On the Limitation and Openendedness of the Shari‘ah’s Necessary Universals: A Perspective

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Abstract

The claim that the necessary universals (*al-kullīyāt al-ḍarūrīyah*) of the Shari‘ah are limited to five values (viz., religion, life, intellect, progeny, and property) is a subject of debate. Some scholars argue in favor of it, while others assert that this category should be open-ended. This argument started as early as the classical period and has, in the modern period, continued to elicit more divergent opinions. This study seeks to critically examine the viewpoints of various modern scholars/writers, especially those who oppose this limitation. It shall establish that these five values represent humanity’s basic needs perfectly. As such, other values that have been proposed can only be regarded either as means or as complements in relation to them.

Introduction

The theory of *maqāṣid al-Sharī‘ah*, a very important subject in Islamic legal theory, deals with the ultimate objectives that the Lawgiver seeks to realize via His commands and prohibitions as regards the existence of legally responsible individuals, the family, society and the ummah in all spheres of life.[1] Underscoring this theory is the valid assumption that the Lawgiver does not issue these divine commands and sanctions in vain. Being a wise and kind Creator, the main purpose behind each rule is the realization of humanity’s interests,

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for humanity is the subject of divine law. In all its ramifications, human interest is technically referred to as *maṣlaḥah*. As the interpreter of the Shari‘ah, the Prophet was very concerned with ensuring humanity’s interests in all of his verdicts. After him his Companions, especially those with outstanding knowledge and understanding of Islamic teachings (e.g., Umar ibn al-Khattab) were ever mindful of realizing human interests in their legal pronouncements. Thus they were concerned with the spirit, rather than the letter, of the Shari‘ah precepts, a fact that can be observed in their fatwas.[2]

Over time, scholars affiliated with different legal schools of thought developed definitions, typologies, and conceptual frameworks of *maqāṣid al-Sharī‘ah* as a legal theory. In principle, the theory has been widely embraced by scholars, regardless of their legal orientations, because of its significance in terms of how to correctly understand and properly apply Islamic law to achieve human interests. However, al-Ghazali’s classification of the law’s necessary universal objectives into five (i.e., religion, life, intellect, progeny, and property) has generated a debate among both classical and contemporary scholars.[3] In scholarly circles, the question is still raised: Should the Shari‘ah’s necessary universals be limited to these five values, or should they be open-ended in order to accommodate more necessary values?

It bears noting, however, that al-Ghazali did not assert that his classification was final and unalterable. Rather, al-Amidi proclaimed this almost a century later.[4] His opinion was challenged for the first time in the seventh Islamic century, when the preservation of dignity (*‘irḍ*) was purportedly added as the sixth necessary universal.[5] Many classical and contemporary scholars had added other values as necessary universals.

Against this background, the present study argues for limiting the necessary universals to the five enumerated by classical scholars. Opposing views shall be presented in order to, based upon my understanding of the available arguments, reconstruct and evaluate these scholars’ opinions. The evaluation shall be made in line with the logical premises used by the classical scholars to compile these necessary universals. By the end of this article, it shall become clear that most of the added values are either complements or veritable means of achieving the five necessary universals.

What Is a Necessary Universal?

Al-Shatibi (d. 1388) provided a detailed definition of this term: “That which is inevitable for the attainment of benefits in this world and in the next; (some-

thing) that, if lacked or forfeited, will [cause] worldly benefits [to] be in [dis]order … riddled by corruption, confusion, and loss of life. And in the next life, there will be forfeiture of success and pleasure, as well as an evident disastrous consequence.[6] In the same vein, Ibn Ashur (d. 1973) defined it as "things whose realization is essential for the community, both collectively and individually. The social order of the community will not function properly if there is any defect in these *maṣāliḥ*.[7]

Based on these definitions, one can deduce that *ḍarūrīyāt* refers to values or interests that human beings require in order to live a good life. The common understanding is that violating even one of these necessary universal values would result in very disastrous consequences, because the value in question determines one's ultimate success in this present life. These particular values are so inevitable and essential that their neglect or violation would cause worldly affairs to ultimately descend into chaos and crisis.[8] In other words, the benefits and harms that result from protecting or neglecting them have both material and spiritual, as well as theoretical and practical, impacts upon humanity.

In line with this conceptual proposition, the five necessary universals (i.e., religion, life, intellect, progeny, and property) must be protected and preserved so that people can attain the benefits of this life. They are the basic needs of life, needs that must be met if people are to live safely and happily as individuals and as a community. Rather than being the results of intellectual and theological speculations or based on theoretical abstractions, these values are "deeply rooted in the ontological and empirical reality of human nature and likewise constitute real and practical conditions necessary for human life."[9]

On Their Limitation and Openendedness

As mentioned earlier, al-Ghazali (d. 1111) articulated the five necessary universals but did not declare that these were the only ones. All he did was assert that they are necessarily protected in all known religions and laws. At best this assertion could be seen as an indirect rather than a direct limitation.[10] It was al-Amidi and other later jurists who proclaimed this limitation directly. Al-Amidi defended this limitation on the grounds that it "is based on the observation of reality and the awareness that there is, for most part, no essential aim beyond them."[11] In a similar vein, Ibn Amir al-Haj also claimed that "restricting the necessary objectives (of the Shari'ah) to five is supported by means of the inductive method (*istiqrā'*) and by the reality and customs of different religions and laws."[12]

Based on these two arguments, one can understand that the claim of limiting the necessary universals to five is broadly premised upon three major points: (1) the correct understanding of reality, which would make it clear that these necessary universals must necessarily be limited to religion, life, intellect, progeny, and property; (2) the evident awareness that these are the only necessary universals; and (3) protecting these five necessary universals is part of all religions and laws known to humanity. On the strength of this argument, both scholars restricted the Shari‘ah’s necessary universals to protecting religion, life, intellect, progeny, and property, as enumerated by al-Ghazali.

