in the law-finding process, which he described as "partial *ijtihād*" (*ijtihād juz'ī*).[77] According to Johnston, the modernists' emphasis on the *maqāṣid*-oriented approach, as opposed to the traditional interpretation of the scriptural resources, is likely to promote a non-jurist trend that will lead to the marginalization of the *ʿulamā*. Johnston argues that this trend will only be promoted by access to new media because of the democratization of knowledge.[78] Opwis argues that such a trend is also a result of the modernists' inability to reconcile the epistemology of the classical legal theory with that of the objectives of *sharīʿah*.[79] Like the other modernists, Ramadan also expanded the number of *maqāṣid* to more than forty objectives, among them, the preservation of an individual's dignity, integrity, personal development, health, and inner balance.[80] Moreover, following al-Qaraḍāwī's step, Tariq Ramadan and Jāsser ʿAuda jointly formulated the Research Centre for Islamic Legislation and Ethics (CILE; Markaz Dirāsāt al-Tashrīʿ al-Islāmī wa al-Akhlāq) in Qatar, with the aim of developing a practical spirit that transforms the science of *maqāṣid al-sharīʿah* from theory to practice in all spheres of life. (Ramadan's initiative of setting up a *maqāṣid*-oriented research center for Muslim modernists and reformers based in Qatar was seen by some Western studies as being driven by security policies that aim to gain the approval of the West, who desire a moderate Islamic vision for the Middle East.[81])

Regardless, like the first generation of reformers, the new lists of *maqāṣid* are claimed to be based on a comprehensive reading of the texts and through adopting an integrated overview, rather than relying on the

body of *fiqh* literature in the schools of Islamic law. The reformers assert that *maqāṣid al-sharīʿah* remains vibrant and subject to developments based on the priorities and realities of each era.[82] This methodology has, therefore, shifted the *maqāṣid* discourse and allowed it to overcome the authority of *uṣūl al-fiqh*, while highlighting the higher values and principles of the textual resources. As a result, Islamic rulings will continue to be based on the new and constantly changing lists of higher objectives and priorities.

In the wake of the Arab spring, the *maqāṣid*-oriented approach emerged once again as a trend among Islamic modernist reformers, in response to decades of political repression, poor governance, and autocracy. After decades of ingrained authoritarianism, many reformers, thinkers, and activists asserted democracy, freedom, good governance, human rights, and justice as Islamic objectives and priorities, rather than the application of the classical *sharīʿah* law. Additionally, as opposed to most of their predecessors, the second-generation of *maqāṣid*-oriented reformers like Yūsuf al-Qaraḍāwī, Jāsser ʿAuda, Aḥmad al-Raysūnī (b. 1953), Tariq Ramadan, ʿAbdullah bin Bayyah, Muḥammad Naʾīm, and others encouraged positive relationships with the Western world. Through their *maqāṣid*-oriented approach, they adopt the notions of Islamic democracy, justice, and human rights in their own socio-political orders. They gained broad constituencies, including Muslims and non-Muslims, secularists, and religious individuals, by developing *maqāṣid*-oriented approaches based on these objectives.[83]

Overall, modern scholars of *maqāṣid* have distinct perspectives and it can be argued that most of them share similar ideas. For instance, as detailed above, they expanded the scope of the *maqāṣid* beyond the five Ghazālian objectives of the *sharīʿah* by highlighting 'public interest' and 'well-being' and rejecting literal readings of sacred texts. They also proposed that the application of the objectives of the law should be extended beyond the boundaries of Islamic law, by re-interpreting the law's purpose in light of modernist values, to ensure they remain compatible with modern realities. Some also proposed involving non-jurist experts in the process of law-finding; some utilized media, technologies and institutions to spread their modern *maqāṣid* discourse.

Even so, the use of the *maqāṣid*-oriented approach as a tool for introducing legal change was, and still is, debatable. Technically, the debate is about the constant increase of the objectives and priorities of the law, which differ from one scholar to another. This raises questions, including how these objectives can be prioritized and re-interpreted when conflicts arise between them. Also, to what extent can such re-interpretation and prioritization of *maqāṣid* affect the authority and credibility of this theory, if it turns it into a tool for those with contradictory ideological, social, and political inclinations? In addition, what is the most acceptable methodology to apply the *maqāṣid*-oriented approach in a contemporary era, without being subject to scholars' subjectivity? These broad questions motivated this paper, which address how the new *maqāṣid* discourse has been politicized in light of the recent declarations and fatwās by ʿAbdullah bin Bayyah concerning the UAE's normalized relations with Israel, and the UAE's policies against regional democracy.

The following section examines how ʿAbdullah bin Bayyah's prioritization of *maqāṣid* and interpretation of *maṣlaḥah* were deeply rooted in the Muslim modernists' modes of reasoning. Though the *maqāṣid*-oriented approach has been used by many reformers to articulate various forms of democracy, this paper argues that Bin Bayyah re-purposed this approach to support a modernist authoritarianism.

Bin Bayyah and the Politicization of the *Maqāṣid* Discourse

ʿAbdullah Bin Bayyah (b. 1935) is a prominent Mauritanian *maqāṣidī*, who is a well-recognized politician and jurist in both the Middle East and the West. He has worked with various Arab governments and media organizations that promoted his fatwās as authoritative. Bin Bayyah was previously the deputy head of the Union of Muslim Scholars. He resigned from this post shortly after the Egyptian military coup in 2013, as autocracies in the region bolstered their positions against Arab revolutions.[84] He is the founder of several initiatives, including the 'Muslim Council of Elders' and the 'Forum for Promoting Peace in Muslim Societies', which are funded by the UAE. He is also a member of the Islamic Fiqh Council and the European Council for Fatwā and Research, which is a council of

Muslim jurists who discuss Islamic law to ensure that it is compatible with the lives of Muslims in Europe. Recently, Bin Bayyah was appointed as the chair of the newly established UAE Fatwā Council.[85]

As a background to Bin Bayyah's latest views, it is important to note that his ideas do not exist in the abstract or the realm of pure legal theory. Bin Bayyah's allegiance to and relations with the UAE reflect his political positions and views regarding regional democracy. After the Arab Spring, the UAE has attempted to counter the changes occurring in the region and hinder the ongoing call for democracy. It appears that the UAE believes that such transformations would challenge the country's status quo, and possibly stimulate reformists to oppose its domestic and regional policies. Therefore, the UAE has promoted autocratic political actors to prevent such transformations from occurring. Asides from protecting the country's authoritarianism, the UAE also aspires to be the predominant regional hegemon; therefore, the country promotes Islamic scholars like ʿAbdallah Bin Bayyah for its geopolitical influence.[86]

