

FREEING *MAQĀSĪD* AND *MAŞLAĤA*  
FROM SURREPTITIOUS UTILITARIANISM<sup>1</sup>

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Current discourse on *maqāṣid* and *maşlahā* has been structurally coopted into the Western utilitarian framework, in which the two Islamic ethical and legal terms have been largely conflated with secular utility. The original epistemological and axioteleological parameters of what really counts as *maşlahā* are disregarded so that it can be identified with core Western values such as progress, science and development. This paper overviews the nature of, and the reasons for, this cooptation and conflation, and provides general proposals for recovering the true vision and operation of *maşlahā*. Three specific case studies, including on Islamic Finance and the Halal Industry, are presented to further clarify the discussion.

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**Keywords:** al-Būṭī, change, development, Halal industry, Islamic Finance, *maqāṣid*, *maşlahā*, Mufti Usmani, progress, secularization, *uṣūl al-fiqh*, utilitarianism.

Lately there has been much abuse of the *maqāṣid* and *maşlahā* discourse through its structural cooptation into the Western utilitarian framework, in which *maşlahā* is conflated<sup>2</sup> with utility. The original epistemological and axiological

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  2. Conflation here means the blending of two concepts (in this case *maşlahā* and utility) without taking care to show where they conceptually overlap and where they do not, leading to the loss of the original meaning of either or both of the two terms.

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constraints<sup>3</sup> on what really counts as *maṣlaḥa* (benefit) as expounded in the well-matured science of *uṣūl al-fiqh* (principles of jurisprudence) are simply ignored so that *maṣlaḥa* can be more easily assimilated into, identified with, and thereby be made to serve the ever-shifting, secular objectives of nihilistic, modern Western notions of progress,<sup>4</sup> change,<sup>5</sup> and development<sup>6</sup> rather than the transcendental and immutable objectives of the sacred law (*maqāṣid al-sharīʿa*) of Islam.<sup>7</sup>

Apart from the five (or six<sup>8</sup>) foundational objectives of the divine law—traditionally articulated within the taut framework of a rigorous, integrative ethico-moral logic—these modern Shariʿa scholars and thinkers can now conjure up as many objectives as they can imagine to imitate and address the concerns and ends the West finds to be foundational or in the public interest, and thus deems beneficial, useful, and worthy of pursuit and realization. In effect, we are witnessing a steady march towards the systemic and structural secularization, *fasād*-ization,<sup>9</sup> disintegration, and dissolution of the *maqāṣid*; but the paradox and irony of it all is that we find traditionally educated *fuqahāʾ* and *muftīs* (including *sharīʿa* scholars and academics), rather than ignoramuses and laymen, being complicit (or *complicated*) into this mad dash towards the speedy demise of the epistemic and ethico-moral integrity of the *maqāṣid*. Of course, in hindsight this is not at all surprising, for only the learned class has the cognitive capacity to corrupt their own learning and thereby lead

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3. What I would call the *axio-epistemic methodological parameters* of *uṣūl al-fiqh*.
  4. A recent detailed indictment of ‘progress’ is Lukman Harees, *The Mirage of Dignity on the Highways of Human ‘Progress’: The Bystanders’ Perspective* (Bloomington, IN: Author House, 2012).
  5. Change, to be meaningful, as pointed out by al-Attas, can never be for its own sake; it must always involve a *choice for the better*, and that requires *ikhtiyār* (literally *ṭalab al-khayr* = to seek out the good), the cognitive capacity to identify the options before you and then to choose the good or the best among them; see Syed Muhammad Naquib al-Attas, *Prolegomena to the Metaphysics of Islam* (Kuala Lumpur: ISTAC, 1993), 33-34, 76-77.
  6. Gilbert Rist, *History of Development: From Western Origins to Global Faith* (London: Zed Books, 2008); cf. Oswaldo de Rivero, *The Myth of Development* (London: Zed Books, 2001).
  7. Syed Muhammad Naquib al-Attas, *Islam: The Concept of Religion and the Foundations of Ethics and Morality* (Kuala Lumpur: ISTAC, 1992).
  8. The sixth is *ḥifẓ al-ʿird*, the preservation of personal honour or dignity, which can arguably be subsumed under the objective of the preservation of family lineage (*ḥifẓ al-nasl*).
  9. From *fasād*, meaning corruption.

themselves and their students and unthinking followers to perdition; and this happens when the learned fail to live up to the immense trust of upholding the truth and the integrity of their knowledge,<sup>10</sup> and allow themselves, wittingly or unwittingly, and for whatever reasons, to be tempted and seduced by the allure and promise of modernity.

Over five decades ago, the prescient Shaykh Muḥammad Saʿīd Ramaḍān al-Būṭī (1929-2013)<sup>11</sup> brought to our attention this creeping utilitarianization of the *maqāṣid* and *maṣlaḥa* discourse amongst Muslim thinkers, intellectuals, and even the *ʿulamāʿ*.<sup>12</sup> It was an issue that so concerned him that he devoted a rigorously composed doctoral dissertation to engage it, entitled *Ḍawābiṭ al-maṣlaḥa fī al-sharīʿat al-islāmiyya* (The Parameters of *Maṣlaḥa* in Islamic Sacred Law).<sup>12</sup> As the well-known historian of Islamic law, Wael B. Hallaq, has noted in his masterful review of contemporary *usūl al-fīqh* discourse in general, and of al-Būṭī's *Ḍawābiṭ* in particular:

His *Ḍawābiṭ* represents a rearticulation of the role of rationality in traditional legal reasoning, particularly in reaction to what he saw as the excesses committed by twentieth-century so-called *maṣlaḥawī* thinkers and their utilitarian forerunners in Europe.<sup>13</sup>

### What is the *Maqāṣid* in Relation to the *Maṣlaḥa*?

The term *maqāṣid* in the context of this discussion refers to the five principal values of (i) religion (*al-dīn*), (ii) life (*al-nafs*), (iii) intellect (*al-ʿaql*), (iv) family lineage (*al-nasl*), and (v) wealth (*al-māl*) which constitute the overarching or universal axiological objectives of the Divine Law (hence, *maqāṣid al-sharīʿa*). The term *maṣlaḥa* (benefit) refers to everything that realizes the preservation (*ḥifz*) of these five principal values (*al-uṣūl al-khamsa*), while its antonym,

10. On the pitfalls of the learned, see *Kitāb al-ʿIlm* in al-Ghazālī, *Iḥyāʿ Ulūm al-Dīn*, trans. Nabih Amin Faris, *The Book of Knowledge* (New Delhi: Islamic Book Service, n.d.), especially 147-212.

11. For a good sketch of his life and thought, see Andreas Christmann, "Islamic Scholar and Religious Leader: A Portrait of Shaykh Muḥammad Saʿīd Ramaḍān al-Būṭī," *Islam and Christian-Muslim Relations* 9, no. 2 (1998):149-169. This paper focuses on al-Būṭī's *Ḍawābiṭ* as its framework of analysis largely because it is a considered and cogent book, integrative of the approach of al-Ghazālī and al-Shāṭibī, and as such it deserves to be revisited, studied, and translated into scholarly English.

12. (Damascus: Dār al-Fikr, 2005).

13. Wael B. Hallaq, *Shariʿa: Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009), 511.

*mafsada* (corruption), refers to everything that obviates all or some of these five principal values.<sup>14</sup>

It needs to be stressed here that *maṣlaḥa* per se is not a legal indicant (*dalīl*) from among the indicants of the Law that can be treated independently from the four foundational sources of Islamic jurisprudence, namely the Qurʾān, Sunnah, *Ijmāʿ* (scholarly consensus), and *Qiyās* (juristic analogy); it is, rather, a general meaning (*maʿnā kullīyy*) abstracted from the totality of the various particular legal rulings (*al-aḥkām al-juzʿiyya al-mukhtalifa*) derived from the foundational sources of the Divine law (*maṣādir al-sharʿiyya*). This means that when we survey the totality of the various particular legal rulings, we can infer from them the fact that they all partake of the common objective of safeguarding the interests of people (*murāʿāt maṣāliḥ al-ʿibād*), both in the life of this world and in the life of the Hereafter.<sup>15</sup>

Now, it is quite obvious from the above observation that there is a subtle and dynamic interplay between the general or holistic meaning of *maṣlaḥa* and the particular legal rulings and the manner these rulings are arrived at. Just as the whole (overall benefit) is inferred from and constituted by its parts (particular rulings), therefore *maṣlaḥa* must be considered both in relation to the parameters defining its holistic meaning, and in relation to the elaborative indicants of the particular rulings, in order that there be congruence between the whole and its constitutive parts. On the one hand, we have derived (*takhrījī*) knowledge that the overall objective is benefit, but the actual confirmation (*tahqīq*) of that benefit in any given situation is by way of the detailed or elaborative legal indicants derived from the foundational sources.<sup>16</sup>

This means that the mind or reason on its own cannot confirm outright whether some matter is truly beneficial or otherwise in any given situation unless it has followed through with the procedure of rigorously examining the particular legal indicants having direct or indirect bearing on the matter concerned so as to arrive at the appropriate legal ruling on it. Al-Būṭī points out in great detail that it is the failure to observe this rigorous, objective, and rational procedure of examination that has led to the current easy and lazy cooptation of *maṣlaḥa* into utilitarianism, and thereby to its corruption in meaning and practice.

### **What is Utilitarianism, and Who are the Utilitarians?**

Utilitarianism refers to the ethical theory that the seeking of the greatest good

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14. al-Būṭī, *Dawābīṭ*, 130.