Notwithstanding the above arguments, the inclusion of *‘irḍ* (i.e., dignity or honor) as the sixth one represented the first challenge to the claim that the necessary universals are limited to five. This addition has been largely ascribed to al-Qarafi (d. 1285), al-Tufi (d. 1369), and Ibn al-Subki (d. 1312),[13] with the latter being more categorical in this regard. Having divided *al-munāsib* (suitability) into the three categories of *ḍarūrī*, *ḥājī*, and *taḥsīnī*, Ibn al-Subki remarked that the first category includes the protection of religion, life, intellect, lineage (*nasab*), property, and dignity.[14] This is in contrast to al-Qarafi, whose inclusion of *‘irḍ* came in a rather less categorical manner. After mentioning the five established necessary universals, he only remarked that “and *‘irḍ* is said to be added to this.”[15] Obviously, the context suggests that he was just reporting about the situation, rather than confirming or rejecting the inclusion.

Subsequently, al-Shawkani (d. 1250) defended its inclusion as the sixth necessary universal on the grounds that doing so is apt and even logical, arguing that while life and money can be compromised, no reasonable human being will ever compromise his dignity. In other words, a rational person would defend his dignity with everything at his disposal.[16] In addition, al-Shawkani further asserted, since the Lawgiver has protected the other five universals by specifying punitive punishments for those who violate them, dignity should also be considered a universal necessary objective mainly because a specific form of punishment has been prescribed for those who abuse and violate it.[17]

Following the same logic, some modern scholars have regarded *‘irḍ* as the sixth universal. For instance, Yusuf al-Qaradawi considers its inclusion as both logical and appropriate in view of the fact that, like the other necessary universals, the Lawgiver has stipulated a certain punishment for those who violate it.[18] But Ibn Ashur clearly rejected this by stating that it is part of the second category (i.e., *ḥājīyāt*) of *maqāṣid al-Sharī‘ah* because there is no necessary correlation whatsoever between a necessary universal and the prescription of a clear punishment.[19]

However, *'irḍ*'s addition to this particular category seems to be an aberration of the concept of *ḍarūrīyāt*, at least in the view of such pioneer scholars like al-Ghazali. Necessary universals determine and affect the actual existence and survival of human beings in this world and the next. According to al-Raysuni, it is even problematic to clearly define the scope of *'irḍ* in conjunction with protecting lineage, which later scholars introduced in place of progeny (*nasl*). These two *things* can be better regarded as complements to the five necessary universals (i.e., religion, life, intellect, progeny, and property). Otherwise, it would be more appropriate to consider faith, worship, work, and even eating as equally necessary universals.[20]

But this challenge to the claim that there are only five necessary universals was not significant in a proper sense, for it did not really challenge the foundation upon which they are based: the criterion of a specific punishment. In fact, the inclusion of *'irḍ* has been justified on the grounds that the Lawgiver has sanctioned a specific penalty for its violation, namely, *qadḥf* (slander).[21] In later times, scholars became firmer in criticizing this limitation. Their challenges to it become more interesting during the modern period. Broadly speaking, their perspectives can be categorized into three major types: holistic, developmental, and ethical. The ensuing discussion presents and reconstructs a given scholar's viewpoint. I will then evaluate it in line with my frame of reference, which shall be supported by the relevant authorities from the Qur'an and Sunnah.

The Holistic Perspective: Presentation and Evaluation

This comprehensive perspective looks beyond the material manifestations of what can be considered generally as the Shari'ah's objectives. As Gamal Eldin Attia best represents this perspective, his arguments are highlighted below.

Attia thinks that, as a matter of principle, the necessary universals that the Shari'ah seeks to safeguard cannot be restricted to a particular number. Arguing that the classical categorization is very narrow, as it is more concerned with individual interests than with those that concern society and the ummah,[22] he proposes an expanded enumeration of the *maqāṣid* that raises the number of necessary universals to twenty-four. He divides these new values among the realms of the individual, the family, the ummah, and humanity as a whole.

He categorizes these new values as follows: (1) Individual (i.e., preservation of human life, consideration for the mind, preservation of personal piety, preservation of honor, and preservation of material wealth), (2) Family (i.e., the ordering of relations between the sexes; preservation of progeny (or

species); achieving harmony, affection, and compassion; preservation of the family’s lineage; preservation of personal piety within the family; ordering the family’s institutional aspect; and ordering its financial aspect), (3) Ummah (i.e., establishment of the ummah’s institutional organization, the maintenance of security, the establishment of justice, the preservation of religion and morals, cooperation, solidarity and shared responsibility, the dissemination of knowledge and preservation of reason within the ummah, and populating and developing Earth and preserving the ummah’s wealth), and (4) Humanity (i.e., mutual understanding, cooperation and integration, realizing humanity’s vicegerency on Earth, achieving world peace based on justice, securing international protection for human rights, and disseminating the Islamic message).[23]

He goes on to explicate each value by showing its relevance to the given realm and highlights the rules and regulations laid down by the Lawgiver to protect each value. After this, he details how a given value can be protected through different rulings in light of the three levels, namely, *ḍarūrīyāt*, *ḥājīyāt*, and *taḥsīnīyāt*. For instance, when talking about ordering male-female relations, which is the first necessary universal value under “family,” he remarks