In theorizing the political and philosophical foundations of his discourse, Bin Bayyah initially explained the challenges and reality of Muslims today in his book *Tanbīh al-Marāji*ʿ *ʿalā Taʾsīl Fiqh al-Wāqi*ʿ. According to Bin Bayyah, the condition of Muslims in the current era is characterized by two extremes. First, a modernist subjective call that seeks to imitate prevailing forms and adopts very flexible rational approaches, whereby the end justifies the means as a necessary pathway for any renaissance project. Second, a traditional and religious call that ignores the modern contextual reality and, thus, does not allow any modern interpretation and implementation of Islamic law addressing modern challenges.[87] According to Bin Bayyah, this bifurcation is a result of the impact of colonialism and the challenges that Muslims encountered after the downfall of the Islamic state at the beginning of the nineteenth century. He also argues that the establishment of the modern nation-state has impacted various aspects of Muslims' lives, including political, financial, educational, and legal domains.

According to Bin Bayyah, the Arab revolutions were motivated by western values that contradict Islamic principles. He opines that Muslim modernists and reformers have confused the values of Western democracy

with those of Islamic models. Bin Bayyah argues that western values of democracy are based on the "Hegelian model", which promotes the idea of "destruction for reconstruction". Based on this assumption, Bin Bayyah concludes that western models of democracy oppose the Islamic principles of promoting public interest *maṣlaḥah* and preventing harm, and then states that the ends do not justify the means.[88] Bin Bayyah also criticizes calls for the revival of the Islamic tradition. He asserts that such projects are impractical efforts to revive an imagined past.[89]

Bin Bayyah defines *maqāṣid* as the spirit of *sharīʿah* that is derived from the fundamental resources of the Lawgiver, as well as those objective purposes attained by intellectual reasoning and interpretations.[90] However, in contrast to modernist reformers, Bin Bayyah believes that *uṣūl al-fiqh* and *maqāṣid* are interconnected and cannot be separated.[91] This paper now examines Bin Bayyah's recent fatwās and declarations, as well as his recent political discourse, and argues that—despite his difference in conclusions—Bin Bayyah's deployment of *maqāṣid* is based on a form of reasoning that is curiously related to the modernist Muslim reformers' discourse.

ʿAbdullah bin Bayyah's politicization of the theory of *maqāṣid* can be accounted for by two legal means. The first is the subjective prioritization of the *maqāṣid* of *sharīʿah* to legitimize and justify autocratic policies. The second is a specious process of verification of the *ratio legis* (*taḥqīq al-manāṭ*). Ḥākim al-Muṭairī, a Kuwaiti academic and a political activist, argues that traditional Muslim scholars adopt a common approach when theorizing authoritarianism, namely, to apply the old jurisprudential themes (crystallized during the the caliphate period of Islamic civilization) to serve as a guideline for legal arguments under the modern state. With such an approach, a ruler is considered identical to the caliph, who must be heard and obeyed. He is also the authority who solely specializes in policymaking, as determined by the old jurisprudence. This approach has long been adopted by Salafist and Traditional authoritarian scholars for decades. These groups always used the literal interpretations of specific texts to provide legitimacy to autocracy.[92] Interestingly, Bin Bayyah adopts a different (*maqāṣidī*) approach to achieve the same purpose (despite his method's modern outlook).

Prioritization of Maqāṣid al-Sharī'ah

According to Bin Bayyah, Muslim modernist reformers and activists are responsible for the political fires that were ignited and the bloodshed which was caused by invoking Islamic traditions to support their demands for democracy. He argues that these groups failed to understand the contextual reality of the modern state. Interestingly, Bin Bayyah argues that modern states vary in their political foundations and the relationship between citizens and the powers that govern them, or between the powers themselves, differ more than the standards of the pre-modern context. Thus, according to Bin Bayyah, "this necessitates a new reality that has new requirements and conditions and demands a different perception to review its purposes and solve its inquiries."[93]

As Jāsser ʿAuda argues, the modern approach of *maqāṣid al-sharīʿah* is focused on the prioritization of legal benefits, which *sharīʿah* recognizes and aims to achieve at various levels.[94] Bin Bayyah's proposal is constructed on this idea of prioritizing the *maqāṣid*. He argues that the *maqṣid* (objective) of peace is more important than the *maqṣid* of justice. In 2014, during his opening speech at the Forum for Promoting Peace in Muslim Societies in Abu Dhabi, and using a *maqāṣid*ic language, Bin Bayyah stated that, "The value of peace has priority over the value of rights. This is not to minimize the importance of justice; rather, it is to say that peace offers the opportunity to attain more rights than those granted by war."[95] This statement illustrates that despite Bin Bayyah's traditional understanding of the theory of *maqāṣid*, he does not reject the modernists' rationale for introducing new objectives. Rather, he modifies and re-purposes their approach. Though he acknowledges the *maṣlaḥah* of preserving human rights and justice, he also contends that this *maṣlaḥah* contradicts the importance of maintaining peace and social stability. Therefore, considering that he believes that the preservation of peace ranks higher than that of democracy and justice, he argues that the *maṣlaḥah* of preventing revolution and opposition against rulers should prevail.

Interestingly, the *maqāṣid*-oriented approach has been developed by many modern reformers to articulate Islamic modernist forms of

democracy and to promote the values of justice and accountability. For instance, according to al-Ghannouchi, freedom and justice are divine duties that people are not allowed to give up or be deprived of. Al-Ghannouchi advocates that such rights are owned by God and human beings are only their trustees; these rights must be preserved according to the will of the owner. Accordingly, for al-Ghannouchi, it is a religious duty to reject autocracy, oppose tyranny, and fight for freedom, justice, and democracy.[96] Surprisingly, Bin Bayyah uses this same approach to support modernist authoritarianism. Bin Bayyah's prioritization of peace over justice aims to establish a modern jurisprudential and legal framework that offers the required legitimacy for countering Arab revolutions and hindering Islamic modernists' demands for democracy and accountability. Furthermore, Bin Bayyah argues that the Islamic framework for good governance is not connected to democracy and, therefore, he considers this an imperfect framework. Applying the concept of *maṣlaḥah*, Bin Bayyah argues that Muslim societies in the Middle East are not yet ready for democracy and "any calls for democracy in such a situation is actually a call of war."[97] His assertions serve as a reminder of the false dilemma (me or chaos) echoed by many authoritarian rulers in the region, from Mubarak in Egypt to Assad in Syria.