15. Ibid., 128.

16. Ibid., 128-129.

for the greatest number is to be the basis for moral conduct, and, by extension, for decision-making leading to that conduct; or that “the moral action is the one that maximizes utility.” In short, the dogma of utilitarianism boils down to *maximizing utility for the majority*,<sup>17</sup> or, the greatest good for the greatest number.

The problem lies in what is meant by the ‘good’, or the ‘greatest good’, and in the manner by which one would go about identifying it. The ‘good’ has been identified with ‘utility’, which in turn has been identified with happiness, pleasure, satisfaction, usefulness, economic wellbeing, and lack of suffering. For Jeremy Bentham (1748-1832), widely recognized as the founder of modern utilitarianism, the measure of utility is happiness. Thus he famously says, “It is the greatest happiness of the greatest number that is the measure of right and wrong.”<sup>18</sup>

But what does happiness consist of? And in what do we ground it? Do we ground it in reason, revelation, the ever-shifting egoistic self, or the moral climate of society in any particular epoch? Does happiness pertain only to transitory material and emotional satisfaction, and hence is it purely sentimental, emotional, or even hedonistic?<sup>19</sup> Or are there higher levels of happiness corresponding to higher dimensions of the human self, such as the intellectual, the spiritual, or even the eschatological or transcendental, as in the case of those who believe in an afterlife or in a divine source of being and value?<sup>20</sup>

If there are various types and/or levels of happiness and, therefore, many diverse goods that vary both in quantity and quality, then goods are *incommensurable*,<sup>21</sup> for there will be no single common denominator-good to

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17. A good introduction is Kryster Bykwist, *Utilitarianism: A Guide for the Perplexed* (Bloomsbury Academic, 2010).

18. In his 1776 publication, *A Fragment on Government*; see the discussion in J. H. Burns, “Happiness and Utility: Jeremy Bentham’s Equation,” *Utilitas* 17, no. 1 (March 2005): 46-61.

19. In chapter 4 of his book, *Introduction to the Principles of Morals and Legislation*, Jeremy Bentham devised a “hedonistic calculus” to measure sensations or feelings of happiness or the lack thereof produced by an act.

20. For the Islamic vision of happiness, see the concise exposition by al-Attas in his two monographs, *The Nature of Man and the Psychology of the Human Soul* and *The Meaning and Experience of Happiness in Islam*, both republished in his *Prolegomena*, 91-110 and 143-176, respectively.

21. As pointed out by Sheldon Richman, “The Myth of the Greater Good,” at Reason.com, <http://reason.com/archives/2012/02/24/the-myth-of-the-greater-good/print> (accessed January 15, 2017). John Stuart Mill

serve as the objective normative standard against which all other goods can be measured, compared, and related, and in which they can be subsumed, or to which they can be reduced. And if we grant that fact of *axiological incommensurability*, then how will the notion of ‘the greatest happiness’ or ‘the greatest good’ have any real objective, universal meaning? At most, the secular utilitarian good is *a notion without content*.<sup>22</sup> Unless there is clear vision of transpersonal good or *summum bonum* grounded in objective, immutable Revelation by reference to which these diverse and even conflicting goods can be properly related linearly or hierarchically to one another, harmonized and integrated, this real problem of axiological incommensurability can never be overcome and resolved within a utilitarian framework that is bounded by subjective, speculative rationality.

We may also demand to know precisely just what the term ‘greatest number’ actually refers to. Does it refer to the majority constituting of homogenous persons, or to heterogeneous individuals harboring diverse conceptions, and, therefore, diverse pursuits of the good? Does it refer to the human species alone or does it also include non-human life? And as for the minority, just where does the good of the minority stand in relation to the good of the majority? Are the minority disposable means to ends conceived by the majority, or are they, like the majority, ends in themselves? Submitted to this type of conceptual analysis, the utilitarian notion of the ‘majority’ or ‘greatest number’ is also a notion without real content. The quite self-evident fact that human beings are by and large unique, integral individuals (not something fungible, not just so many grains of rice in a sack) should have long ago awoken the utilitarian moral theorists from their dogmatic slumber and myopic vision of human nature.

For our limited purpose here, it is enough to know that utilitarianism grounded in a human reasoning which sees itself as independent of transcendent revelation tends to flatten life and life’s pursuits to the level of the transitory and the material in its obsession with purely pragmatic concerns. This ever-shifting pragmatic rationality is a salient aspect of the secularizing process in European history that took root during their so-called Age of

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earlier noted this problem of axiological incommensurability, namely that that not all goods are equal.

22. See the analysis in Richard Taylor, “The Utilitarian Fallacy,” *Argumentation* 9 (1995): 531-541; cf. Richard A. Epstein, “Are Values Incommensurable, or Is Utility the Ruler of the World?” *Utah Law Review* 9 (1995): 683-715.

Reason (1600-1800).<sup>23</sup>

This is not to say there has not been utilitarian thinking grounded in Christian theology, or grounded even in borrowings from traditional Islamic, revelation-based ethico-legal discourse on *maṣlaḥa*;<sup>24</sup> but to all intents and purposes, modern utilitarianism, from Jeremy Bentham and John Stuart Mill (1806-1873) onwards, is focused on the temporal, the material, the worldly life, and on pragmatic public policy pertaining mostly to government, law, and economics; and as such it tends to diminish individual personhood (even while calling for individual liberty) and disregard longer term views, while ignoring or denying eschatological considerations altogether.

Therefore, we find that the promise of utility amounts to, at best, a persuasive rhetoric reeking of universalizing (i.e., imposing on others) what is in truth a subjective, self-serving view of the good life. Maximizing utility for the majority has from the very beginning been maximizing the privilege of a very small minority to whom the majority are but disposable means towards elitist ends. The ‘majority’ considered by utilitarian philosophers and their political masters certainly did not include in practice the majority constituting the diverse nations and peoples of Asia, Africa, and the Americas who were colonized and exploited in the age of British imperialism, in which utilitarian thinking took roots and blossomed. As al-Būṭī warns us:

To sum up, the goods that Europe holds on to on the basis of the works of their ethical philosophers, and which they later adopted as the foundation of their legislation, are but goods conceived by unrefined subjective self-interest, even if these goods are expressed in terms of serving the General Good. These goods, in fact, hover only around bodily needs and desires though they appear to be knocking on the door of reason, posing to it questions and seeking from it answers. They do not, in their pursuit of the means, posit any goal that transcends this worldly life, even if they do not in the process deny religious truth. It behooves the Islamic enquirer to know this in order that the matter does not confound him, and lead him into being swept away by the current of imitation in the name of intellectual flexibility and the adaptability of the religion to every epoch.<sup>25</sup>

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23. For a good overview, see James Hitchcock, “The Secularization of the West,” Chapter 3 in *What is Secular Humanism* (Ann Arbor, MI: Servant Books, 1982), 33-48.

24. Much of modern Western utilitarian thought (as opposed to Hellenistic hedonism) uncannily smacks of classical Islamic *maṣlaḥa* discourse shorn of its spiritual and eschatological dimensions.

25. al-Būṭī, *Dawābī*, 58.

**Al-Būṭī's Re-articulation of the Axioteology<sup>26</sup> of *Maṣlaḥa***

In contrast to secular utilitarianism (outlined in brief above), which restricts benefit (*maṣlaḥa*) and harm (*mafsada*) to the life of this world, the Sharīʿa extends them to the Afterlife, hence the proximate benefit and harm of this world are but a function of the ultimate benefit and harm of the Afterlife. This means that all benefits and harms have two aspects: an aspect that pertains to this worldly life, and an aspect that pertains to the Afterlife, which has ultimate and final significance as regards what truly and really counts as beneficial or harmful. Al-Attas explains:

Islām does not concede to the dichotomy of the sacred and the profane; the worldview of Islām encompasses both *al-dunyā* and *al-ākhirah*, in which the *dunyā*-aspect *must* be related in a profound and inseparable way to the *ākhirah*-aspect, and in which the *ākhirah*-aspect has ultimate and final significance. The *dunyā*-aspect is seen as a *preparation* for the *ākhirah*-aspect. Everything in Islām is ultimately focussed on the *ākhirah*-aspect without thereby implying any attitude of neglect or being unmindful of the *dunyā*-aspect.<sup>27</sup>

An ostensible benefit in this life that leads to a harm in the Afterlife is, in reality, not a benefit at all; and conversely, an ostensible worldly harm or suffering may not be truly so in the larger, *trans-temporal* perspective of the Afterlife. Therefore, all notions of benefit or harm have always an inseparable, eschatological dimension in Islam; but the problem before us is that this dimension is generally neglected or disregarded in secular discourse on benefit and harm, or happiness and suffering, or good and evil, due to the obsession with the *ever-shifting pragmatics* of the temporal life of this world, which is largely seen in practice if not in belief as the only life worthy of serious, reasoned concern.

Furthermore, even when considered in relation to the temporal life of this world alone, benefit and harm are not restricted to the physical or material dimension of life, but they extend also to other, arguably higher dimensions pertaining to non-material, spiritual human needs or aspirations. *Quantity equals not quality*, and having more is not *ipso facto* living better. Here, we (and the utilitarians) can surely take a leaf or two from Abraham Maslow's quite insightful theory of human motivation and his model of the hierarchy of human needs.<sup>28</sup>

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26. The term refers to a scheme of values that has a well-defined end and purpose in view, like the value system of Islam.

27. al-Attas, *Prolegomena*, 1.