> If marriage is classed among the essentials (i.e., *ḍarūrīyāt*), and if closing off the paths to temptation is classed among its complements (i.e., *ḥājīyāt*), then polygamy and divorce (with their associated conditions) will be classed among the exigencies (i.e., *taḥsīnīyāt*). In all these levels, the purpose is to alleviate hardship that may exist in the situations for the sake of which they were sanctioned.[24]

A critical evaluation of Attia’s proposal reveals that all essentials across the four realms revolve around the five necessary universals. Perhaps it is to his credit that he succeeded in giving detailed explanations on how these five universals could be translated into reality. His creative allocation of each objective to the relevant realms and dimensions is also worthy of note. Another important merit of this proposal may be its systematic and practical nature, for it makes the Shari‘ah’s objectives relatively easy to understand and apply to concrete daily life activities. Thus he can be said to have brought the theory of *maqāṣid* from the sphere of the abstract to that of concrete manifestation. This proposal could see the light of day if those at the helm of Muslim affairs would work sincerely to implement it.

Nevertheless, his decision to classify all of these objectives as necessary universals is rather improper, for his proposal contains both collective and individual duties. Whereas the latter fall within the five necessary universals,

the former only serve to preserve them. In addition, both kinds of duty are not in the same category, as far as their importance is concerned. This can be explained as follows: Collective duties are meant to bring about collective benefits in society, whereas individual duties seek to realize individual benefits. Thus realizing collective benefits may not be as necessary as that of realizing individual benefits, even though the collective duties remain necessary means to enhance individual interests.[25]

Again, some of the values that he mentions seem to be important components of a given necessary universal of the Shari'ah, as classically established. For example, consider the universals of religion, intellect, and property. First Attia lists the "preservation of personal piety (*tadayyun*)" under "individual," "personal piety within the family" under "family," "preservation of religion and morals" under "ummah," and "dissemination of Islamic message" under "humanity." Second, he places the "consideration for the mind" under "individual" and "dissemination of knowledge and preservation of reason in the ummah" under "ummah." Third, he locates the "preservation of material wealth" under "individual," "ordering the financial aspect of the family" under "family," and "populating and developing the earth and preservation of the ummah wealth" under "ummah." Obviously, all these values are important components relating to religion, intellect, and wealth, respectively.[26] Further still, there seems to be some contradiction as regards the status of *'irḍ*. Attia categorizes it under "individual" as a necessary universal. However, he agrees with Ibn Ashur that it belongs to *ḥājīyāt*.[27]

Apart from this, a few things need to be said about the preservation of the ummah, which might appear to be a necessary universal. Among other things, this preservation entails enhancing the ummah's strength and ability so that it can direct both its internal and external affairs independently. Despite the significance of this objective, it may not be appropriate to consider it among the necessary universals of the Shari'ah because for many centuries now the ummah has suffered a major setback. In all human endeavors – educationally, politically, economically, socially, and militarily – the ummah is subordinated to the authority of superior powers. Thus it cannot make an independent and informed decision on matters affecting it and its members without "foreign" interference and support. As Muslim territories and resources remain at the mercy of foreign powers and influences, it is difficult to lay claim to what is left of the ummah's territory and resources.

Yet despite all of this, Muslims on an individual level continue to live and practice their religious teachings as much as possible. It is true that in doing this we have to endure internal discord, external subjugation, and other diffi-

culties. But these problems have not and cannot bring about the ummah’s total extinction.[28] If preserving the ummah is really a necessary universal, Muslims would have been totally wiped off the surface of Earth by now, given its increasing disintegration. That this has not happened and will never happen indicates that its preservation belongs to *ḥājī* and not to *ḍarūrī*. This is not to undermine the significance of the ummah in any way.

The table below presents Attia’s proposal and the values’ rightful bearing in the traditional categories of the Shari‘ah’s necessary universals.

Table 1. Attia’s proposal

Traditional Categorization	**Attia’s Categorization and its Bearings on the Traditional Version**
Religion	Preservation of personal piety Preservation of personal piety within the family Preservation of religion and morals Realizing human vicegerency on Earth Dissemination of the Islamic message
Life	Maintenance of security Int’l Protection of human rights
Intellect	Consideration for the mind Preservation of reason in the ummah
Progeny	Preservation of family lineage Ordering the institutional aspect of the family
Property	Preservation of material wealth Ordering the financial aspect of the family Preserving the ummah’s wealth

The Developmental Perspective: Presentation and Evaluation

The developmental perspective is used to characterize those scholars who take stock of current socio-political realities when trying to devise the new Shari‘ah’s necessary universals. Abd al-Majid al-Najjar seeks to draw attention to new dimensions of the *maqāṣid* that can be detected in light of contemporary challenges facing humanity in general and the ummah in particular. In view of the significance of these challenges and the need to address them, he considers it imperative to base *ijtihād* on the foundation of *maqāṣid al-Sharī‘ah*.[29] But for him, the five necessary universal objectives are insufficient to address modernity’s needs. To justify his proposal, he argues that a better

understanding of modern life's intricate socio-political aspects would convince one that those five values are neither absolute nor exclusive. Given this, there is room for more *maqāṣid*, nay its necessary universals.[30]

As a better alternative, al-Najjar suggests a set of new objectives, which include preserving humanity's natural disposition (*fiṭrah*), society, and the environment. Keeping in mind humanity's inter-relational nature, he classifies these three broad objectives under four larger domains of human existence, namely, preserving human life, humanity's essence, society, and humanity's material surroundings. Accordingly, he allocates relevant sub-objectives under each domain: (1) Human life: preserving religion and the human species, (2) Humanity's essence: preserving the human self and each person's intellect, (3) Society: preserving progeny and the social fabric, and (4) The material environment: preserving wealth and the environment.[31]

Al-Najjar provides an elaborate explanation for why he has placed each *maqāṣid* under the domain in question, as well as practical ways for how to realize a given objective. In addition, he lists the rules and regulations made by the Lawgiver to protect the objective against abuse and measures to both preserve and advance it.