This use of *maṣlaḥah* by Bin Bayyah not only directly supports authoritarian politics; it also shows that he perceives Muslim nations to be under a legal emergency status. He makes no suggestions about when it will be possible to restore a state of normality. His statement makes it clear that the vocabulary of avoiding war and remaining in obedience was inherited from the historical rhetoric of the caliphate state. The traditional Salafist discourse used this period (its difference from our ruined present) as a constant reference against revolution. However, Bin Bayyah re-introduces such discourse in the new, modern approach of *maqāṣid al-sharīʿah*. Despite his claims to the contrary, Bin Bayyah does not offer another political approach for the modern political systems that he rejects. Rather, he promotes the long-held principle of classical fiqh, which states that rebellion against a ruler should be prohibited, and there should be 'no opposition against the ruler'.[98] This principle was perceived as the highest Islamic political principle by the Salafists and

the Traditionalists, who determined the citizen-ruler relationship based on literal interpretations of the scriptural resources. On the other hand, modernist scholars of *maqāṣid* distinguish between pacifist rebellion and armed insurrection. They argue that the legitimacy of rebellion is profoundly linked to the motivation behind it and how it occurs. Based on their opinions, an armed and violent rebellion to capture power differs from a defenceless one. They also argue that rulers' legality, and whether they are just or not, also contributes to the legality of the opposition.[99] Regardless of these nuances, Bin Bayyah's interpretation of *maṣlaḥah* expands the prohibition against political opposition to include all kinds of revolutions and rebellions. In his book titled *The Culture of Terrorism*, Bin Bayyah quotes Ibn Qudāmah and other scholars, arguing that if a group of people attempts a rebellion, they should not only be subdued but should also be killed. Bin Bayyah thus holds a startlingly traditional viewpoint about revolts against an established ruler.[100]

Historically, traditional scholars promoted absolute obedience to avoid wars and to prevent competitors from seeking the post of caliph. Gradually, absolute obedience to rulers became a principle of Islamic politics. A good Muslim was then considered one who refrains from causing *fitnah* (rebellion and chaos) in demanding rights like a public *bay'ah* (contract in a form of an oath of allegiance to a leader), or the practice of *shūrā* (consultation) by rulers. A major consequence of this quietist shift is that citizens' roles in the *bay'ah* are marginalized, as it becomes exclusive to a few people to legitimize authoritarian rulers. Accordingly, this transformed the ruler's quality from a *wakīl* (deputy or agent) whom citizens could legally dismiss from their position; to a *wali* (a guardian) who cannot be removed.[101] In this way, it can be argued that the use of the *maqāṣid* approach by Bin Bayyah alters the nature of rulership in the modern Islamic political theory, transforming it from a conditioned legal relationship that could be ended or revoked, to a paternal relationship that is natural and unchangeable. It also shifts the theory's emphasis on the priority of justice, rights, and democracy, to giving priority and legal backing to avoid opposition and maintain authoritarianism.

Although Bin Bayyah's views seem to be that peace can only be attained through authoritarianism, it is important to note that his previous

books and interviews (before the Arab Spring) suggest an alternative. For instance, in *The Culture of Terrorism* Bin Bayyah regards justice and good advisory governance as significant approaches for seeking a solution to political conflicts. He provides doctrinal evidence that centers on the value of justice and the way that just governance can aid in reducing disturbances. For example, he refers to the fifth rightly-guided Caliph ʿUmar bin ʿAbd al-ʿAzīz, when he wrote to his deputy, after hearing about the revolt of the Kharijaites: "put off the fire of sedition with justice."[102]

Bin Bayyah has acknowledged that injustice is one of the main reasons for injustice and that promoting an environment of justice could aid in stemming any form of chaos. However, most of his views on the importance of justice changed after he became ally with the UAE. He now argues that political values like human rights, justice, and freedoms need to be sacrificed to establish peace. Concurrently, he completely ignores other Islamic traditional principles, such as "speaking truth in the presence of a tyrant ruler" and "commanding good and forbidding evil".

Taḥqīq-al-manāṭ *and Theorizing Authoritarianism*

In 2010, Halim Rane, an Australian academic, conducted a study on the impact of the *maqāṣid*-oriented approach on Islam-West relations. His study showed that the West perceives the *maqāṣid*-oriented approach, which adopts modern universal values and objectives, as an approach that is more recognizable and identifiable than the traditional version of the theory, which offers literal and classical interpretations of *sharīʿah* and Islamic governance. Halim further maintains that the *maqāṣid*-oriented approach enhances positive relations between the Muslim world and the West. He affirms that this is because the higher objectives determined by a *maqāṣid* perspective are often acceptable by everyone, regardless of their beliefs.[103] However, Rane's study suggests that the *maqāṣid*-oriented approach does not necessarily result in a complete adoption of policies that are propitiatory or compatible with the West. Based on his study, the key issue that causes a lot of debate between the contemporary generation of *maqāṣidī* reformers and the West is the Israel-Palestine conflict. This is related to the inculcation and adherence to certain objectives and values,

such as justice, freedom, peace, and independence.[104] Thus it appears that Bin Bayyah is the first contemporary jurist to adopt the modern *maqāṣid* discourse as an approach for legitimizing normalization with Israel and for promoting authoritarian agendas.

Following the announcement of the peace deal between UAE and Israel, Bin Bayyah, in his role as the President of the Emirati Fatwā Council, affirmed that "international relations and treaties are amongst the actions that fall within the policy-making specialisation of the ruler solely."[105] Though this declaration appears to be related to the premodern discourse, whereby only a ruler had the power to make treaties with foreign powers and formulate public policy, the declaration adopts the modern approach of *maqāṣid*. As already mentioned, Bin Bayyah's declaration indicates that he views the modern approach of *maqāṣid* as one which promotes absolute obedience to the ruler under the rubric of the "fiqh of reality".

