

Ploys, their Controls and their Relationship to Makassid: Islamic Jurisprudence Purposes

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Abstract

This research falls within the studies concerned with jurisprudence purposes issues that are shrouded in some confusion in terms of controlling their terms, determining their controls, and the scope of their implementation in evaluating the angles that hover around the legality of ploys or not, and their relationship to outcomes, blocking pretexts, abuse of rights, licensing, and some issues, other objectives concerned with this subject, leaving their impact on it.

Keywords:

Jurisprudence; purposes; ploys; issues; makassid; tricks.

1. INTRODUCTION

Analyses not depending on Shari'ah is one of the means that leads to a contradiction between the mandated Muslim purposes and those of the Shari'ah, because the motive or intent of the mandated contradicts the purposes of the Sharia, but if his action does not contradict the Sharia, and achieves its purposes, it is permissible. Because there is no violation between the purposes of the mandated and the purposes of the Shari'ah.

the researchers do not differ that considering the purposes is a necessary matter that applies to all mandatoris and shari'ah rulings, and that one of its most important benefits is to narrow the circle of actual or expected disagreement, and to direct judgment on emerging issues and calamities in various fields in accordance with the will of God Almighty,

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and among the topics that confront Maqassidi research is the subject of ploys, and that is because many of those who dealt with ploys in the research did not explain what is permissible and what is forbidden, and what are the guidelines for that, and the reason is that the ploy is in fact not necessary to be a means to something forbidden, as it is possible that it is a means to a permissible, then it is considered a way out, so the basic principle is that ploys are every means taken to achieve a goal, whether it is legitimate or not, that achieves a goal or destroys it, but some scholars have been known to use the term ploys on every act whose intent is to nullify the purposes of Sharia by prohibiting what has been permitted or by making forbidden permissible, but this is a prejudgment that requires delaying , and his expulsion in all ploys requires a pause, and consideration in it, and this will be clear in this research.

The subject of ploys in the purposes raises a number of questions based mainly on the search for controls that facilitate the researcher to judge the ploy that the mandated invokes to reach the purpose, so do scholars differ in all the ploys in terms of their provisions? And do the purposes based on this have a role in distinguishing between deceptions that are rejected and those that are recommended? What are the controls and indicators that can be adopted to detect the ploy, even if the intent of the mandated is unknown? This is what I will try to answer in this research, hoping for success from the Almighty God.

Scholars have been always taken care of the subject of ploys, some of them have put an independent book for that, and some made it a chapter in his authorship, and I will try to review some of the studies that I have come across:

1-Saleh bin Saud Al Ali: Pretexts and ploys and the position of Islamic Sharia regarding them, printed in 1432 AH, and it was originally a thesis for obtaining a master's degree, and it is a good research that I relied on in the details of the sections of ploys.

2-Mahmoud Abdel-Rahim Deeb: Civil law ploys in Islamic jurisprudence and positive law, printed at the New University House in Alexandria in 2000 and 2004, and it is a valuable comparative study in its chapter in which the researcher was exposed to the types of jurisprudence and legal tricks and the similarities between them and their effects, as he noted the original. Historical legal ploys.

For the success of the plan that I set to study this subject, to lead to the intended purpose in the required manner the treatment of his topics, I tried to adhere to the following approach: Adopting the inductive approach in collecting, arranging and coordinating the subject matter. This is evident through some conceptions and terminology, with attention to the analytical method in studying its content, and benefiting from it in rooting the subject of tricks and theorizing it.

In addition to the introduction, the plan was organized into four chapters and a conclusion.

2. Maqassid (Shari'ah objectives) concept

2.1 Maqassid (Shari'ah objectives) linguistically

Maqassid is the plural of “maqsad” if you want the infinitif meaning: the intent, and “maqsid” if you want the place meaning: the direction of the intent, and this is the analogy from “maf'il"

Ibn Malik said in Lamyat al-Afaal¹:

من ذي الثلاثة لا يفعل له انت بمفعل بمصدر أو ما فيه قد عملا

Until he said:

في غير ذا عينه افتح مصدرا وسوا ه اكسر وشذ الذي عن ذلك اعتزلا¹

¹ Muhammad bin Abdullah bin Abdullah bin Malik Jamal Al-Din Abu Abdullah Al-Ta'i Al-Jiani Al-Andalusi, resident of Damascus, imam of grammarians, and language preserver, died in the year 672 AH. He has the famous millennium in grammar, facilitation, sufficiency and others. See Bughyat Al-Wa'a, by Al-Suyuti, vol. 1, p. 130