A critical analysis of his proposal reveals that only three things may be considered new *maqāṣid*: preserving humanity's essence (*fiṭrah*), the social structure, and the environment. The remaining *maqāṣid* are essentially connected with one of the five existing values. Even as important as those three things may be, their categorization among the necessary universals lacks any convincing justifications and, as such, stands challenged.

Preserving humanity's *fiṭrah* along with religion is placed under the first domain, namely, preserving humanity's quintessence. Al-Najjar explains *fiṭrah* as that material and spiritual pattern upon which Allah created humanity. It entails particular modes of behaving, walking, and doing other essential activities that everyone is familiar with by default. For instance, it is against humanity's *fiṭrah* to change or alter the human body's natural composition. According to Ibn Ashur,[32] to whom al-Najjar made copious reference, humanity has a natural instinct to walk with its legs. Walking any other way would be antithetical to its *fiṭrah*. Based on this, he submits that transgender, same-sex sexual intercourse, and other illicit ways of changing the natural human disposition from the pattern perfected by the Creator contradict and therefore are inimical to *fiṭrah*. Because of many stern warnings in the Qur'an and the prophetic hadiths against altering or tampering with Allah's creatures – human and animal – he concludes that preserving humanity's *fiṭrah* is among the necessary universals[33] and that preserving this perfect pattern requires an equi-

librium between humanity’s material and spiritual needs. Material needs (e.g., eating, clothing, and sexual enjoyment) should be fulfilled within the limit prescribed by Allah.

However, according to al-Najjar the whole essence of *fiṭrah* boils down to the religious duties that everyone is expected to discharge in lieu of all that they enjoy as regards the material and spiritual pattern according to which the Perfect Creator created them.[34] This implies that its preservation is important only in order to preserve religion, which is the first necessary universal value. As a matter of fact, the term *fiṭrah* has been widely explained by exegetes in terms of religion, namely, Islam.[35] It is generally held that all people were created according to a particular pattern that enables them to differentiate between good and evil and, therefore, opt for the former. This is according to a prophetic hadith that every child is born Muslim and may later on become a Jew, Christian, or Magian due to his or her parents’ influence.[36] The Qur’an regards Islam as the *fiṭrah* (the pattern) upon which humanity was created,[37] and thus preserving it is closely related to religion.

Preserving the social structure is the second new necessary universal in al-Najjar’s proposal. This is borne out by his observation that the classical *maqāṣid al-Sharī‘ah* exposition is biased toward individual interests and has little or no concern about society at large.[38] He believes that given its complex composition, society requires the utmost attention so that one can articulate ways designed to maintain peace and order among its inhabitants. While preserving progeny is a necessary universal, he argues that on its own it is not enough as far as preserving the society is concerned. To this end, he identifies two important elements: social institutions and social relationships.[39]

One should note, however, that his claim that classical scholars paid little or no attention to societal aspects in their *maqāṣid al-Sharī‘ah* expositions may not be totally valid. To start with, their classification of the *maqāṣid* was based on different dimensions and considerations. For example, one such dimension is its classification according to the scope of benefits, which is divided into *‘āmmah* (general) and *khāṣṣah* (specific). The former deals with those benefits or interests that concern all member of society equally. In fact, al-Najjar had explained that this type has to do with those general benefits or interests that concern everybody in the society, whether directly or indirectly. Among the examples he gave were mutual solidarity, brotherhood, justice and equity, lenience, and other benefits that include everyone.[40]

In particular, Imam al-Shatibi addressed these objectives’ societal aspect in his *Al-Muwāfaqāt* when he divided them into *aṣlīyah* (original) and *tābi‘ah* (subsidiary). He then sub-divided the former, which he considered “necessary

universals," into *'aynīyah* (specific individual benefits) and *kifā'īyah* (collective ones that affect the entire community). He explained that in order to realize the latter, all of the community's members must share responsibilities based upon their physical strengths and intellectual abilities, for collective responsibility leads to the building of a solid society and the realization of collective interests.[41]

To emphasize the importance of social solidarity, al-Shatibi advanced the following logical argument: Given that one cannot sort out all of one's personal problems without help, this is also true when it comes to addressing the needs of one's immediate family and the larger community. Therefore, in order to realize collective interests every member of the community must join together and work collectively in order to realize common interests.[42]

Based on this, one can objectively surmise that al-Shatibi has laid down a solid theoretical foundation for addressing the *maqāṣid*'s societal aspect. What is needed later on is to work on such theoretical foundation that will allow one to propose concrete and practical measures that can bring about collective or societal benefits. To my mind, al-Najjar has done this by emphasizing institutional and social relationships as two indispensable avenues. As such, the claim that classical scholars were indifferent to the objectives' societal aspect cannot be substantiated.

The table below details al-Najjar's proposal and their rightful bearings in the traditional categories of the necessary universals.