Interestingly, Bin Bayyah's proposal is based on what is known in the field of *uṣūl al-fiqh* as *taḥqīq al-manāṭ* (verifying the *ratio legis*). From a classical point of view, *taḥqīq al-manāṭ* is considered by scholars of *uṣūl al-fiqh* to be an independent mode of reasoning, which is related to the exercise of verifying the presence of the basis or *ratio* (*'illah* or *manāṭ*) of an established legal ruling or principles of law to apply it on new cases or situations. The basis could be explicitly established from the texts, agreed upon by scholars, or achieved by *ijtihād*.[106] Al-Shāṭibī explains the process of *taḥqīq al-manāṭ* by stating that "reasoning by *taḥqīq al-manāṭ* means that the verdict is ascertained from the authoritative sources; however, verification is required to determine its basis (*maḥal al-ḥukm*). Such as in the verdict when the sharī'ah stated: 'and take for witness two persons from among you, endowed with justice' (Q. 65:2): despite that the meaning of justice is known, jurists are still required to verify the person who acquire such attribute."[107] According to al-Shāṭibī's explanation, the process of *taḥqīq al-manāṭ* could be devided into three stages. First, to identify the legal ruling from the established sources. Second, to examine the basis of the new case to determine if it is relevant to the established ruling. Third, to apply the legal ruling to the facts of the cases to come to a valid legal verdict.

According to Bin Bayyah, *taḥqīq al-manāṭ* requires a deep diagnosis of the *wāqi'* (reality) to understand the legal cause behind the verdict, and subsequently apply it to the current context. Accordingly, Bin Bayyah argues that the concept of *wāqi'* is the appreciation of how the modern context differs from the context wherein Islam was revealed. Therefore, *wāqi'* should be considered as part of the legal verdict. Moreover, Bin Bayyah suggests that there are three major elements of contemporary failures, namely a failure of identifying reality, a failure of identifying the impact of reality on verdicts, and a failure of recognizing the proper methodology to deal with reality.[108]

In his book *Tanbīh al-Marāji'*, Bin Bayyah raises the question of who has the authority of *taḥqīq al-manāṭ*, or the authority to verify the legal cause. To answer this question, Bin Bayyah reinterprets the concept of *ijtihād* (independent human reasoning in *sharīʿah* law) by subdividing it into three groups. The first is *ijtihād* in issues concerning individuals, whereby they are left to decide and exercise their faith, based on the verification of their reality. He illustrates with the example of an ill individual who determines by themselves whether they are too sick to fast during the month of Ramaḍān or not. The second is *ijtihād* regarding newly-emerging issues, such as financial transactions, which are supposed to be referred to specialized committees. The third is *ijtihād* related to the duties of *al-sulṭān al-akbar* (the grand ruler). These include the declaration of war, peace treaties, and governance, which should all be left exclusively to the ruler. Accordingly, it seems that Bin Bayyah is advancing an anti-jurist approach. He argues that, since jurists do not make decisions for the sick individual, they should also not be consulted, in any legal or constitutional way, during the ruler's decision making. This is because, according to Bin Bayyah, jurists do not understand the full reality or the implications of certain decisions, nor do they know a ruler's hidden motivations, which could be difficult to understand.[109]

In contrast, even modernists who adopted *maṣlaḥah* as an independent source of legislation were aware of the traditional skepticism related to the potential politicization and violation of *maṣlaḥah* by those in power. As mentioned earlier, Rashīd Riḍā asserted that the utilization of *maṣlaḥah* is the right of the *Ummah* through the role of people who

loose and bind, and should not be undertaken by the rulers solely. Riḍā argued that this basic principle of governance is the greatest political reform that the Qur'ān affirmed in a time when all nations were ruled by autocratic rulers, and it was the practice of the prophet and the four guided caliphs. However, Riḍā also noted that some traditional jurists made this only a recommendation, without any obligatory status, to satisfy the will of rulers and kings.[110]

Although Bin Bayyah addresses the questions of *why* we need to identify the reality, and *who* has the authority to identify the reality, one of the limitations of his explanation is that it does not address the question of *how* reality should be dealt with. On the other hand, in one of his fatwās, Bin Bayyah asserts that one of the methodological defects that have resulted in significant crises in the Muslim world is the use of texts without paying attention to the spirit and the *maqāṣid* of the law. He further argues that such methodological defect occurs on three different stages. These include the stage of *ta'wīl* (textual interpretation), which addresses the question of 'what' the verdict is on a specific issue, based on the textual interpretation; the stage of *ta'līl* (rational reasoning), which addresses the question of 'why', based on the *maqāṣid al-sharī'ah*; and the stage of *tanzīl* (application), which answers the question of 'how' the verdict should be applied, based on contextual realities.[111] Paradoxically, Bin Bayyah suggests that the ruler has all-inclusive authority with regards to policymaking and deciding on political relations. However, once again, he does not attempt to identify the qualities of such rulers, which qualifies them to deal solely with the three stages of *ijtihād*; nor does he address their legal duties or the process of their appointment. Bin Bayyah's approach, therefore, has failed to verify the *ratio legis* or identify the reality.

Despite the fact that Bin Bayyah's lectures and books highlight the importance of the "fiqh of reality," his arguments overlook the dramatic transformation and changes that have occurred to political structures in the shift from the sultanic state to a modern nation-state, and from an individual's rule to the rule of institutions. Yet, when he defines the modern state, Bin Bayyah adopts Max Weber's theory, which claims that the state has the right to use physical coercion and oppression within a

given territory, with the conditions of transparency and fair use of this right. In what reads as a clear criticism of just such an approach, ʿAbdul Ḥamīd Abū Sulaymān (1936-2021) points out that "when contemporary jurists function in the same manner and possibly repeat the old instructions verbatim, there is a lack of appreciation for the changes that have taken place."[112]

The modern *maqāṣid*-oriented approach was mainly developed by Islamic reformers and modernists, who introduced new branches of fiqh like *fiqh al-aqalliyyāt* (the fiqh of minorities),[113] *fiqh al-wāqiʿ* (the fiqh of reality), and *fiqh al-maʾalāt* (the fiqh of results and consequences).[114] They regarded the modern nation-state and its requirements as a basis of modern Islamic law. Therefore, they argue that a state's legality is determined by the will of the nation, including its jurists, who previously established or had some impact on judicial, economic, and political policies. Thus, they believe that the authority to establish legislation should continue to belong to the nation, rather than the ruler. Therefore, modernists maintain that Islamic legality is established on political systems based on elected representatives.[115] This paper has attempted to examine the process by which Bin Bayyah now uses the same means for contradicting purposes.

Why Maqāṣid?

Even though Bin Bayyah adopts the modernist model of *maqāṣid* and certain elements of the *maṣlaḥah* discourse, his elaboration reflects many of the Quietist Salafists' concerns.[116] One may ask why Bin Bayyah decided to use the modern approach of *maqāṣid* to present such a traditional position. If the effective results of his assertions resemble those of the Quietist Salafists, who promote strict obedience to Muslim rulers and silence on political matters, then one wonders why Bin Bayyah did not simply justify his position using the traditional doctrine that relies on literal interpretations of the texts.