And (intention) has in the language about thirty-nine absolutes², which are combined with the following seven meanings:

- Doing something and asking for it
- The orientation.
- Hoarding something
- Justice
- Mediation and moderation
- Fracture
- Integrity

2.2 Maqassid terminologically

The term “maqasid” is used by jurists and fundamentalists in two ways

2.2.1 Maqassid of the mandated:

That is, what is related to the intentions and wills of the mandated³, including the basis of matters with their intentions Maqasid on this use is plural of maqasid⁴; Al-Lamshi¹ defines it in the context of his mention of the

¹ Hassan bin Zain Al-Shanqeeti, Al-Tura, sharh lamiat al'afeal of Ibn Malik, edited and coordinated by: Abdul Raouf Ali, Damascus, Dar Iqra, 1421AH/2000AD, p. Dar Wojooh, 2nd floor, 1433 AH-2012 AD, p. 13.

² Alqamus Almuhta dictionary, by Al-Fayrouz Abadi, Vol. 1, p. 324. Sayyid Muhammad Mortada Al-Zubaidi Al-Husseini, The Crown of the Bride from the Jewels of the Dictionary, edited by: Mahmoud Muhammad Al-Tanahi, revised by Abd Al-Salam Muhammad Harun, I. Government of Kuwait, 1392 AH / 1972 AD, vol. 10, p. 12. Lisan al-Arab, by Ibn Manzur, vol. 1, p. 5. A Dictionary of Language Measures, by Ibn Faris, vol. 5, p. 95. As-Sahah, by al-Jawhari, vol. 2, p. 574.

³ mashahid min almaqasid, by Abdullah bin Bayh, p. 23.

⁴ Previous reference p. 14.

terms circulating on the tongues of the jurists: (Intent: meaning will, by which the action becomes optional, and goes beyond the limit of necessity)², and it was said: (It is the will that exists between two sides)³.

2.2.2 Maqassid of Sharia:

Ibn Ashour ⁴mentioned that it: (the meanings and rulings observed by the Lawgiver in all or most cases of legislation, so that their observation is not limited to the universe in a special type of Sharia rulings)⁵, and he expressed them in another place by saying: They are actions and behaviors .

It is intended for itself, and which souls seek to attain, through various endeavors, or compels them to strive in compliance⁶.

¹ He is the father of praise Mahmoud bin Zaid al-Lamshi al-Hanafi al-Maturidi, and al-Lamshi is a relative of Lamish from the villages of Ferghana, from the country beyond the river. He lived in the late fifth and early sixth centuries. He has an introduction to the origins. See: Al-Qurashi, Muhyi Al-Din Abdul Qadir bin Muhammad Abu Muhammad, *aljawahir almadiat fi Tabaqat Al-Hanafiya*, edited by: Abdul-Fattah Muhammad Al-Hilu, Imbaba, Hajar for Printing and Publishing, 1, 1413 AH / 1993 AD, vol. 3, p. 437.

² Al-Lamshi, Mahmoud bin Zaid Abu Al-Thana', *kitab fi 'usul alfiqh*, edited by: Abdul Majeed Turki, Beirut, Dar Al-Gharb Al-Islami, 1, 1995 AD, p. 73.

³ Al-Qarafi, Ahmed bin Idris Abu Al-Abbas, *al'amniat fi 'iidarik alniyat*, edited by: Musa'ed bin Qasim Al-Falih, Riyadh, Al-Haramain Library, 1, 1404 AH / 1988 AD, p. 121.

⁴ Ibn Ashour, Muhammad al-Taher, the jurist, the fundamentalist, the interpreter, one of the prominent figures of contemporary Islam, the chief of the Maliki muftis in Tunisia, and the sheikh of the Zaytouniya mosque, was appointed in 1932 as the sheikh of Islam Maliki, and he is a member of the Arab councils in Damascus and Cairo. *maqasid alsharieat al'iislamiati*, 'usul alnizam al'iijtimaeii fi al'iislami, waltahrir waltanwir, died in 1973 AD. See: Al-Zarkali, Khair Al-Din, Al-Alam, Beirut, Dar Al-Ilm for Millions, 15th edition, 2002 AD, vol. 6, p. 174.

⁵ Ibn Ashour: Muhammad Al-Taher, *maqasid alsharieat al'iislamiat*, Editing and Study: Muhammad Al-Taher Al-Misawi, Amman, Dar Al-Nafaes, 4th edition, 1432 AH / 2011 AD, p. 251.

() Previous reference, pg. 415.

⁶ Previous reference, pg. 415.