Table 2. al-Najjar's proposal

Traditional Categorization	**Al-Najjar's Categorization and Its Bearing on the Traditional Version**
Religion	Preservation of religion Preservation of *fiṭrah*
Life	Preservation of the human self Preservation of humanity's essence Preservation of the human species
Intellect	Preservation of the intellect
Progeny	Preservation of progeny
Property	Preservation of wealth Preservation of humanity's material surroundings

The Ethical Perspective: Presentation and Evaluation

The ethical perspective concerns itself with Islamic moral values (*akhlāq*), for which we have Taha Abderrahmane. These ethical values are based on logical underpinnings that will become clear as soon as his criticism is presented. In his estimate, classifying values into *ḍarūrīyāt*, *ḥājīyāt*, and *taḥsīnīyāt* is faulty because each category depends upon the other. His criticism of the first category, which is the main concern of our study, is based on three methodological premises: (1) The five values (i.e., religion, life, intellect, progeny, and property) are not exclusive because other values, such as dignity and justice, can be included; (2) The five values are mutually inter-related, for protecting one of them depends upon protecting the other. For example, protecting wealth depends upon that of intellect; and (3) Each value is not specifically distinct from the very basis or central subject of classification, namely, the Shari‘ah. He therefore surmises that protecting religion is not fundamentally distinct from protecting the Shari‘ah, for what can be used to preserve the former can also be used to preserve the latter.[43]

Abderrahmane also notes that the existing classification does not adequately consider moral values, despite the fact that the focal point of the Prophet’s mission was to perfect noble moral values.[44] Therefore, in order to restore and assert the importance of moral values in the theory of *maqāṣid*, he proposes a new categorization in which they occupy the first position and other values (e.g., life, progeny, and wealth) that were hitherto at the top are placed at the bottom. This classification, as the author would like to argue, is firmly rooted in Islam’s ethical moral foundations, where spirituality rightly takes priority over material considerations.

Against this backdrop, he proposes a new taxonomy of the five values based on the science of Islamic ethics (i.e., *‘ilm al-akhlāq*), which can be regarded as the cornerstone of his thesis. He lays down three philosophical propositions for this new taxonomy. The first one has to do with values that relate to physical benefit and harm, which have perceptible, physical, and corporeal effects upon humanity. People feel some enjoyment when they achieve the benefits connected with such values, and some sadness when they fail to do so. Among these values are protecting life, health, progeny, and wealth.[45]

The second one comprises those values that relate to psychological and mental benefits (e.g., security, freedom, and peace[46]). Through these values, what is good (*ḥasan*) and bad (*qabīḥ*) as regards psychological and mental benefits are measured and appreciated. Depending on their success or failure in realizing the benefits thereof, people experience happiness or sadness, re-

spectively. The third one consists of those values that concern spiritual and moral wellbeing (e.g., charity, mercy, and love[47]) and are used to determine and identify what is good and bad for human beings' spiritual and moral well-being. People's ability to realize such benefits translates into success, while their failure to do so means wretchedness.

A critical evaluation of this new classification reveals one implication: Three of the five traditional necessary universals (i.e., life, progeny, and property), which he regards as being physical, are relegated to the lower category, whereas psychological and mental values occupy the lowest category. As pointed out earlier, this new ordering of values is informed by the fact that the Prophet's message is essentially to promote noble moral values (*makārim al-akhlāq*). Needless to say, with his new classification Abderrahmane seeks to challenge the common trend of prioritizing the physical/material, rather than moral values when defining and categorizing the *maqāṣid*.

Meanwhile, both religion and intellect are conspicuously absent and unexplained. He could have considered protecting the intellect to be among those values listed in the second category, which he terms as "psychological and mental" values, for the intellect's connection with this category is obvious: Its use is a psychological and mental exercise, both of which determine the validity of the thinking process' outcome, which is the intellect's function. As for religion, he might have taken it for granted because it symbolizes the very ethical foundations that constitute the cornerstone of his thesis.

Since Abderrahmane based his proposal on the science of Islamic ethics, it is important to explore the relationship between science and religion. The Arabic word *dīn* (religion) is considered one of the meanings of *khuluq* (ethical value).[48] Islam's message emphasizes both faith (*īmān*) and ethical values (*akhlāq*) as the most important fundamentals. This explains why Allah always repeats that absolute faith in Him, the angels, the books (of divine revelation), His messengers, the Day of Resurrection, and destiny should be complementary to ethical values, which includes purifying the soul (*tazkiyah*) in order to achieve good morals (*makārim al-akhlāq*).[49] The Prophet perfectly epitomized the ethical values contained in the Qur'an. When asked about his morals, Aishah immediately stated that they are the Qur'an.[50] This shows that he perfectly implemented all of the ethical values mentioned therein. In addition, he has succinctly articulated the quintessence of his mission: "I have been raised (assigned) only to perfect good morals."[51]

Therefore, the science of Islamic ethical values upon which Abderrahmane bases his thesis has been well-covered by religion itself as a total way of life. To this extent, the first category of his new ordering, which entails spir-

itual and moral values, conveniently belong to religion, the first necessary universal. After all, the essence of religion lies in the ethical values actively preached and practiced by the Prophet.[52]

The table below details Abderrahmane’s proposal and their rightful bearings in the traditional categories of the necessary universals.

Table 3. Abderrahmane’s proposal

Traditional Categorization	**Abderrahmane’s Categorization and Its Bearing on the Traditional Version**
Religion	The science of Islamic ethics (*al-akhlaq*, the quintessence of religion)
Life	Protection of life and health (physical benefits) Security (psychological and mental benefits)
Intellect	
Progeny	Protection of progeny
Property	Protection of wealth

Conclusion

Against this backdrop, one can submit that the classical classification of universals into five is comprehensive, inclusive, and conclusive. A critical study shows that they capture every conceivable objective of the Shari‘ah, although how they are realized can vary and be unlimited due to humanity’s complex needs and demands in a bid to achieve ultimate benefit (*maṣlaḥah*) in this world. The efforts of most critics can be seen and appreciated as practical ways to realize such important objectives in concrete terms. Most of the proposed new values are either complements (*mukammilāt*) or means (*wasā’il*) designed to help achieve the five necessary universals (i.e., religion, life, intellect, progeny, and property) established by the classical scholars.