Over the last decade, the Quietist Salafists have loudly proclaimed their loyalty to the figure of the ruler, critical of both western democracy and Muslim modernist reformers. During the Arab Spring in Egypt, Libya, and Syria, they did not support the revolutionary uprisings and

enjoined Muslims to avoid any revolts against their presidents, and even described them as Kharijites.[117] Moreover, the Quietist Salafists have developed solid connections with Saudi Arabia and the Gulf states in general. Many Gulf states have benefited from their discourse in maintaining their power and authority. For example, Saudi Arabia has for several decades used Salafist think-tanks against 'Panarabism' and 'Nasserism' and, subsequently, Iranian Shiite revolutionism.[118] Likewise, in the UAE, the Quietist Salafists were previously given limited support to undermine the Muslim Brotherhood's political activities, which were considered a threat to regional stability.[119] However, after the Arab Spring, they were gradually excluded from the political and social scene, particularly in the UAE. This exclusion was more evident after the conference held in Chechnya in August 2016, which was titled "Who are Sunnis?", and was partially funded by the UAE. It is reported that over two hundred Sunni scholars were invited, but none of them were Salafis. The closing statement during the conference introduced a new definition of the broad Sunni "family," which indirectly criticized the Salafists for being intolerant of other Sunni groups recognized during the conference, such as Ṣūfīs. Hence, the Salafists were excluded from the definition.[120]

Therefore, it can be deduced that regardless of the Quietist Salafists' unconditional support to the ruler and their opposition to any type of rebellion, they appear to have become more defensive and marginalized after the Arab uprisings. A likely explanation is that their doctrine is considered by the UAE as possibly rigid and incapable of adopting a programme of religious moderation, which the UAE is trying to sell to the West.[121] Even so, the UAE appears to seek the appropriation of the Salafists' traditional narrative, which guarantees absolute obedience and forecloses the possibility of political rebellion, while reshaping it in the modern framework of a *maqāṣid*-oriented approach. This then shores up the UAE's juridico-political convictions and advances its political image, which is based on peace and modernism, and promotes its credibility in international relations. In fact, Bin Bayyah's appropriation and politicization of the *maqāṣid*-oriented approach could be the catalyst for a new ideological force to surpass Islamic legal modernism: a modernist authoritarianism that opposes democracy and justice in an Islamic idiom.

Conclusion

This paper has argued that the ideological utilization of the *maqāṣid* discourse has shifted the theory's objective from its purpose-oriented basis to result-oriented and utilitarian reasoning. With the ever-increasing number of *maqāṣid*, the constantly changing priorities, and the absence of appropriate guidelines, the *maqāṣid* approach has become an ambiguous and loose methodology. This has resulted in its misapplication or misuse to achieve different outcomes. Indeed, Bin Bayyah's subjective reinterpretation and prioritization of the *maqāṣid*-oriented approach to satisfy utilitarian objectives could result in a failure to effectively reform legal theory. It could also reduce the opportunity to make it pragmatic and relevant to the values of modern society—which was its stated aim. Even more, it also threatens the legitimacy of the *maṣlaḥah* discourse, which has been used to support autocracy and act against human rights.

Endnotes

1 Muḥammad al-Ghazālī, *al-Mustaṣfā min ʿilm al-uṣūl* (Riyadh: Dār al-Maymān, 2004), 174.

2 ʿAbdil-Ilāh al-Qāsimi, *Madkhal ʿĀm li-Dirāsah al-maqāṣid* (Cairo: Dār al-Kalimah, 2015), 16.

3 Tariq Ramadan, *Radical Reform: Islamic Ethics and Liberation* (Oxford: Oxford University Press, 2009), 59.

4 Jasser ʿAuda, *Maqāṣid al-Sharīʿah as Philosophy of Islamic Law: A Systems Approach* (United Kingdom: International Institute of Islamic Thought, 2008), 144.

5 Muḥammad Hāshim Kamālī, *An Introduction to Sharīʿah* (Kuala Lumpur: Ilmiah Publishers, 2006), 130.

6 Aḥmad al-Raysūnī, *Imam al-Shāṭibī's Theory of the Higher Objectives and Intents of Islamic Law* (United Kingdom: Islamic Book Trust, 2006), 38-45.

7 Joseph Schacht, *The Origins of Muhammadan Jurisprudence*, repr. ed. (United Kingdom: Clarendon Press, 1953), 1. Also see Wael Hallaq, *History of Islamic Legal Theories: An Introduction to Sunni Uṣūl al-Fiqh* (Cambridge: Cambridge University Press, 1997), 21.

8 See Joseph Lowry, "Does Shafiʿi Have a Theory of 'Four Sources' of Law?" in *Studies in Islamic Legal Theory*, ed. Bernard Weiss (Leiden: Brill, 2002), 23–50. Lowry considers al-Shāfiʿīʿs *Risālah* as a book that aims "to eliminate the apparent conflicts" between Qur'an and Sunnah. It thus intended to defend the prophetic ḥadith and to develop a coherent vision of the framework of the law. See Joseph Lowry, *Early Islamic Legal Theory: The* Risālah *of Muḥammad Ibn Idrīs al-Shāfiʿī* (Leiden: Brill, 2007), 23, 359; see also, Wael B. Hallaq, "Was al-Shāfiʿī the Master Architect of Islamic Jurisprudence?" *International Journal of Middle East Studies* 25, no. 4 (1993): 587-605. Hallaq does not consider al-Shāfiʿīʿs *Risālah* a true work in *uṣūl al-fiqh*, and he gives precedence to Ibn Surayj and his disciples by assigning them a primary role in its formation; see also Wael Hallaq, *The Origins and Evolution of Islamic Law* (Cambridge: Cambridge University Press, 2005), 128.

9 Muḥammad ibn Idrīs al-Shāfiʿī, *The Epistle on Legal Theory*, trans. Joseph Lowry (New York: New York University Press, 2013). See also George Makdisi, "The Juridical Theology of Shāfiʿī: Origins and Significance of Uṣūl al-Fiqh," *Studia Islamica* 59 (1984): 8-9.

10 Hallaq, *History of Islamic Legal Theory*, 22.

11 Ahmed El Shamsy, *The Canonization of Islamic Law: A Social and Intellectual History* (Cambridge: Cambridge University Press, 2013), 4.

12 Al-Raysūnī, *Imam al-Shāṭibī's Theory of the Higher Objectives*, 38-45.

13 For a definition of *istiḥsān* by a Ḥanafī jurist, see Abū Sahl al-Sarakhsī, *al-Uṣūl*, ed. Abū al-Wafā al-Afghāni (Cairo: Dar al-Ma'rifah, 1973), 199-215.