28. An introduction to Maslow's psychology is Frank G. Goble, *The Third Force*:

Finally, religion is the *principle of integration* for all forms of worldly *maṣlaḥa*. As al-Būṭī puts it: “The interest of the religion is the foundation for all other interests” (*maṣlaḥat al-dīn āsl liʾl-maṣāliḥ al-ukrā*).<sup>29</sup> This means that any worldly benefit that contradicts or subverts the overriding objectives (*maqāṣid*) of the Sharīʿa—namely the five universal benefits of religion, life, intellect, family lineage, and property—is to be rejected outright as being, in fact, unbeneficial or even harmful. In other words, benefit and harm as defined by religion—which views the life of this world as but a preparation or seed-bed for the Afterlife (*al-dunyā mazraʿat al-ākhirā*)—have ultimate and final significance.

Al-Būṭī points out forcefully in no uncertain terms that this transcendental vision of benefit and harm is absent from the ever-shifting rationality of secular utilitarianism and largely disregarded by witting and unwitting Muslim advocates of utilitarianism from among the *maṣlaḥawī* academics, thinkers and writers. He goes as far as to accuse these *maṣlaḥawīs* to be prioritizing utility as defined by human reason over *maṣlaḥa* as defined by divine revelation. On our part, we say that they are in fact flattening and secularizing the meaning of *maṣlaḥa*, and thereby reducing it to what is only facilitative of the pursuit of the fleeting and ever-shifting enjoyments, pleasures, and conveniences of modernity. This flattening and hollowing out process lies at the core of all utilitarian thinking even if those who engage in it deny any affiliation with utilitarianism as an ethical philosophy.

Since all aspects of this life, public and private, personal and social, is but a preparation for the Afterlife (*al-dunyā mazraʿat al-ākhirā*), then there is no definitive demarcation or dichotomy between *ʿaqīda* (belief), *ʿibāda* (worship), and *muʿāmalā* (transaction). All three are governed by one law (*ḥukm wāḥid*), and thereby constitute a single, indivisible integrated act (*ʿamal wāḥid*). Hence, we are to obey Allah in whatever we think, say or do, and in whatever situation we find ourselves in, whether in private or public life (*ittaqū Llāha haythu kuntum* = be mindful of Allah whenever, wherever and however you are).

There is no separation between the religious and the secular, such that private, personal worship (*ʿibāda*) is seen to be religious and governed by immutable revelation, while public, interpersonal transaction (*muʿāmalā*) is seen to be secular and governed by ever-shifting reason independent of revelation. Interpersonal transaction (*muʿāmalā*) is but an extension of personal devotion or worship (*ʿibāda*), and thereby, an aspect of it. The laws of belief, worship, and transaction all pertain to realizing *maṣlaḥa*, both in

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*The Psychology of Abraham Maslow* (New York: Pocket Books, 1980).

29. al-Būṭī, *Dawābī*, 71ff.

this life (*maṣāliḥ duniyāwiyya*) as well as in the Afterlife (*maṣāliḥ ukhrāwiyya*); they are in essence, when taken together, *maṣlaḥa wāḥida* (a single indivisible, integrated good). Since human rationality has always to work within the ambit of divine revelation, then any benefit, good, or pleasure rationally conceived in contradiction to revelation is not real, objective *maṣlaḥa* (*maṣlaḥa ḥaqīqīyya*) but only imaginary and subjective (*maṣlaḥa marwḥūma*).

To avoid falling into the trap of conflating real with imaginary *maṣlaḥa*, the determination of whether a particular course of action constitutes or leads to *maṣlaḥa* is cognitively constrained and guided by a set of rigorous epistemological, axiological, and methodological parameters already expounded in great objective detail in the well-established, rational science of *usūl al-fiqh*. *Maṣlaḥa* can be either *naṣṣīyya*, directly grounded in unequivocal texts (*nuṣūṣ*) of the Qurʾān and Sunnah, or in scholarly consensus, thus, *ijmāʿīyya*; or it can be indirectly inferred and derived through *ijtihād* (legal reasoning), thus *ijtihādīyya* and *qiyāsīyya* (from *qiyās* = deductive analogy). The former type (*naṣṣīyya* and *ijmāʿīyya*) is immutable, while the latter (*ijtihādīyya* and *qiyāsīyya*) is adaptable to changing social conditions, but this adaptability or flexibility has always to be within the ethico-legal ambit of immutable and transcendent Revelation, and hence, there can be no notions of good, benefit, pleasure, interest, or happiness contradicting or becoming independent of the general and particular dictates of revealed Law.

This means that any inference to a benefit or a good that invokes the five universal benefits constituting the objectives of the Divine law *but* which bypasses the objective procedural filter of the epistemological, axiological, and methodological parameters (*dawābīt*) of the science of *usūl al-fiqh* by which particular legal rulings are arrived at on any specific issue or problem is tantamount to rendering subjective, speculative reason independent of objective immutable Revelation; and such an inference must *ipso facto* be rejected out of hand, and exposed for what it truly is: namely, Western utility masquerading as Islamic *maṣlaḥa*. In short, any assertion for a *maṣlaḥa* (benefit) or that something is *maṣlaḥawī* (beneficial) that bypasses the strict objective inferential filter of the science of *usūl al-fiqh* is nothing but subjective utilitarian thinking, regardless of whether the muftī or thinker doing so realises it or not.

The true *mujtahid*, *muftī*, *faqīh*, *ʿalīm*, *imām*, *ustādh*, or *shaykh* must “distinguish them [the correct forms of *maṣlaḥa*] from notions of good that the masters of modern civilization and material culture have propounded....Many of the maladies with which we have been afflicted seep into our lives under labels of such values and notions of good.”<sup>30</sup>

30. See Hallaq, *Shariʿa*, 514 (quoting and summarising al-Būṭī).

### How did Utility Subvert *Maṣlaḥa*?

The *utilitarianization* of *maṣlaḥa* has been traced by Wael Hallaq to modernizing thinkers such as Muḥammad ‘Abduh, Muḥammad Rashīd Riḍā, ‘Abdul Wāḥḥāb Khallāf, ‘Abdul Karīm Soroush, Muḥammad Sa‘īd Ashmawī, Fazlur Rahman, Muḥammad Shahrūr, and Muḥammad Ḥabīb al-Marzūqī. But even many traditionally trained ‘ulamā’, due to their narrow focus on the formal legalistic aspects of *fiqh*—i.e., on abstract formal rules divorced from substantive values and from the relevant socio-economic contexts those rules serve and in which they are embedded and find their meaning—have been coopted, wittingly or unwittingly, into the modernizing project and thereby into utilitarianism in general and neoliberal capitalism in particular.<sup>31</sup> This utilitarianization and hence *despiritualization* of *maṣlaḥa* happens in various ways, including:

1. through the failure to do proper conceptual deconstruction or unpacking of a Western or modern concept, theory, or structure, thereby taking it for granted as value-neutral or axiologically unproblematic; namely, the disregard for the imperative of systemic *dewesternization*<sup>32</sup> as a necessary condition of critical appropriation and thereby proper Islamization of those western concepts, theories, or structures;
2. through the cooptation of the scholarly institution of *iftā’* by the over-centralizing nation-state for its narrow political agenda;<sup>33</sup>
3. through the cooptation of the ‘ulamā’, *mufṭīs*, and *fuqahā’* by profit-maximizing banks and corporations to serve as paid or employed experts on their so-called Shari‘a Supervisory Boards (SSB);<sup>34</sup>

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31. For a discussion of the broad reasons for the cooptation of Muslim intellectuals, including the ‘ulamā’ class, into the secularization of Islam, see Syed Muhammad Naquib al-Attas, *Islam and Secularism* (Kuala Lumpur: ISTAC, 1993), 118-132 *passim*, and *Prolegomena*, 24, 32, 38.

32. On the intellectual process of rigorous dewesternization, see al-Attas, *Islam and Secularism*, 133-138; and Adi Setia, “*Kalām Jadīd*, Islamization and the Worldview of Islam: Operationalizing the Neo-Ghazālīan, Attasian Vision,” *Islam & Science* 10, no. 1 (Summer 2012): 25-73.

33. For a good discussion and analysis of the nature of the problem of the modern nation state vis-à-vis Islam and the Shari‘a, see Wael Hallaq, *The Impossible State: Islam, Politics, and Modernity’s Moral Predicament* (New York: Columbia University Press, 2012).

34. This has, *inter alia*, led to the practice of “fatwa shopping”; see John Foster, “How Shari‘ah-compliant is Islamic Banking?” in *BBC News*,

4. through the reading of classical fiqh texts out of both the original socio-historical context in which those texts have found their meaning and served their purpose, and the contemporary context in which those texts are to be *creatively re-read and re-applied* for them to engage that new context and thereby find their meaning and purpose afresh;<sup>35</sup>
5. through the intellectual incapacity of *muftīs* who only consider the superficial or *prima facie* aspects of a problem or question (*zāhir al-amr*) without bothering to take the trouble to look into its deeper aspects (*bāṭin al-amr*), i.e., assumptions, presuppositions, and premises, especially when the provenance of the problem or question clearly demands such scrutiny (*tabayyun*);<sup>36</sup>

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<http://news.bbc.co.uk/2/hi/business/8401421.stm> (accessed December 09 2016); see also “Shariah Supervisory Board,” in *Islamic Banker*, <https://www.islamicbanker.com/education/shariah-supervisory-board> (accessed December 09 2016); and Samy Nathan Garas, “The Conflicts of Interest Inside the *Shari’ah* Supervisory Board,” in *International Journal of Islamic and Middle Eastern Finance and Management* 5, no. 2 (2012): 88-105; Matthias Casper, “Sharia Boards and Sharia Compliance in the context of European Corporate Governance,” working paper of the Center for Religion and Modernity, [https://www.unimuenster.de/imperia/md/content/religion\\_und\\_moderne/preprints/crm\\_working\\_paper\\_012012\\_casper\\_neu1.pdf](https://www.unimuenster.de/imperia/md/content/religion_und_moderne/preprints/crm_working_paper_012012_casper_neu1.pdf) (accessed December 09 2016).