Based on this, contemporary scholars should shift their focus from debating the limitation of the necessary universals to five and toward their complements and means. These should be elaborated, and their relationship with the five universals should be explained clearly. This is especially necessary in order to define their nature and significance in terms of realizing the five universals. More importantly, this will greatly help scholars apply the *maqāṣid*

al-Sharī'ah in concrete terms by making them more relevant to the needs of modern life.

What is equally required as regards the *maqāṣid* is to articulate the five necessary universals in modern terms and language. No doubt, such an undertaking makes it closer to addressing current issues than classical conceptions.[53] Even more so, this approach is in line with the gradual evolution of the *maqāṣid* terminologies developed and transformed by scholars across the ages. For instance, al-Amiri[54] used *mazjarah* (punishment for violating the law) to indicate protecting each of the five necessary universals. Centuries after him, al-Juwayni[55] used *'iṣmah* (protection), while his illustrious student al-Ghazali[56] adopted *ḥifẓ* (preservation) for the same purpose. All of these terms mean the protection and preservation of the Shari'ah's necessary universals. From al-Ghazali onward, *ḥifẓ* was widely adopted by subsequent scholars, including al-Shatibi.[57]

In a way, it seems that this "contemporarization" approach is what most contemporary scholars have adopted. Far from being novel, their proposed new objectives can be seen as a way of articulating the five existing universals in "today's language." For instance, preserving progeny or offspring, which is the classical term, has been expressed in a more practical modern way. Ibn Ashur used "care for the family" to characterize preserving progeny. In the context of family-related purposes and moral values, he considered "care for the family" a very important objective.[58] Similarly, preserving the intellect has been expressed as the "propagation of scientific thinking," "travelling to seek knowledge," "suppressing the herd mentality," and "avoiding brain drain."[59]

Lastly, while this approach should be encouraged, it should not be taken to mean that the existing expressions and terms should be totally overlooked. After all, they remain the foundational terms that strongly established the five necessary universals' conceptual meanings. The main purpose of modernizing these terminologies is to make them more intel- ligible to the modern mind and, by extension, to ensure their realization in concrete terms.

Endnotes

1. Yusuf al-Qaradawi, *Dirāsah fī Maqāṣid al-Sharī'ah* (Cairo: Dar al-Shuruq, 1427/1996), 20.
2. For detailed expositions on how the Companions were always aware of the *maqāṣid* in their fatwas, see Mohammad al-Tahir ibn Ashur, *Maqāṣid al-Sharī'ah al-Islāmīyah*, ed. Mohamad al-Tahir al-Mesawi, 2d ed. (Amman: Dar al-Nafa'is,

1421/2001), 197-202, 312-13; Hasan Khalifah Babiker, *Falsafat Maqāṣid al-Tashrī‘ fī al-Fiqh al-Islāmī* (Cairo: Maktabat Wahbah, 1421/2000), 29-32.

3. See Abdul al-Nur Bazza, “Maqāṣid al-Shari‘ah bayn Mabda’i al-Ḥaṣr wa Da‘wā al-Tagyīr,” *Islāmīyat al-Ma‘rifah* 10, no. 40 (1425/2006).
4. Al-Amidi argued that “the limitation of the essentials to these five categories is based on the observation of reality and the awareness that there is, for most part, no essential aim beyond them.” See Ali ibn Muhammad al-Amidi, *Al-Iḥkām fī Uṣūl al-Aḥkām*, ed. Abd al-Razzaq ‘Afifi (Riyadh: Dar al-Sumay‘i, 1423/2003), 3:343; al-Raysuni, *Imam al-Shatibi’s Theory of the Higher Objectives*, trans. Nancy Roberts (Kuala Lumpur: Islamic Book Trust, 1427/2006), 24.
5. Al-Qarafi reported that dignity had been added as the Shari‘ah’s sixth essential. However, given the context, it does not seem that he approved of this addition. He just mentioned it as being coterminous with material wealth, mentioned earlier. But al-Tufi and especially Ibn al-Subki appeared more convinced about dignity as being part of the essentials. See al-Raysuni, *Naẓarīyat al-Maqāṣid ‘inda al-Imām al-Shāṭibī*, 4th ed. (Herndon, VA: International Institute of Islamic Thought, 1416/1995), 62-64.
6. Al-Shatibi, *Al-Muwāfaqāt fī Uṣūl al-Sharī‘ah*, ed. Abdullah Draz (Cairo: al-Maktabah al-Tijariyyah al-Kubra, n.d.), 2:8.
7. Muhammad al-Tahir ibn Ashur, *Treatise on Maqāṣid al-Sharī‘ah*, trans. Mohamed El-Tahir El-Mesawi (Herndon, VA: International Institute of Islamic Thought, 1427/2006), 114.
8. Al-Shatibi, *Al-Muwāfaqāt fī Uṣūl al-Sharī‘ah*, 2:8.
9. Fahmi Mohammad Alwan, *Al-Qiyam al-Ḍarūrīyyah wa Maqāṣid al-Tashrī‘ al-Islāmī* (Cairo: Al-Hay’ah al-Misriyyah al-‘Ammah li al-Kuttab, 1989), 95; El-Mesawi, “*Maqāṣid al-Sharī‘ah*: An *Uṣūlī* Doctrine or Independent Discipline,” Conference Proceeding, International Conference on Maqāṣid al-Sharī‘ah and Its Realization in Contemporary Societies organized by Department of Fiqh and Uṣūl al-Fiqh in Collaboration with International Institute of Muslim Unity, International Islamic University Malaysia (Rajab 1427/August 2006), 101.
10. Abu Hamid al-Ghazali, *Al-Mustaṣfā min ‘Ilm al-Uṣūl*, ed. Najwa Dhou (Beirut: Dar Ihya’ al-Turath al-Arabi, 1418 /1998), 1:217. After enlisting them, al-Ghazali stated that “it is inconceivable that these five things be neglected in any religion or law that is concerned with human welfare and interest. This is why there is no disagreement among laws in respect to prohibition of unbelief, murder, prostitution, theft, and consumption of intoxicants.”
11. Ali ibn Muhammad Al-Amidi, *Al-Iḥkām fī Uṣūl al-Aḥkām*, ed. Abd al-Razzaq Afifi (Riyadh: Dar al-Ṣumay‘i, 1423/2003), 3:343.
12. Ibn Amir Hajj, *Al-Taqrīb wa al-Taḥbīr bi Sharḥ al-Taḥrīr*, 2d ed. (Beirut: Dar al-Kutub al-‘Ilmiyyah, 1983), 3:143-44.
13. See al-Raysuni, *Nazarīyat al-Maqāṣid ‘inda al-Imām al-Shāṭibī*, 62-63.
14. Ibn al-Subki, *Jam‘u al-Jawāmi‘ fī Uṣūl al-Fiqh*, 2d ed., ed. Abdul Mun‘im Khalil Ibrahim (Beirut: Dar al-Kutub al-‘Ilmiyyah, 1424/ 2003), 92.