14 Muḥammad Abū Zahra, *Tārīkh al-madhāhib al-islāmiyyah* (Dār al Fikr al-ʿArabī, 1963), 355.

15 Felicitas Opwis, "*Maṣlaḥa* in Contemporary Islamic Legal Theory," *Islamic Law and Society* 12, no. 2 (2005): 182-223, at 188–189.

16 Shihāb al-Dīn al-Qarāfī, *Sharḥ tanqīḥ al-fuṣūl*, ed. Ṭāhā `Abd al-Ra'ūf Sa`d (Cairo: Dār al-Fikr, 1973), 303, 394, 446.

17 For example, Abū Bakr Aḥmad al-Jaṣṣās's (d. 370 A.H.) treatise *Uṣūl al-Ǧaṣṣās* discussed the importance of attaining *maṣlaḥah* in several contexts, such as when dealing with the issue of *naskh*, abrogation: *al-Fuṣūl fi al-Uṣūl* (Jordan: Turūth For Solutions, 2013).

18 Hallaq, *History of Islamic Legal Theories*, 112–113, 168–174, 214–231, 261; Opwis, *Maṣlaḥa*.

19 ʿAbdallah Bin Bayyah, *ʿAlāqat maqāṣid al-sharīʿah bi-uṣūl al-fiqh* (London: Mu'assasat al-Furqān li al-Turāth al-Islāmī, Markaz Dirasāt Maqāṣid al-Sharīʿah al-Islāmiyyah, 2006), 131-135.

20 Al-Raysūnī, *Imam al-Shāṭibī's Theory of the Higher Objectives*, 5-7.

21 Ibid.., 8. He devotes the sixth chapter of his book to the wisdom and virtue of worship in Islam.

22 Mohamad El-Tahir El-Mesawi, "From al-Shāṭibī's Legal Hermeneutics to Thematic Exegesis," *Intellectual Discourse* 20, no. 2 (2012): 192.

23 Muḥammad Hāshim Kamālī, *Principles of Islamic Jurisprudence* (Kuala Lumpur: Ilmiah Publishers, 2000), 401.

24 Al-Juwaynī, ʿAbdul al-Malik Ibn ʿAbdullah, *al-Burhān fi Uṣūl al-Fiqh* (annotated by ʿAbdul-ʿAdhīm al-Dīb) (Qatar: Wazārat al-Shu'ūn al-Dīniyyah, 1980), 183.

25 Hallaq, *History of Islamic Legal Theories*, 39.

26 Opwis, "Maṣlaḥa."

27 al-Raysūnī, *Imam al-Shāṭibī's Theory of the Higher Objectives*, 63-64.

28 al-Ghazālī, *al-Mustaṣfā*, 413-430.

29 Ibid., 477.

30 al-Āmidī, *al-Iḥkām fī Uṣūl al-Aḥkām*, ed. Syed al-Jamīlī (Beirut: Dār al-Kutub al-ʿArabiyyah, 1984).

31 El-Mesawi, "From al-Shāṭibī's Legal Hermeneutics to Thematic Exegesis," 194.

32 Aḥmad al-Raysūnī, *al-Baḥth fī Maqāṣid al-Sharīʿah* (London: Al-Furqān Islamic Heritage Foundation, 2005), 20.

33 Ibid., 89.

34 Najm al-dīn, al-Ṭūfī, "Adillat al-sharaʿ wa taqdīm al-maṣlaḥah fī al-l-muʿāmalāt ʿalā al-naṣ," *al-Manār* 9 (1906-7): 763.

35 Ibid.,754-758.

36 Ibid., 753-764.

37 Najm al-dīn al-Ṭūfī, *al-Taʿyīn fī Sharḥ al-Arbaiʿīn* (Egypt: Al Rayān Foundation for Publishing, 1998), 239.

38 Ibid., 237-280.

39 Ahmed El Shamsy, *Rediscovering the Islamic Classics: How Editors and Print Culture Transformed an Intellectual Tradition* (Princeton: Princeton University Press, 2020), 198. Al-Ṭūfī articulated his manifestation in *al-Risālah* with a great detail when he was interpreting ḥadīth 32 of al-Nawawī's (d. 676/1277) forty ḥadīths. Al-Qāsimī (d. 1332/1914) published the *Risālah* in a new version selecting parts of the interpretation which were related to *maṣlaḥah*, including footnotes and three treatises called *Risālah fī al-Maṣlaḥah al-Mursalah*, all under the name of *Majmūʾ Rasāil fī Uṣūl al-Fiqh* in Beirut in 1324/1906. Rashīd Riḍā then published the *Risālah* with al-Qāsimī's annotations in *al-Mānar*, volume 9, no. 10 (1906).

40 Hallaq, *Islamic Legal Theories*, 136.

41 Al-Shāṭibī, *Al-Muwāfaqāt fī Uṣūl al-Sharīʿah*, with explanations by A. Drāz (Cairo: Dār al-Ḥadīth, 2005), 8.

42 Ibid., 5-6.

43 Ḥammadi al-ʿUbaydi, *Al-Shāṭibī Wa Maqāṣid al-Sharīʿah* (Beirut: Dār Qutaybah, 1996), 173.

44 Al-Shāṭibī, *Al-Muwāfaqāt*, 1:27: "the function of reason is to find out *maṣlaḥah* from the textual resources and to extrapolate its meanings, but human reason cannot independently decide what is *maṣlaḥah* and what is not. Judgements of what is good must be in light of the Islamic Law itself. There is no room for independent human reasoning."

45 Opwis, *Maslaha*, 184.

46 Felicitas Opwis, "New Trends in Islamic Legal Theory: Maqāṣid Al-Sharīʿa as a New Source of Law?" *Die Welt Des Islams* 57, no. 1 (2017): 7-32. See also, M. Masud, *Shāṭibī's Philosophy of Islamic Law* (Kuala Lumpur: Islamic Book Trust, 1995), 86.

47 Wael Hallaq, "Was the Gate of Ijtihad Closed?" *International Journal of Middle East Studies* 16, no. 1 (1984), 3-41.

48 Opwis, *Maslaha*, 186. See also Halim Rane, "The Impact of *Maqāṣid al-Sharīʿah* on Islamist Political Thought: Implications for Islam–West Relations" (2013), 350.

49 See Drāz's introduction to Muḥammad Isḥāq al-Shāṭibī, *al-Muwāfaqāt*, ed. ʿAbd Allah Drāz (Beirut: Dār al-Maʿārifa, 1996), 1:16.