35. For instance, *mu‘āmalah* fiqh texts arose out of a context of robust trade and commerce in the *real economy* in which various contractual structures and fiduciary instruments were required. Such structures and instruments facilitating largely direct exchange of real goods and services amongst merchants and traders in the real economy cannot be readily fitted into the *financial economy* of the modern banking system which has already developed sophisticated usurious and speculative instruments of credit intermediation, debt leverage and even monetary expansion.
36. The problem is that of the conflation of knowledge of *mu‘āmalah* fiqh with knowledge of the modern economic and financial system and the legal structures governing it. Just because a mufti is qualified in *mu‘āmalah* does not necessarily mean he or she is qualified also in modern economics and finance. I once had a private conversation with a close friend who is widely considered a mufti or expert in Shāfi‘ī fiqh, but when I mentioned to him about *ribā* (usury) being inherent in the modern financial system because of the mechanism of fractional reserve banking, he raised his hands and effectively said that he was completely clueless about modern economics and finance; I later heard that he was on the board of directors of a major bank

6. through the separation of the formal legal rules (*fiqh*) from the underlying substantive ethical value system (*adab, maqāṣid*) that gives meaning and purpose to those rules, leading to their corruption and subversion<sup>37</sup> into serving an alien value system and worldview;<sup>38</sup> and
7. through the poorly considered use of the descriptive qualifier ‘Islamic’ to qualify almost anything deemed good, desirable and promoted by westernizing modernity.<sup>39</sup>

### Three Case Studies of the Cooptation of *Maṣlaḥa* into Utilitarianism

In what follows, I shall present three very brief case studies exposing the manner in which well-meaning initiatives have fallen into the trap of conflating Islamic

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in Malaysia.

37. “Subversion” here refers to the insidious process by which the values and principles of a system are undermined and infused with alien ones.
38. Largely through (i) *talfīq*, which is *ad hoc* selection of legal rules to conveniently fit a particular situation; (ii) *ḥiyal*, the use of legal stratagems to legalize or even normalize what was originally illegal or abnormal; and (iii) *rukḥṣa*, or invoking legal concession or dispensation to justify what originally or normally was not justifiable. Mufti Usmani, in his influential book *An Introduction to Islamic Finance* (New Delhi: Idara Isha’at-e-Diniyat, 1999), 24, invokes *rukḥṣa* or juristic concession to excuse the “demerits” he sees in IBF in what he sees to be their “transitory” period. But what if concession leads to normalization and even standardization of something abnormal, abhorrent, or even prohibited outright? As the financial analyst Usman Hayat has noted, “Islamic finance is generally made to fit into a system designed for conventional finance, and in the process of making concessions, it seems to lose what its critics regard as its substance”; see his “Is the Islamic Finance Industry a Success or Failure?,” in *Enterprising Investor*, 18 February 2015, <https://blogs.cfainstitute.org/investor/2015/02/18/is-the-islamic-finance-industry-a-success-or-failure/> (accessed January 15, 2017). See also his (with Adeel Malik) concise yet comprehensive review, *Islamic Finance: Ethics, Concepts, Practice* (CEA Institute Research Foundation, 2014), especially, 68-80, on the issue of legalistic form versus ethical, social and economic substance.
39. Whether Islamic ‘finance’, Islamic ‘university’, Islamic ‘school’, Islamic ‘bank’, and so on and so forth, with no attempt at rigorous conceptual unpacking of the qualified terms; furthermore, one has also to articulate precisely what one means by the qualifier ‘Islamic’; e.g., in precisely what way is Islam related to the concept of ‘university’, such that a particular university can be deemed ‘Islamic’?

*maṣlaḥa* with secular utility.

*Kamali's Dangerous Call for Axiological Open-Endedness*

Whether the learned Mohammad Hashim Kamali realizes it or not, the rosy scenario he paints in his influential textbook, *Principles of Islamic Jurisprudence*,<sup>40</sup> for the dilution of the original five (or six) foundational objectives or values of the Sharī‘a into a “completely open-ended list of values”<sup>41</sup> will blur the distinction between what is foundational and what is secondary or even superficial, and even destroy altogether the understanding of the axiological, hierarchical distinction between means and ends and the proper relation between the two. Such *axiological open-endedness* will in fact lead to the *axiological levelling* of ends to means, and then to the *axiological flattening* of all ends and all means.

Such a largely unqualified and unexamined invitation to axiological open-endedness will eventually render the notion of ‘foundational’, ‘higher’, or ‘overriding’ objectives meaningless, since, if almost any values or objectives promoted by the ever-shifting intellectual and cultural climate of the age—such as “human dignity,” “freedom,” “social welfare,” “human fraternity,” including even, as he proposes, “science,” “technology,” and “economic development”<sup>42</sup>—can be considered as ‘foundational’, ‘higher’, or ‘primary’, then most probably none of them really is so—for if any objective or value can be deemed as important as any other, this will lead to a complete loss of any real or meaningful *axiological hierarchy*. It will also lead to the dissolution of the axiological distinction between *ḍarūrīyyāt* (necessities), *ḥājjīyyāt* (complementaries), and *taḥsīnīyyāt* (refinements).

If almost anything can be adopted as an objective to aim for in order to attain to some this-wordly notion of the good life, then instead of a clear transpersonal and transcendent ethico-moral direction and purpose and a true higher end, what results is *axiological anarchy* where any means can be ends so long as it comports with “the priorities of our age.”<sup>43</sup> And given that “our age” is largely the age of western intellectual and cultural hegemony, such open-endedness will amount to nothing less than an open invitation for the infiltration of alien, amorphous western concepts into the well-defined

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40. 2nd rev. ed. (Kuala Lumpur: Ilmiah, 2000); (Cambridge: Islamic Texts Society, 1991).

41. *Principles of Islamic Jurisprudence*, 2nd rev. ed. (Kuala Lumpur: Ilmiah, 2000), 402.

42. *Ibid.*, 402.

43. *Ibid.*, 403.

axioteological system of Islam leading to the eventual dissolution and destruction of its internal conceptual coherence and integrity.<sup>44</sup>

Specifically, if the nature of this axiological dilution—which he calls “development and enhancement”<sup>45</sup>—“must reflect the priorities of our age and the change of circumstances that we encounter as a result,”<sup>46</sup> then, given the current global dominance of the secularizing, relativizing, and utilitarianizing sciences of the West, such a call towards axiological open-endedness, despite its best intentions, will inevitably expose the original Islamic concepts of *maṣlaḥa* and *maqāṣid* to the corrupting influence of the ever-shifting axiological prioritization of the hegemonic West. As al-Attas warned us almost four decades ago in his profound book, *Islam and Secularism*:

the knowledge that is now systemically disseminated throughout the world is not necessarily *true* knowledge, but that which is imbued with the character and personality of Western culture and civilization, and charged with its spirit and geared to its purpose.<sup>47</sup>

Hence, we need to ask: what precisely is this knowledge of “science,” “technology,” and “economic development” that Kamali calls for to be included and thereby legitimized within the axioteological ambit of our *maqāṣid* and *maṣlaḥa*? Is it true knowledge geared to our purpose as Muslims faithful to their transcendent identity and destiny, or is it in fact *pseudo*-knowledge geared to the pragmatic purpose and secular destiny of the nihilistic West?

That the *maqāṣid* are limited to five is simply because they constitute both the basic and ultimate goals of the religious life, and as such they serve as the *axioteological framework* by which to evaluate and critically integrate all other diverse goals and values, and thereby to subsume them within its axiological ambit. Thus, any other goals and values (considered as *ḥājjiyyāt* and *taḥṣīniyyāt*) that serve or strengthen these five necessarily overriding goals and values (considered as *darūriyyāt*) are accepted, while those that do not are rejected as subversive or ignored as irrelevant. The axiological open-endedness proposed by Kamali and other like-minded *maṣlaḥawī* thinkers will lead to the dissolution of any real *axiological distinction* between the *darūriyyāt*,

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44. That is, the closely intertwined and interrelated semantic network of key-concepts and key-terms expressing and articulating the Islamic system of value and purpose.

45. *Ibid.*, 403.

46. *Ibid.*, 403.

47. *Islām and Secularism*, 2nded. (Kuala Lumpur: ISTAC, 1993), 137. This book was first published by ABIM in 1978.

the *ḥājjiyyāt* and the *taḥsīmiyyāt*, and this disintegration of the value system of Islam must be rejected outright by all thinking, conscientious Muslims.

*Islamic Banking and Finance (IBF) and the Financialization of Mu‘āmalah*

Mufti Muhammad Taqī Usmani in his influential book, *An Introduction to Islamic Finance*,<sup>48</sup> has effectively submitted classical *mu‘āmalah* (transactional) commercial contractual forms to serve the *inherently*<sup>49</sup> utilitarian, usurious (*ribāwī*) financial framework of the modern banking industry, thus effecting what can be called the *financialization of mu‘āmalah*.<sup>50</sup> This, of course, has happened in spite of his stated apprehensions and best intentions,<sup>51</sup> and despite his important legal judgment against *ribā* (usury and bank interest).<sup>52</sup>

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48. (New Delhi: IdraIsha‘at-e-Diniyat, 1999). The book is also accessible online: <http://apks.kz/en/images/economics/An%20Introduction%20to%20Islamic%20Finance.pdf>.