15. Shihab al-Din al-Qarafi, *Sharḥ Tanqīḥ al-Fuṣūl*, ed. Taha Abd al-Rauf Sa'd (Cairo: Maktabat al-Kulliyyat al-Azhariyyah and Dar al-Fikr, 1973), 391.
16. Muhammad ibn al-Shawkani, *Irshād al-Fuḥūl al-Ḥaqq min 'Ilm al-Uṣūl al-Fiqh* (Cairo: Mustafa al-Halabi, 1356 /1937), 216.
17. Ibid.; al-Raysuni, *Imam al-Shatibi's Theory of Higher Objectives*, 28; al-Yubi, *Maqāṣid al-Sharī'ah wa 'Alaqātuhā bi al-Adillah al-Shar'īyah*, 277-78.
18. Al-Qaradawi, *Dirsāah fī Maqāṣid al-Sharī'ah*, 25.
19. Ibn Ashur contended that: "It is not correct to consider the preservation of honor (*'irḍ*) as indispensable. The truth is that it belongs to the *ḥājī* category. What led some scholars, like Taj al-Din al-Subki in his *Jam' al-Jawāmi'*, to include it in the category of *ḍarūrī* is their consideration of the severity of the *ḥadd* punishment prescribed by the Shari'ah for slander. We do not, however, see any necessary correlation between what is indispensable and that whose violation incurs the *ḥadd* punishment. This was most likely the reason why al-Ghazali and Ibn al-Hajib did not classify the preservation of honor in the *ḍarūrī* category." Ibn Ashur, *Treatise on Maqāṣid al-Sharī'ah*, 119; Ibn Ashur, *Maqāṣid al-Sharī'ah al-Islāmīyah*, 306.
20. Al-Raysuni, *Nazarīyat al-Maqāṣid 'inda al-Imām al-Shāṭibī*, 63-64.
21. Specific punishments are meted out to those who violate any of the five universals. This has been regarded as a basis for them being necessary values. For instance, religion is protected through jihad, life through retaliation (*qiṣaṣ*), intellect through punishing the consumption of alcohol, progeny through 100 lashes and stoning fornicators and adulterers, respectively, and property through amputation. In the same vein, Allah protects dignity by sanctioning 100 lashes for those who defame decent women. To this extent, scholars like al-Shawkani and Yusyf al-Qaradawi believed that dignity should be a necessary universal value.
22. Gamal Eldin Attia, *Towards Realization of the Higher Intents of Islamic Law: Maqāṣid al-Sharī'ah A Functional Approach*, trans. Nancy Roberts (Kuala Lumpur: Islamic Book Trust and Herndon, VA: International Institute of Islamic Thought, 1431/2010), 85-87.
23. Ibid., 116-49.
24. Ibid., 125.
25. Bazza, "Maqāṣid al-Sharī'ah," 116-19.
26. Attia, *Towards Realization of the Higher Intents of Islamic Law*, 116-49.
27. His remark unambiguously reads thus: "However, given his insistence that there is no necessary link between something's being classed among the essentials and there being a prescribed punishment for its violation, Shaykh Ibn Ashur classes the preservation of honor among the exigencies despite the prescribed punishment in Islamic law for assaulting someone's honor through the crime of *al-qadhf*. I agree with Shaykh Ibn Ashur in his classification of the preservation of honor among the exigencies [rather than among the essentials] on the level of individual as it relates to the sexual dimension; as for the violation of other

aspects of human dignity, I consider them to belong to the level of enhancements.” See Attia, *Towards Realization of the Higher Intents of Islamic Law*, 122-23; Bazza, “Maqāṣid al-Sharī‘ah,” 119.