50 El Shamsy, *Rediscovering the Islamic Classics*, 198; see also Hallaq, *Islamic Legal Theories*, 214–231.

51 Muḥammad al-Ṭāhir Ibn ʿAshur, *Maqāṣid al-Sharīʿah al-islāmiyyah*, 3rd ed. (Tunisia: al-Sharikah al-Tūnisiyyah li'l-Tawzi', 1988), 5-8.

52 Ibid., 95-100 and 130-135.

53 Muḥammad ʿAllāl al-Fāsī, *Maqāṣid al-Sharīʿah al-Islāmiyyah wa Makārimuhā*, ed. Ismāʿīl al-Ḥasanī, 2nd ed. (Cairo, Dār al-Salām, 2013), 348.

54 Muḥammad Rashīd Riḍā, *al-Waḥy al-Muḥammadī: Thubūt al-Nubuwwah bi al-Qur'an wa Daʿwat al-shuʿūb al-Mansiyyah ilā al-Islām: dīn al-insāniyyah wa al-salām*, 3rd ed. (Beirut: Dār al-Manār, 1985), 275-390.

55 Ibid., 221.

56 Muḥammad Rashīd Riḍā, *Tafsīr al-Manār* (Lebanon, Dār al-Maʿrifah), 7:197-198 (commenting on Q. 5:101-2).

57 Such as the Lebanese Subḥi Maḥmaṣānī (d. 1986), the Moroccan ʿAllāl al-Fāsī (d. 1974), and the Sudanese Maḥmud Muḥammad Ṭāha (d. 1985).

58 Kamālī, *An Introduction to Sharīʿah*, 257.

59 Wael Hallaq, "Maqāṣid and The Challenges of Modernity," *al-Ǧāmiʿah* 49, no. 1 (2011): 11.

60 Hallaq, *A History of Islamic Legal Theories*, 224.

61 Opwis, *Maṣlaḥa*, 220-221.

62 Kamālī, *An Introduction to Sharīʿah*, 258.

63 Al-Qaraḍāwī defines *wasaṭiyyah* as "a balance that equilibrates the two opposite ends, in which neither ends stand alone with its supremacy or banish its counterpart; in which nether ends take more than it deserves and dominates its opponent" (*Kalimāt fī al-wasaṭiyyah al-islāmiyyah wa maʿālimihā* (Cairo: Dār al-Shurūq, 2011)).

64 David H. Warren, *Rivals in the Gulf: Yūsuf Al-Qaraḍāwī, ʿAbdullah Bin Bayyah, and the Qatar-UAE Contest Over the Arab Spring and the Gulf Crisis* (N.p.: Taylor & Francis, 2021).

65 Yūsuf al-Qaraḍāwī, *al-Madkhal li dirāsat al-sharīʿah al-islāmiyyah* (Cairo: Maktabat Wahbah, 1990), 75.

66 Al-Qaraḍāwī, *Dirāsah fī fiqh maqāṣid al-sharīʿah: Bayna al-maqāṣid al-kulliyyah wa al-nuṣūṣ al-juzʿiyyah* (Cairo: Dār al-Shurūq, 2006), 27.

67 Gamāl Eldīn ʿAttia, *Towards Realization of the Higher Intents of Islamic Law: Maqāṣid al-Sharīʿah: A Functional Approach* (London: The International Institute of Islamic Thought, 2007), 116-149; Kamālī, *An Introduction to Sharīʿah*, 98.

68 Ṭahā Alwānī, *Afalā Yatadabbarūna al-Qur'ān* (Cairo: Dār al-Salām, 2010), 62.

69 Kamālī, *An Introduction to Sharīʿah*, 201.

70 ʿAttia, *Towards Realization of the Higher Intents of Islamic Law*, 116-149.

71 Rāchid al-Ghannoūchī, *Al-Ḥurriyāt al-ʿāmmah fī al-dawlah al-islāmiyyah* (Beirut, 1993), 44.

72 al-Qaraḍāwī, *Dirāsah*, 30.

73 ʿAuda, *Maqāṣid al-Sharīʿah as Philosophy of Islamic Law*, 25.

74 Tariq Ramadan, *Western Muslims and the Future of Islam* (Oxford: Oxford University Press, 2004), 54.

75 Ramadan, *Radical Reform*, 89.

76 David Warren, "Doha—The Center of Reformist Islam? Considering Radical Reform in the Qatar Context: Tariq Ramadan and the Research Center for Islamic Legislation and Ethics (CILE)," in *Maqāṣid al-Sharīʿah and Contemporary Reformist Muslim Thought*, ed. Adis Duderija (New York: Palgrave Macmillan, 2014), 85-89.

77 This was part of al-Qaraḍāwī's wider appreciation of the reality of modern issues, which as he argues are too complex for an individual jurist to deal with. Therefore al-Qaraḍāwī advocates collective ijtihād (*ijtihād jamāʿī*), by which the efforts of a team of experts from different fields replace the efforts of individuals. See Yūsuf al-Qaraḍawī, *al-Ijtihād al-Muʿāṣir bayna al-Inḍibāt wa al-Infirāṭ* (Cairo, 1998), 50, 103.

78 David Johnston, "Yūsuf Qaraḍāwī's Purposive Fiqh: Promoting or Demoting the Future Role of the '*ulamā*'?" in *Maqāṣid al-Sharīʿah and Contemporary Reformist Muslim Thought*, 60.

79 Felicitas Opwis, Review of Adis Duderija (ed.), *Maqāṣid al-Sharīʿa and Contemporary Reformist Muslim Thought: An Examination*, in *Islamic Law and Society* 23, no. 1/2 (2016): 141-146.

80 Ramadan, *Radical Reform*, 181.

81 Warren, "Doha: The Center of Reformist Islam?" 89.

82 Kamālī, *An Introduction to Sharīʿah*, 201.

83 Rane, "The Impact of Maqāṣid al-Sharīʿah," 338.

84 Usaama al-Azami, "'Abdullah bin Bayyah and the Arab Revolutions: Counter-revolutionary Neo-traditionalism's Ideological Struggle against Islamism," *The Muslim World* 109 (2019): 343-361.

85 Biography at the Official Website of Shaykh ʿAbdallah Bin Bayyah, http://binbayyah.net/english/bio/.

86 For more on Bin Bayyah's alliance with the UAE, see al-Azami, "'Abdullah bin Bayyah and the Arab Revolutions," which addresses how Bin Bayyah's discourse serves the UAE goal of expelling Islamist activity from the region. On the idea of branding for international security purposes as a driver for the relationships between scholars and regimes, see Warren, *Rivals in the Gulf*.