49. Inherently, mainly because of fractional reserve banking which allows banks to create money out of nothing and then to loan it out at interest; hence the banking system is not only in the business of usurious financial intermediation but also usurious money creation, and Islamic banks are complicit in this situation because of their cooptation into the very same governing financial architecture. For details, see Yusuf Jha, “From Goldsmiths to Modern Banking: A Frank Look at Money Creation Process and Its Relevance to Modern Banking,” *Islam & Civilizational Renewal* 4, no. 3 (July 2013). See also the widely used standard textbook, Frederic S. Mishkin, *The Economics of Money, Banking and Financial Markets*, 11th ed (Harlow, Essex: Pearson, 2016).

50. For our particular purpose here, financialization of *mu‘āmalah* refers to the transformation of classical *mu‘āmalah* contractual forms—which are basically *commercial* fiduciary instruments to facilitate largely direct trade and equity investments between people and businesses—into profit-maximization financial instruments of largely debt-based credit intermediation, and various forms of debt leverage and monetization through a process of reverse engineering or replication of the various financial products and services offered by the conventional banking and finance industry.

51. Usmani, *An Introduction to Islamic Finance*, 9-24, 235-246 *passim*.

52. Muhammad Taqī Usmani, *The Text of the Historic Judgement on Riba, 23 December 1999: As Written by Justice Muhammad Taqī Usmani* (Kuala Lumpur: The Other Press, 2001). This judgement needs to be revisited and restudied in the light of what we know of the current ethical and legal debacle of IBF and the financial collapse of 2007-2008.

As a result of this *surreptitious*<sup>53</sup> financialization, the classical, integrative legal rules of *mu'āmalah* have been coopted and reduced by the IBF industry to merely a set of contrived *contractual mechanics* (or “matter of twisting of documents only”<sup>54</sup>) in its eagerness to replicate the structures and mechanisms of the modern banking and finance industry. His book, as implicit in the very title itself, has conflated classical *mu'āmalah* with modern finance.

This unfortunate situation has come to pass because he has quite obviously *not* taken due diligence to define (or re-define) with any degree of detailed conceptual analysis what is meant by the key terms ‘economy’, ‘finance’, ‘banking’, ‘commerce’, ‘trade’, ‘business’ in the context of the *adab, fiqh*, and *maqāṣid* of *mu'āmalah*, and how this would compare and contrast with ‘finance’ in the context of the modern banking industry, in particular, and in the larger context of the modern economy, in general. This conflation of classical Islamic *mu'āmalah* categories with modern Western financial and economic concepts is ubiquitous amongst writers and scholars who promote the IBF industry,<sup>55</sup> and even among academicians writing on Islamic economics.<sup>56</sup>

This major *conceptual oversight* shows that Mufti TaqīUsmani has, in fact, largely taken for granted the modern terms ‘money’, ‘finance’, and ‘banking’—and thereby, most of what they imply and entail in modern monetary theory and institutional practice—as intellectually, and hence axiologically (or religiously), unproblematic. Modern finance is largely concerned with *credit intermediation* and *debt leverage* which creates its own *financial economy* largely disembedded from, or even parasitic on,<sup>57</sup> the *real economy* of trade, commerce and entrepreneurship in goods and services, whereas *mu'āmalah* is totally about direct engagement with, and investment in, people and businesses in the real

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53. This refers to a process that is largely hidden from public or even scholarly scrutiny and hence lacks transparency, but the results of which are projected into the consciousness of a largely trusting public as valid and legitimate; hence Harris Irfan’s apt phrase “the hidden world” of Islamic finance.

54. Usmani, *Introduction to Islamic Finance*, 241.

55. For instance, Zulkifli bin Muhammad al-Bakri’s introduction to his Malay translation of the *mu'āmalah* section of *al-Fiqh al-Manhajī*, titled *Kewangan Islam dalam Fiqh Syafi’i* (Kuala Lumpur: IBFIM, 2011), 1-14.

56. Eg., Ahmed El-Ashker and Rodney Wilson, *Islamic Economics: A Short History* (Leiden: Brill, 2006).

57. Vladimir Z. Nuri, “Fractional Reserve Banking as Economic Parasitism: A Scientific, Mathematical, & Historical Exposé, Critique, and Manifesto,” in *EconPapers*, <http://econwpa.repec.org/eps/mac/papers/0203/0203005.pdf> (accessed January 15 2017).

economy. That the modern usurious banking and financial system has its roots in utilitarian thinking that saw no problem in profit-making out of debt leverage *per se* is quite self-evident, should we take the trouble to read the influential treatise, *Defence of Usury* (1787),<sup>58</sup> authored by none other than the founder of modern utilitarianism discussed above, Jeremy Bentham.

Despite being well-meaning, well-intentioned, and full of heart-felt concern for the socio-economic well-being of the Umma,<sup>59</sup> Mufti Usmani's book got off on the wrong footing by mis-conceptualizing and mis-articulating the nature of the problem of economic revitalization of the Umma. This, in turn, has led to a number of serious inconsistencies in his discourse. For instance, he says in the preface to his book:

In the economic field, it was the biggest challenge for such Muslims to reform their financial institutions to bring them in harmony with the dictates of Shari'ah. In an environment where the entire financial system was based on interest, it was a formidable task to structure the financial institutions on an interest free basis.<sup>60</sup>

One would have thought that instead of asking Muslims to "reform" an alien, entrenched, and exploitative system based on a very sophisticated form of *institutionalized usury*, a more effective strategy would have been to encourage and teach them to build up their own autonomous parallel economic system through reviving in their business enterprise and trade the exchange structures and fiduciary instruments of classical *adab* (ethical precepts) and *fiqh* (legal rules) of *mu'āmalah*. Only then could Islamic banks "develop their own culture,"<sup>61</sup> in which case they would cease to be 'banks' in any conventional sense of the term but rather *community investment funds* (or *bayt al-māl*<sup>62</sup>) which support "the fulfillment of the needs of the society as one

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58. See the website for the book at <http://www.econlib.org/library/Bentham/bnthUs.html> (accessed January 15, 2017).

59. Usmani, *An Introduction to Islamic Finance*, 9-23.

60. *Ibid.*, 9.

61. *Ibid.*, 245.

62. Public funds and assets held in trust and managed for the benefit of the people by central government or local authorities. The concept can be extended to various forms of civil societal forms of community-owned funding and investment bodies, companies and institutions, such as *awqāf* (charitable trusts or foundations), social enterprises, cooperatives, and so on.

of their major objectives,”<sup>63</sup> “help the common people raise their standard of living,” and create “new schemes for house-financing, vehicle financing and rehabilitation-financing for the small traders,”<sup>64</sup> all august aspirations Mufti Usmani himself outlines in his book for Islamic finance. In this regard, the JAK Members Bank in Sweden<sup>65</sup> and the Perhimpunan Baitul Maal wat-Tamwil in Indonesia<sup>66</sup> are institutional examples to be replicated and surpassed.

This misconceptualization of the nature of the problem has led to the current mechanical replication by IBF of the modern banking and finance system, which is nothing but usurious credit intermediation largely disembedded from, and thus *parasitic* on, actual commercial exchange of goods and services in the real economy. The long list of major “deficiencies” in the way Islamic banks operate which Mufti Usmani, to his credit, has candidly elaborated in some technical detail in the last eight pages of his book, is a direct result of that strategic mistake of embarking on the road to “reform” and making a “break-through”<sup>67</sup> in a system long recognized to be rotten by Muslims<sup>68</sup> and westerners<sup>69</sup> alike rather than to establish or re-establish an autonomous economic and commercial system truly and holistically “in harmony with the dictates of Shariah.”<sup>70</sup>

Moreover, those major deficiencies or “demerits”<sup>71</sup> that he has so honestly pointed out have effectively demolished the very same achievements or “merits” of IBF that he has also listed, simply because those achievements taken as a whole did not in fact lead to the realization *in actual practice* of that “firm resolution that all their transactions will conform to Shariah and all

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63. Ibid., 244.

64. Ibid., 244.

65. See the 45-page report by Mark Anielski, *The JAK Members Bank, Sweden: An Assessment of Sweden’s No-Interest Bank* (Edmonton, Alberta: Anielski Management, 2004), <http://www.anielski.com/Documents/The%20JAK%20Bank%20Report.pdf> (accessed December 08 2016).

66. See its website, <http://pbmtsv.com/about-us/background/>. There are also many independent studies on it which can be searched for through the internet.

67. Usmani, *An Introduction to Islamic Finance*, 236.

68. See for instance, Tarek El-Diwany, *The Problem with Interest* (London: Kreatoc, 2010).

69. Margrit Kennedy, *Interest and Inflation-Free Money* (Seva International, 1995).

70. Usmani, *An Introduction to Islamic Finance*, 9.

71. Ibid., 235.

their activities will be free from all transactions involving interest.”<sup>72</sup> But the greatest demerit of all is to see a great many Shari‘a scholars due to this strategic blunder being coopted into the sordid business of “twisting of documents” by indulgence in the “contractual mechanics”<sup>73</sup> of pressing *mu‘āmalah* fiqh into replicating conventional usurious financial products through systemic abuse of *talfīq*,<sup>74</sup> *hiyal*<sup>75</sup> and *rukhsa*,<sup>76</sup> all resulting in the systemic normalization (i.e., standardization<sup>77</sup>) of what was originally abnormal or even prohibited outright. The result of this self-serving *reverse engineering*<sup>78</sup> of what were originally usurious instruments resulted in ostensibly Shari‘a-compliant financial products that in their contractual documentations (or “twisting of documents”) do not even keep to the letter of the Shari‘a (i.e., *mu‘āmalah* fiqh)<sup>79</sup> much less its spirit, a major demerit that Mufti Usmani has also highlighted in his largely damning “realistic evaluation” of the “performance of the Islamic Banks.”<sup>80</sup>

When Mufti Usmani was questioned about “the contribution of the Islamic Banks in promoting the Islamic economy,” he responded by saying “they have contributed a lot and they have contributed nothing.”<sup>81</sup> Such an honestly ambivalent and contradictory assessment is not at all surprising given the misconceptualization of the problem in the beginning of his book and the resultant inconsistency and incoherence that abound therein. A proper,

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72. Ibid., 236.