28. For detailed expositions on current multifaceted problems facing the ummah, and their causes and solutions, see AbdulHamid A. AbuSulayman, *Crisis in the Muslim Mind*, 2d ed., trans. Yusuf Talal DeLorenzo (Herndon, VA: International Institute of Islamic Thought, 1417 /1997).
29. Al-Najjar, *Maqāṣid al-Sharī‘ah bi Ab‘ād Jadīdah*, 7.
30. Ibid., 51.
31. Ibid., 143-234.
32. Abd al-Majid al-Najjar, *Maqāṣid al- Sharī‘ah bi Ab‘ād Jadīdah* (Beirut: Dar al-Garb al-Islami, 2006), 87; Ibn Ashur, *Maqāṣid al- Sharī‘ah*, 261.
33. Al-Najar, *Maqāṣid al-Sharī‘ah*, 88-89. The author refers to Ibn Ashur’s exposition of Q. 30:30 to the effect that one cannot effect any change in Allah’s creatures by tampering with anyone’s *fiṭrah*. In the same vein, he mentions a prophetic tradition that prohibits marking the human body and so on.
34. Ibid., 87
35. For instance, see Abdul Haqq ibn Ghalib ibn Atiah, *Al-Muḥarrar al-Wajīz fī Tafsīr al-Kitāb al-‘Azīz*, ed. Abd al-Salam Abd al-Shafi Muhammad (Beirut: Dar al-Kutub al-‘Ilmiyyah, 1413/1993), 4:336; Mahmud ibn Umar al-Zamakhshari, *Al-Kashshāf ‘an Ḥaqā’iq Ghawāmiḍ al-Tanzīl wa ‘Uyūn al-Aqwāl fī Wujūh al-Ta’wīl*, ed. Muhammad Abd al-Salam Shahin (Beirut: Dar al-Kutub al-‘Ilmiyyah, 1415/1995), 3:463-64; Muhammad Asad, *The Message of the Qur’an* (Gibraltar: Dar al-Andalus, 1980), 230.
36. “Every new-born baby is born in the *fiṭrah* (natural state [i.e., Islam]). It is his parents who make him [or her] a Jew, a Christian, or a Magian.” See *Ṣaḥīḥ al-Bukhārī*, The Chapter: Lā Tabdīla li Khalq al-llah (No change in the creation of Allah), no. 4775, 275.
37. “So set your face steadily and truly to the Faith: (establish) Allah’s handiwork according to the pattern on which He has made humanity: no change (let there be) in the work (wrought) by Allah: that is the standard Religion: but most among humanity understand not” (Q. 30:30).
38. Ibid., 52-53.
39. Ibid., 158-59.
40. Ibid., 44.
41. Al-Shatibi, *Al-Muwāfaqāt*, 2:134-35.
42. Ibid.
43. Taha Abderrahmane, “Mashrū‘ Tajdīd ‘Ilmī li Mabḥath Maqāṣid al-Shari‘ah,” *Al-Muslim al-Mu‘āṣir* 26, no. 103 (2002): 41.
44. Ibid., 52.
45. Ibid.
46. Ibid.
47. Ibid.

48. Ibn Manzur, *Liṣān al'Arab*, 3d ed., ed. Amin Muhammad Abd al-Wahhab and Muhammad al-Sadiq al-'Abidi (Beirut: Dar Ihya' al-Turath al-Arabi, 1419/1999), 4:194.
49. Ahmad ibn Abd al-'Aziz ibn Qasim al-Haddad, *Akhlāq al-Nabīy fī al-Qur'ān wa al-Sunnah*, 2d ed. (Beirut: Dar al-Garb al-Islami, 1419/1999), 1:10, 27.
50. Muslim and others reported the tradition, through Sa'd ibn Hisham ibn Amir, that he once asked Aishah about the Prophet's morals: "O Mother of the Believers, tell me about the Prophet's morals." She asked, "Don't you read the Qur'an?" He replied, "Yes, I do." She said, "Indeed, the Prophet's morals are the Qur'an." Reported by Muslim in the section of *Ṣalāh al-Musāfirīn* (Prayer of the Travelers), Bāb: Jāmi' Ṣalāt al-Layl wa Man Nām'anhu aw Marīḍ (Chapter: Night Prayer Concerning the One Who Slept or Was Sick), no. 746.
51. Reported by Abu Dawud and Imam Ahmad.
52. AbudlHameed Yusuf Badmas, *Al-Kullīyāt Al-Ḍarūrīyah between Limitation and Open-endedness: A Critical Analytical Study* (Ph.D. thesis, IIUM, 2013), 215.
53. Jasser Auda, *Maqāṣid al-Sharī'ah as Philosophy of Islamic Law: A Systems Approach* (London and Washington, DC: International Institute of Islamic Thought, 1429 /2008), 21, 248.
54. Abu al-Hasan al-Ammiri, *I'lām bi Manāqib al-Islām*, ed. Ahmad Abd al-Hamid Ghurab (Cairo: Dar al-Kitab al-'Arabi, 1967), 125.
55. Abu al-Ma'li al-Juwayni, *Al-Burhānī fī Uṣūl al-Fiqh*, 2d ed., ed. Abd al-Azim al-Dib (Cairo: Dar al-Ansari, 1400), 923.
56. Al-Ghazali, *Al-Mustaṣfā*, 1:217.
57. Jasser Auda, *Maqāṣid al-Sharī'ah*, 22; Jasser Auda, *Fiqh al-Maqāṣid, Ināṭat al-Aḥkām bi Maqāṣidihā*, 3d ed. (Herndon, VA: International Institute of Islamic Thought, 2008/1429), 19.
58. Ibn Ashur, *Uṣūl al-Niẓām al-Ijtimā'ī fī al-Islām*, ed. Mohamed al-Tahir al-Mesawi (Amman: Dar al-Nafa'is, 2001), 206. See also Jaser Auda, *Maqāṣid al-Sharī'ah*, 22.
59. Jasser Auda, *Maqāṣid al-Sharī'ah*, 22; Jasser Auda, *Fiqh al-Maqāṣid*, 25.