87 Bin Bayyah, *Tanbīh al-Marāji'*, 9.

88 Ibid., 10.

89 Ibid.

90 ʿAbdullāh Bin Bayyah, *Mashāhid min al-maqāṣid* (Riyadh: Dār Wujūh, 2010), 165.

91 ʿAbdullāh Bin Bayyah, *ʿAlāqat maqāṣid al-sharīʿah bi uṣūl al-fiqh* (Cairo: al-Mu'assasah al-Saūdiyah, 2006), 30.

92 Hākim al-Muṭairī, "al-Ḥurriyyah aw al-Ṭūfān" (Beirut: Arabic Foundation for Studies and Publication, 200). For more about the Caliphate in Islamic political thought, see also Ovamir Anjum, *Politics, Law, and Community in Islamic Thought: The Taymiyyan Moment* (Cambridge: Cambridge University Press, 2012), xiii.

93 Bin Bayyah, *Tanbīh al-Marājiʿ*, 10.

94 Jāsser ʿAuda, *al-Dawlah al-Madaniyyah, Nahwa Tajāwuz al-Istibdād maʿa taḥqīq maqāṣid al-sharīʿah* (Arab Net For Research And Publications, 2015), 17.

95 "A Call to Intensify Peace Efforts," The Official Website of Shaykh ʿAbdallah Bin Bayyah, http://binbayyah.net/english/a-call-to-intensify-peace-efforts/.

96 Al-Ghannoūchī, *al-Ḥurriyyāt*, 51.

97 "Ḥilf-al-Fuḍūl," Bin Bayyah's Speech, Forum for Promoting Peace Conference, December 8, 2018, https://www.youtube.com/watch?v=8dTslRil0UA.

98 Bin Bayyah, *Tanbīh al-Marājiʿ*, 109.

99 Khaled Abou El Fadl, *Rebellion and Violence in Islamic Law* (Cambridge: Cambridge University Press, 2001), 4.

100 ʿAbdullah Bin Bayyah, *al-Irhāb al-tashkhīs wal-ḥulūl. Mawqif al-Islam min al-ghulu wa al-taṭarruf* (Riyadh, 2012), 37.

101 al-Muṭairī, *al-Ḥurriyyah aw al-Ṭūfān*, 177-178. See also Anjum, *Politics, Law, and Community in Islamic Thought,* xiii. Anjum argues that the quietist attitude towards those in power was and is the predominant strand among the traditional Muslim scholarly elite. He argues that this apolitical and legalistic tendency was not because of jurists' lack of involvement with power, but rather because of the absence of a sustained effort to theorize power and because of a historical process in which Islam became depoliticized.

102 Bin Bayyah, *al-Irhāb al-tashkhīs wal-ḥulūl*, 9.

103 Halim Rane, "Trends in Muslim Political Thought: Redefining Islam in the Socio-Political Context," E-International Relations, April 16, 2010,

https://www.e-ir.info/2010/04/16/trends-in-muslim-political-thought-redefining-islam-in-the-socio-political-context/.

104 Ibid., 6.

105 Wam, "UAE Fatwā Council: International Relations and Treaties are Inclusive Authority of Wali al-amr," August 18, 2020, https://www.wam.ae/ar/details/1395302862326.

106 Aḥmad Ḥasan, *Analogical Reasoning in Islamic Jurisprudence: A Study of the Juridical Principle of Qiyas* (New Delhi: Adam Publishers & Distributors, 2007), 354.

107 Al-Shāṭibī, *al-Muwāfaqāt*, 361-362.

108 Bin Bayyah, *Tanbīh al-Marāji'*, 71.

109 Ibid., 83.

110 Riḍā, *Tafsīr al-Manār*, 7:197-198 (commenting on Q 5:101-102).

111 'Abdallah Bin Bayyah, "Fatwā on The Importance of The Maqāṣid Methodology," The Official Website of Shaykh 'Abdallah Bin Bayyah, http://binbayyah.net/arabic/archives/3841.

112 'Abdul Ḥamīd Abū Sulaymān, *Towards an Islamic Theory of International Relations: New Directions for Islamic Methodology and Thought* (United States: International Institute of Islamic Thought, 1993), 77.

113 See Yūsuf al-Qaraḍāwī, *Fiqh al-Aqalliyyāt al-Muslimah* (Cairo: Dār al-Shurūq, 2001). See also Ṭāhā Jābir Fayyāḍ 'Alwānī, *Towards a Fiqh for Minorities: Some Basic Reflections* (United Kingdom: International Institute of Islamic Thought, 2010). See also Tariq Ramadan, *To Be a European Muslim* (Leicester: The Islamic Foundation, 2000), and many articles by Khaled Abou El Fadl on the fiqh of minorities.

114 For more about "Fiqh al Ma'alat," see al-Qaraḍāwī, *Dirāsah*, 14, 20.

115 Louay Safi, "The Islamic State: A Conceptual Framework," *American Journal of Islamic Social Sciences* 8, no. 3 (1991): 132.

116 Quietest Salafis are more commonly referred to by the quasi-pejorative designation of "al-Jāmiyyah," or the followers of Muḥammad Amān al-Jāmī (d. 1994). They are also referred to as the Madkhaliyyah, referring to al-Jāmī's student Rabī' bin Hādī al-Madkhalī. For more on the different strands of Salafism, see Roel Meijer (ed.), *Global Salafism: Islam's New Religious Movement* (United Kingdom: Oxford University Press, 2013).

117 Hassan Mneimneh, "The Spring of a New Political Salafism?" Current Trends in Islamist Ideology 12 (Hudson Institute, 2011), 33.

118 Alexei Vassiliev, *The History of Saudi Arabia* (London: Saqi Books, 1998), 469.

119 Ḥasan Noorhaidi, "Saudi Expansion, The Salafī Campaign and Arabised Islam in Indonesia," in *Kingdom without Borders: Saudi Political, Religious and Media Frontiers*, ed. Maḍāwī al-Rasheed (London, 2008), 275.

120 Kristin Smith Diwan, "Who Is Sunni?: Chechnya Islamic Conference Opens Window on Intra-Faith Rivalry," The Arab Gulf States Institute in Washington, September 16, 2016, https://agsiw.org/who-is-a-sunni-chechnya-islamic-conference-opens-window-on-intra-faith-rivalry/.

121 Mneimneh, "The Spring of a New Political Salafism?" 32-33.