73. See Volker Nienhaus, “The Practice of Islamic Banks,” in Werner Ende and Udo Steinbach, eds. *Islam in the World Today: A Handbook of Politics, Religion, Culture, and Society* (Ithaca: Cornell University Press, 2010), 145.

74. *Talfīq* refers to *ad hoc* selection of legal rules from different schools of jurisprudence to fit a particular situation.

75. *Hiyal* refers to the use of legal stratagems to legalize or normalize what was originally illegal or abnormal.

76. Legal concession or dispensation.

77. By means of various IBF standards boards set up for the purpose such as the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI).

78. In this context, the reproduction of the contractual documentation procedures of conventional banking following detailed examination of its linguistic and legal composition.

79. *Rukhsa* refers to the invoking of legal concession or dispensation to allow what was originally or normally not justifiable or permissible.

80. Usmani, *An Introduction to Islamic Finance*, 235.

81. Ibid., 236.

thorough *tahāfut* of his book and of the Islamic bankers along the lines of Imam al-Ghazālī's *Tahāfut al-falāsifa* is long overdue,<sup>82</sup> but perhaps one can make do for the time being with Harris Irfan's engrossing insider critique, *Heaven's Bankers: Inside the Hidden World of Islamic Finance*.<sup>83</sup> Very much like Mufti Usmani, Harris Irfan is without a doubt "genuinely conflicted"<sup>84</sup> about the IBF industry.

### *Halal Industry*

We find that the Islamic ethico-legal concept of *ḥalāl* has been secularized, that is, conceptually impoverished, hollowed-out and flattened, through crass commercialization, gimmicky marketing and runaway consumerism, as if *ḥalāl* merely means in practice no pork, no wine, and merely ritual slaughter (*dhabīha*). An integrated understanding of halalness would look into the manner of production, say, how the livestock was raised and treated,<sup>85</sup> and whether toxic agrochemicals were sprayed on the soil; as well as the business structure, such as fair labor<sup>86</sup> and fair trade<sup>87</sup> policy, and whether the marketing

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82. But in 2008 a group of traditional legal scholars in Pakistan issued a collective *fatwā* (formal legal opinion) against Islamic banking directed specifically at Mufti Usmani; see Shoaib A. Ghias, "Juristic Disagreement: The Collective Fatwā against Islamic Banking in Pakistan," in *Contemporary Islamic Finance*, ed., Karen Hunt-Ahmed (Hoboken, NJ: John Wiley and Sons, 2013), 103-120.

83. (London: Constable & Robinson, 2014).

84. Jon Fasman, "'Heaven's Bankers,' by Harris Irfan," Sunday Book Review, in *The New York Times*, March 20, 2015, [http://www.nytimes.com/2015/03/22/books/review/heavens-bankers-by-harris-irfan.html?\\_r=0](http://www.nytimes.com/2015/03/22/books/review/heavens-bankers-by-harris-irfan.html?_r=0) (accessed December 08 2016).

85. On animal welfare in Islam, see Musa Furber, *Rights and Duties Pertaining to Kept Animals: A Case Study in Islamic Law and Ethics* (Abu Dhabi: Tabah Foundation, 2015); Kristen Stilt, *Animal Welfare in Islamic Law* (Egyptian Society for Mercy to Animals, n.d.); al-Hafiz Basheer Ahmad Masri, *Animal Welfare in Islam*, new ed. (Markfield, Leicestershire: Islamic Foundation, 2007); and Muhammad Amanullah, "Animal Ethics: An Islamic Perspective," *International Journal on Qur'anic Research* 2, no. 2 (2012). Please see also the important book by Richard Foltz, *Animals in Islamic Tradition and Cultures* (Oxford: One World, 2006).

86. See for instance the website of the Fair Labor Association (FLA), <http://www.fairlabor.org>; and Ozay Mehmet, Errol Mendes, and Robert Sinding, eds., *Towards a Fair Global Labour Market: Avoiding a New Slave Trade* (London: Routledge, 1999).

87. Eg., the discussion in Jacqueline DeCarlo, *Fair Trade and How It Works* (New York: Rosen Publishing, 2011).

involved misleading information,<sup>88</sup> and so on and so forth.

This hollowed-out viewpoint of halalness has led to the current almost exclusive focus on the formal legal aspects of the mechanics of ritual slaughter (and thus on meat processing *per se*) and how it could or could not be appropriated into industrial scale food production.<sup>89</sup> Thus we find muftīs, imāms, and ‘ulamā’ on so-called halal certification boards routinely halalizing (i.e., formally certifying as halal) industries and businesses without having the foggiest idea of what really goes on in those seemingly benign enterprises, and of the real nature of the products and services marketed through them for the consumption of a very gullible Muslim and non-Muslim market.<sup>90</sup>

One would have thought that if halalness was really taken seriously, then it would have been imperative to ensure—through the implementation of a holistic, integrative halal-audit system—that every aspects of a business or industry be halal, all the way from upstream production to midstream marketing to downstream consumption; that is, throughout the whole value and supply chain of the business, from sourcing of raw materials for production to finished end-products for consumption, *including* aspects pertaining to ensuring fair labor practices and ethical human resource management, and positive social and ecological impact. Therefore what we really need today in the context of the modern food business is not just a very narrow *reactive* fiqh of ritual slaughter (*aḥkām al-dhabā’ih*), but comprehensive and *proactive* fiqh treatises on *aḥkām al-ṣinā’āt al-ghidhā’iyya* (legal rulings for the food industry) that will actually motivate and guide Muslims to be *directly* engaged and involved in the production and marketing of the food they eat and the products they use.

Another point to bear in mind is that the term ‘halal’ simply means that something is legally permissible or allowable, and, as such, quite a lot of things can be permissible. However, just because something is allowable is no excuse

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88. E.g., the wide-ranging treatment in Patrick E. Murphy and John F. Sherry, Jr., eds., *Marketing and the Common Good* (New York: Routledge, 2014).

89. A case in point is Mufti Muhammad Taqi Usmani, *The Islamic Law of Animal Slaughter: A Discussion on the Islamic Law for Slaughtering Animals and a Survey of Modern Day Slaughtering Methods*, trans. Amir A. Toft (Santa Barbara, CA: White Thread Press, 2006).

90. For an expose in the case of halal meats, see <http://pieceofmind.publicrealm.net/2012/04/27/the-halal-meat-scam-and-why-im-a-semi-vegetarian/>; for a good discussion on how to go “beyond halal,” see <https://www.facebook.com/BeyondHalal>; see also the discussion at <http://www.marcmanley.com/beyond-halal-meanings-and-significance-of-food-in-islam/> (accessed Dec 09 2016).

for consumptive indulgence in it, for the fact that you *can* do something does not at all mean that you *should*. Moreover, once the concept of halal is wedded to the profit maximization ethos of modern business culture in a marriage of convenience and expedience, then its holistic meaning becomes hollowed out, and only that aspect of it that most befits the wasteful consumerist culture is appropriated. Hence, despite all best intentions, well-meaningness, and practical usefulness, contemporary, narrowly-focused fiqh of ritual slaughter ends up, *as its net effect*, in the promotion of unethical and cruel industrial livestock farming,<sup>91</sup> and, especially, excessive meat consumption among Muslims,<sup>92</sup> even though the Qurʾān clearly commands, *Eat and drink, but do not go into excess, for He does not love the excessive* (Q 7:31).

Furthermore, in the Islamic value system, the *ḥalāl*-aspect is never considered in isolation from the *ṭayyib*-aspect, for the Qurʾān and the Sunnah emphasize and integrate both.<sup>93</sup> By a process of systemically ignoring the *ṭayyib*-aspect, the original holistic ethico-juristic understanding of *ḥalāl* is reduced and narrowed to only those very superficial or mechanistic aspects most readily assimilated into the wasteful and exploitative culture of modern mass production and consumption aggressively promoted by the secular, utilitarian outlook to commerce adopted by the modern corporation. For instance, the actual act of cutting the neck by ritual slaughter (*dhabīḥa*) can be easily replicated manually by workers or even more efficiently by automated machines, and thus readily assimilated into industrial mass production of food which prioritizes quantity over quality, but not so the inherently qualitative

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91. On the problem of industrial animal farming, see the exposure by Yuval Noah Harari, “Industrial Farming Is One of the Worst Crimes in History,” *The Guardian*, 25 September 2015, <https://www.theguardian.com/books/2015/sep/25/industrial-farming-one-worst-crimes-history-ethical-question> (accessed December 13 2016). See also the books, Phillip Lymbery and Isabel Oakshott, *Farmageddon: The True Cost of Cheap Meat* (London: Bloomsbury, 2014); and Brewster Kneen, *Farmageddon: Food and the Culture of Biotechnology* (Gabriola Island, BC: New Society, 1999).

92. On this issue, see Assya Barrette and Amina Khan, “Defeat by Meat: On Muslims and our Meat Addiction,” <https://www.amanahfitness.com/defeat-by-meat-on-muslims-our-meat-addiction/> (accessed December 13 2016).

93. For a good overview of the current growing awareness to integrate the *ḥalāl*-aspect with the *ṭayyib*-aspect of food production, see Noor Fatima Kareema Iqbal, “From Permissible to Wholesome: Situating Halal Organic Farms within the Sustainability Discourse,” in *Islamic Sciences* (Summer 2015).

aspects of upstream ethical sourcing, livestocking, and production, and mid-stream honest marketing structures, including aspects pertaining to ethical human capital management, fair labour and fair trade.

What is halal and what is haram or prohibited should be personally clear to any Muslim who takes his or her religion seriously, and such clarity can only be enhanced once they realize that it is a matter of *personal* responsibility for them to take a *direct* interest in the production, distribution and consumption of the goods and services they require on a daily basis instead of outsourcing that responsibility to faceless, impersonal halal certification bodies largely bonded to industry by marriages of convenience and expedience rather than conscience.

The more Muslims get themselves directly involved and engaged in actually sourcing, producing, distributing, and retailing what they consume and use, namely, in the active producer rather than passive consumer economy, by returning to the sustainable agro-ecological cultivation of the land, the sooner they will be able to *create* their own, truly authentic *ḥalāl-tayyib* economy.<sup>94</sup>

### **Some Brief Proposals for Positive Action**

We need to have more sharīʿa-trained experts and scholars (preferably those with philosophical acumen) researching and exposing the details of this corruption of the *maqāṣid* and *maṣlaḥa* through secular utilitarian thinking, and thereby pointing out the way towards the re-claiming of our sacred Law from being abused in the service of nihilistic sciences and structures. At the intellectual level, this will require the true *fuqahāʿ*<sup>3</sup> to re-apply the *kalām jadīd* dialectical approach<sup>95</sup> towards the conceptual unpacking of modern terms and concepts and the *structural auditing* of the institutions through which those concepts are operationalized in the real world of people and societies. At the institutional level, this will require the *fuqahāʿ*<sup>3</sup> (legal scholars and jurisconsults) and their education and *fatwā* institutions to be freed from state or corporate

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94. On this, see the insightful article by Giovanni Galuzzo, founder of Murujan Permaculture, “Muslims Connecting to Permaculture Design,” <https://murujan.com/2014/04/04/muslims-connecting-to-permaculture-design/> (accessed December 13, 2016); see also Tara Tariq and Sakina Grome, “A Brief Introduction to Permaculture: Sustaining Our Future and Why It Matters to Muslims,” *Green Muslims*, <http://www.greenmuslims.org/a-brief-introduction-to-permaculture-sustaining-our-future-and-why-it-matters-to-muslims/> (accessed December 13, 2016).

95. Adi Setia, “*Kalām Jadīd*, Islamization and the Worldview of Islam.”

control so as to better serve the larger, long-term interests of their socio-religious communities.

The *fuqahā'* and '*ulamā'* are to serve their respective communities by guiding them in all aspects of the religious law bearing on their personal, family, and communal life, including their socio-economic life. In order to be able to do that without fear or favour and without compromising their personal and intellectual integrity, they will need to find ways and means to emancipate themselves from degrading dependency on state handouts and corporate paychecks. By collaborating closely with like-minded *social business* professionals and ethical entrepreneurs, they will need to work diligently towards regaining their economic and financial independence through the revival of *awqāf* (Islamic charitable endowments)<sup>96</sup> and Islamic social enterprise in general.

### A Multifaceted Conclusion

Our present engagement is with the challenges of an alien worldview surreptitiously introduced into Muslim thought and belief by confused modernist Muslim scholars, intellectuals, academics, writers and their followers, as well as by religious deviationists and extremists of many sorts. They have wittingly or unwittingly come under the spell of modern secular Western philosophy and science, its technology and ideology which have disseminated a global contagion of secularization as a philosophical program.<sup>97</sup>

While it is true that the five general *maqāṣid/maṣāliḥ* (objectives/benefits) have a this-worldly dimension that can be accessible and appreciable to the secular mindset, and hence we should project that dimension to help them to appreciate the relevance of Islamic law to the modern context and the pragmatics of private and public life, we need also to stress that the this-worldly aspects of *maqāṣid/maṣāliḥ* are embedded in a higher, ultimate eschatological (or other-worldly) dimension and serve it; hence the Ghazālīan dictum *al-dunyā mazra'at al-ākhirā'*, "the world is the seedbed of the Hereafter."

That is the reason why, as al-Būṭī pointed out, the foremost *maqṣid*, namely *al-dīn*, is the principle of integration of all the other *maqāṣid* and *maṣāliḥ*, meaning that each of the lower *maqāṣid* of *māl* (wealth, property), *nasl* (family lineage), *'aql* (mind, reason, intellect), and *nafs* (life, self, soul) must embody the *al-dīn* and serve it. The idea here is that, through a properly conducted *maqāṣid* discourse, we may expect to appeal to the modern utilitarian mindset

96. Adi Setia, "Waqf and the Civic Economy," in *Islamic Sciences* (Winter 2014).

97. al-Attas, *Prolegomena*, 38.

to rediscover the immaterial *multi-dimensionality* of all ostensibly worldly goods or interests, thereby putting narrow utility into a larger ethico-spiritual framework. But if we focus only on the secular or this-worldly dimension of the *maqāṣid*—which is generally the case nowadays due to the allure and pressure of modernity—then we will in effect be allowing the integrative axioteological vision of the *maqāṣid* to be coopted into the narrow reductionist utilitarian ethos, and thereby flattened and hollowed out, and this will in turn lead to the corruption and *despiritualization* of the sciences of *fiqh* and *uṣūl al-fiqh* and the eventual disintegration of the Sharīʿa.

As a case in point, let us take the objective of the preservation of life (*hiḍz al-naḥs*). In our integrative outlook on life we start from the ontological perspective, which is the day of *alastu* (Q 7:172),<sup>98</sup> when life truly begins and finds its meaning in individual and communal recognition and acknowledgement of its real, true transcendent source of being and existence. The day of *alastu* is the starting point. Without the pre-physical existence of the day of *alastu* when humankind was brought to the recognition of their gracious Creator, preservation of life means purely biological life, and further it means my life as against yours; and the same with wealth, mine as against yours; and the underlying assumption of it all is the notion of this finite world as the only world. However, my general impression of the current widespread *maqāṣid* discourse in both popular and academic circles is that this transcendental ontological view or vision of reality is obscured in our reactive responses to western political, economic, intellectual, and cultural challenges, leading to a subtle infiltration of utilitarian thinking into the minds of the *maqāṣid* theorists and the conceptually shallow works they produce despite their copious affectation of *fiqhī* erudition.

Here we must be careful as regards what is being fitted into what, to serve what purpose or to embody what value. As Islamic legal scholars answerable to the Umma and, ultimately, to Allah Most High, we would most certainly want to critically and thus selectively fit secular utility into the larger axiological multi-dimensionality of the *maqāṣid*, and thereby appropriating it to serve the worldview of Islam,<sup>99</sup> rather than fitting the *maqāṣid* into relativizing utility. This *axiological misfitting* occurs when we too quickly judge some matter as constituting *maṣlaḥa* and thereby bestowing intellecto-moral legitimacy upon it, without first taking the trouble to do proper conceptual and historical

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98. For an exposition of this verse with regard to its significance for comprehensively understanding the concept of 'religion' (*al-dīn*), see al-Attas, *Prolegomena*, 46-47; idem, *Islam and Secularism*, 56-57.

99. For an outline of the Worldview of Islam, see al-Attas, *Prolegomena*, 1-40.

unpacking of the keyterms and concepts governing both intellectual and popular discourse on the matter concerned.

On the one hand, (mis)fitting *maṣlaḥa* into the axiological framework of utility will hollow out the former and allow only those superficial aspects of it which are facilitative of the utility agenda to be expressed; on the other hand, critically appropriating utility into the axiological framework of *maṣlaḥa* will imbue it with a new holistic, integrative meaning that reconnects it to the non-materialistic aspects of what is meant to be a human being. In short, fitting *maṣlaḥa* into utility will impoverish *maṣlaḥa* because utility is already axiologically impoverished, while fitting utility into *maṣlaḥa* will enrich utility because *maṣlaḥa* is already axiologically enriched.

We may also notice that the classical *tartīb* (hierarchical structuralization, axiological prioritization) of the *maqāṣid* and *maṣāliḥ* as expounded by the great *uṣūliyyūn* of old such as al-Ghazālī and al-Shāṭibi is rooted in and derived from a rigorously articulated internal *axioteleological logic*; and hence, if we want to revise, extend, or expand on that *tartīb*, we must engage those internal axioteleologies in order to ensure that our effort be systemic, logical, and rational, rather than arbitrary, illogical, and irrational. By the latter, I mean simply taking the alien axioteleologies underpinning utilitarian thinking largely for granted, which inevitably happens when we fail to submit any particular modern concept we may want to adopt to a proper dialectical, axiotheological (*adabo-kalāmīc*) process of *deconstruction* to sieve out the truly beneficial and relevant from what is only seemingly so.

Through applying that process of *kalāmīc* deconstruction we can then determine whether that external good or utility is really good or useful; and if so, then we go about ascertaining to what extent that good can be appropriated into (i.e., made proper to) the internal axiologies of *maṣlaḥa*, and thereby naturalized and Islamized. The best example of this process is al-Ghazālī's critical appropriation of Greek philosophic-scientific thought in his *Tahāfut al-falāsifa*<sup>100</sup> and *al-Maḍnūn bihi ʿalā ghayri ahlihi*,<sup>101</sup> some results of which he incorporated in his *Muṣtaṣfā fī uṣūl al-fiqh* and his magnum opus, *Iḥyāʿ ulūm*

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100. Translated by Michael Marmura as *The Incoherence of the Philosophers*, 2nd ed. (Brigham Young University Press, 2002).

101. For an overview of the work and al-Ghazālī's method, see Muhammad Afifi al-Akiti, "The Good, the Bad and the Ugly of Falsafa: Al-Ghazālī's *Maḍnūn*, *Tahāfut*, and *Maqāṣid*, with Particular Attention to their Falsafī Treatments of God's Knowledge of Temporal Events," in *Avicenna and His Legacy: A Golden Age of Science and Philosophy*, ed. Y. Tzvi Langermann (Turnhout: Brepols, 2009).

*al-dīn*. Later on, al-Shāṭibī and then al-Būṭī expanded on that *theologico-juristic* method of analysis and synthesis.

The papers presented at the profusion of conferences on *maqāṣid/maṣāliḥ* typically do not indicate that such methodological rigour is being applied.<sup>102</sup> Concerns that are in vogue seem to be simply assumed to be good and useful in the name of science, technology, and development, with no serious conceptual or even factual scrutiny. They are then too quickly labeled and qualified as *maqāṣidī* and *maṣlahawī*, and legitimized as good or beneficial in Islamic law and projected to the gullible public as “Sharī‘a-compliant” (already a problematic term).

If the list of *maqāṣid/maṣāliḥ* becomes open-ended, then there will be no meaningful distinction between ‘foundational’ and ‘derivative’ *maqāṣid/maṣāliḥ*. Academic scholars like Kamali call for adding “economic development” and “development of science and technology”<sup>103</sup> to the *maqāṣid*, which would mean legitimizing them as ends in themselves. If we were to ask why, the answer we read in their works is along the lines of enhancing and ensuring “the standing of the Umma in the world community.”<sup>104</sup> But is that a valid ethico-moral and legal justification? This logic begins to sound like an effort to *keep up with the Joneses*<sup>105</sup> on a grand civilizational scale, and demonstrates a clear intellectual-cultural inferiority complex vis-à-vis the West. This is particularly unfortunate when we know that modern terms like ‘economics’, ‘development’, ‘science’, ‘technology’, and so forth have long been contested among western thinkers and intellectuals themselves with respect to their meaning, method, purpose, and institutional embodiment.<sup>106</sup>

One would have thought that if the natural sciences, technology, and economic development or prosperity were in themselves weighty and worthy

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102. For example, like those organized and hosted in recent years by the International Institute for Advanced Islamic Studies (IAIS), Kuala Lumpur, Malaysia.

103. Kamali, *Principles of Islamic Jurisprudence*, 402-403.

104. Ibid.

105. A popular figure of speech to refer to the petty obsession to be always on par with if not better than other people, especially one’s neighbors, in terms of material goods, financial clout and social standing.

106. For instance, see Paul Feyerabend, *Against Method*, 4th ed. (London: Verso, 2010); idem, *Farewell to Reason* (London: Veros, 1988); idem, *The Tyranny of Science* (Polity Press, 2011); and Stanley Aronowitz, *Science as Power: Discourse and Ideology in Modern Society* (Minneapolis: University of Minnesota Press, 1988).

*maqāṣid/maṣāliḥ* (ends and values), the sagacious *uṣūliyyūn* of old would not have overlooked to explicitly incorporate them in their axiological prioritization (*tartīb*), for many of them penned their erudite legal and ethical treatises at a time when Muslims were foremost in the cultivation of science, commerce, and technology in the clear understanding that these endeavors were to be undertaken insofar as they would complement, facilitate, or enhance the realization of the explicitly stated five foundational *maqāṣid/maṣāliḥ*. Economic prosperity directly relates to the foundational objective of preservation of wealth, while the natural sciences and the technological crafts in general easily relate to the enhancement and refinement of worldly life, which is in turn relatable to the foundational objective of the preservation of life; and all that is in turn indirectly relatable to the rest of the foundational objectives in one manner or another.

The classical *closed-ended* five overriding objectives were seen to be foundational precisely because they were also seen to be *integrative* of all open-ended means and intermediating objectives that are in harmony with and thereby assist, complement, enhance or refine the attainment of those foundational objectives. In fact, on deeper reflection, one can also see that not only are these five objectives foundational and integrative, but they are also *generative* of all possible means and intermediate objectives insofar as they can be found to be compatible with, and facilitative of, the attainment, enhancement and refinement of the five *ḍarūrī* (necessary) objectives.

One might even argue that the foundational *maqāṣid* and *maṣāliḥ* serving as *axioteleological constraints* on scientific and economic activities (i.e., that these latter were not given independent warrant) succeeded in keeping Islamic science and technology from embarking on a trajectory of destruction of nature and culture as has the Western science and technology of the past two centuries, and which is now leading to the “self-destruction of the West.”<sup>107</sup> As al-Attas summarized the situation almost four decades ago:

knowledge as conceived and disseminated throughout the world by Western civilization...has become problematic because it has lost its true purpose due to being unjustly conceived, and has thus brought about chaos in man's life instead of, and rather than, peace and justice; knowledge that pretends to be real but which is productive of confusion and skepticism; knowledge which has, for the first time in history, brought chaos to the Three Kingdom of Nature; the animal, vegetal and mineral.<sup>108</sup>

107. Damien François, *The Self-Destruction of the West: Critical Cultural Anthropology* (Paris: ÉditionsPublibook, 2007).

108. al-Attas, *Islam and Secularism*, 133.

The legal theorists and scholars of the past saw no reason for an open-ended list of objectives, interests, goods, or benefits, for they knew that open-endedness would lead to *never-endedness*, and this would seduce the Umma into a tragic, futile life of perpetual un-attainment chasing after ever-emergent, ever-receding, ever-shifting, and ever-elusive values and objectives, namely, falling into the intractable dilemma of the very same *progress paradox*<sup>109</sup> the West is currently facing and suffering. The current call amongst many *maṣlahawī* thinkers and theorists for axiological open-endedness would, in spite of their well-meaningness, open the *Pandorian boxes* of progress, change, growth, development, science, and technology in the face of an already long-suffering Umma, and lead the latter to personal, familial, communal, and civilizational self-destruction.

Given what we know about the great many negative theoretical and practical aspects of Western natural and social sciences, we have to conclude that Western science in general is detrimental to human welfare and thus cannot be defended much less promoted without scrutinizing it on a *case by case basis*, by submitting it to examination (*tabayyun*) from the integrative viewpoint of *maqāṣid*. Creatively applying the *maqāṣid* with all its inferential rigour to Western science will weed out these negative aspects and critically integrate its positive elements, if any, into the systemic revival of Islamic science.<sup>110</sup> For instance, today's conventional agriculture is destructive to nature and culture, but recently-systematized alternatives like agroecology and permaculture are compatible with the principles of Islamic agriculture (*‘ilm al-filāḥa*)<sup>111</sup> which aims at sustainable cultivation of the earth without polluting or destroying the biosphere, and this directly fits into the imperative of preserving wealth and life. Hence these positive modern alternatives—which in fact drew from eons of traditional wisdom—can be integrated into classical *filāḥa* so as to revive it in the modern context. We can apply the same approach to the critical reevaluation of the other modern sciences and disciplines.<sup>112</sup>

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109. Gregg Easterbrook, *The Progress Paradox: How Life Gets Better While People Feel Worse* (Random House, 2004).

110. Details in Adi Setia, “Three Meanings of Islamic Science: Towards Operationalizing Islamization of Science,” *Islam and Science* (Summer 2007).

111. See the rich textual resources on the website, <http://www.filaha.org> (accessed December 07, 2016).

112. For the case of economics, see Adi Setia, “*Mu‘āmalah* and the Revival of the Islamic Gift Economy,” in *Islam and Science* (Summer 2011); idem, “The Meaning of Economy: *Qaṣd, Iqtisād, Tadbīr al-Manzīl*,” in *Islamic Sciences* (Summer 2016); and idem, “The Islamic Gift Economy: A

As thinking, intelligent, informed Muslims who know and care about their religion and the worldview it projects,<sup>113</sup> we should view the conflation of *maqāṣid/maṣlaḥa* with utility very seriously indeed, for many of us have long observed in dismay that conference participants on *maṣlaḥa* exhibit a narrow and limited understanding of the topic and the rigorous manner it has been discussed in the relevant, authoritative classical *uṣūl al-fiqh* texts. The conferences on the topic yield next to nothing about *maqāṣid/maṣlaḥa* in relation to *uṣūl al-fiqh*, or macro-fiqh in relation to micro-fiqh. Indeed, the eagerness of these uninformed and unlearned presenters to place macro-level *maqāṣid/maṣlaḥa* above the micro-level legal evidence from which they derive was very unsettling to many of us who have any degree of familiarity with the science of *fiqh* and its intimate connection to the science of *uṣūl al-fiqh* and the twin sciences of *adab* and *taṣawwuf*.

But by far what was most unsettling to us was to see this elaborate, audacious exercise in the corruption of our religious law and ethics being facilitated and condoned by the learned scholars and shaykhs of Islamic law who were involved in the organizing committees of these conferences, either as conveners or advisors. Many of these pseudo-scientific, pseudo-intellectual and pseudo-academic conferences were even personally presided over by scholarly personalities widely recognized in the world as masters of Islamic law. Yet that should not really be at all surprising, for we know that only scholars and ‘*ulamā*’ have the intellectual means to betray the sacred trust of their scholarship, and thereby only they have the cognitive capacity to corrupt the knowledge vouchsafed in their bosoms, because only they will be taken seriously by the general public or by their unthinking students, adoring followers and calculating paymasters.

*And do not sell My signs for a petty price,  
and be mindful of Me. (Q 2:41)*

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Brief Statement,” in *Islamic Sciences* (Winter 2015).

113. On ‘religion’ in relation to ‘worldview’, see the monograph by al-Attas, “Islam: The Meaning of Religion and the Foundations of Ethics and Morality,” republished in *Prolegomena*, 41-90.