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As for Allal Al-Fassi¹, it is: the goal (and the secrets that the Legislator placed upon each of its rulings)².

Ahmed Al-Raisouni said: (The purposes of the Sharia are the goals that the Sharia has been established in order to achieve them for the benefit of the people)³.

Al-Akhdar Al-Akhdari⁴ said: (They are the motives for enacting rulings by the grace of God Almighty)⁵.

Abdullah bin Bayh⁶ tried to define it on the logical boundary method, so he stated that it is: (they are the partial or total meanings understood from the discourse of the lawgiver, beginning or dependent, as

¹ Allal bin Abdel Wahed Al-Fassi, a national leader, one of the great preachers in Morocco. He held the Ministry of Religious Affairs for a period. He also studied at the Faculty of Law. Among his books are: Here is Cairo, and Defense of Sharia, and the purposes and honors of Islamic Sharia. He died in 1493 AH in Bucharest, and was buried in Rabat. Al-Alam, by Al-Zarkali, Vol. 4, p. 242.

² Allal Al-Fassi, The purposes and morals of Islamic law, study and development: Ismail Al-Hasani, Cairo, Dar Al-Salaam, 1, 1432 AH / 2011 AD, p. 111.

³ The Theory of Intentions at Al-Shatby, by Ahmed Al-Raisouni, 19.

⁴ Al-Akhdar Al-Akhdari Abu Abd al-Rahman, from Moulbad al-Gharb al-Jazaery, in the governorate of Ain Temouchent, is a professor at the Faculty of Islamic Civilization and Human Sciences. He holds a state doctorate in the principles of jurisprudence, and a license in legal studies. Among his books is the imam on the purposes of the Lord of humankind, and the schools of looking at heritage and its purposes. From the website: www.shamela-dz.com. At 10:59, on May 26, 2015.

⁵ Imam fi Maqasid Rabb al-Anam, by Al-Akhdari, p. 166.

⁶ Abdullah bin Al-Sheikh Al-Mahfud bin Bayyah, born in 1935 AD in Tambagha in Mauritania, one of the greatest contemporary Sunni scholars and former Vice-President of the International Union of Muslim Scholars was chosen by Georgetown University as one of the 50 most influential Islamic figures for the year 2009 AD, and he won the title of "Professor" Al-Jeel" in the International Youth Award for Service to Islamic Action in its seventh session in Bahrain. WWW.WIKIPEDIA.ARWIKIPEDIA.ORG, at: 15.30 on: May 18, 2015.

well as goals, symbols, judgment, and goals deduced from the discourse, and the silence in its various connotations¹.

Aware of human minds, including the interests of the people, known in detail or in a sentence).

2.3 The relationship between linguistic and idiomatic definition:

After a presentation of these definitions of Maqassid, we can talk about an inseparable relationship between the linguistic and idiomatic definitions.

The motives, the meanings, the judgment, the secrets, in whole or in part, and the establishment of the worldly and the hereafter interests, all require justice, moderation, uprightness, and an orientation with a broken heart to the highest demand, which is the voluntary servitude to God Almighty.

3. Al Hiyal (ploys) concept

3.1 Al Hiyal (ploys) linguistically:

The range of releases for the substance (ploys) extends to ninety eight tefminologies², united by four meanings.

- Reaching one year old: Ruba' said:

*أورق محتالا دبيحا حممه

- A crook, a swindler, a slanderer
- Change and change

حولول إذا ونى القوم نزل

يا زيد أبشر بأخيك قد فعل

- Movement in rotation

¹ Scenes from the purposes, by Abdullah bin Bayh, p. 32.

² Al Mohit Dictionary, by Al-Fayrouzabadi, part 3, p. 352. Mortada Al-Zubaidi, Taj Al-Arous, part 28, pg. 365. Lisan Al-Arab, Ibn Manzur, part 4, p. 274. Dictionary of language standards, by Ibn Faris, part 2, p. 121. Al-Sihah, by Al-Jawhari, vol. 4, p. 1679.

- Cleverness, good eyesight, and the ability to act accurately

3.2 Al Hiyal terminologically

Ibn Taymiyyah defined it by saying: (Its meaning is a specific type of behavior and action, which is the transition from one state to another. If the intent was a good thing, then it would be a good ploy, and if it was ugly, the ploy would be ugly, and when the Prophet, peace and blessings be upon him, said "Do not commit what the Jews committed, for you will make lawful God's prohibitions with the slightest ploys", it became in the custom of the jurists if you release the intention.

In the tricks that make forbidden things permissible, such as the tricks of the Jews, and every trick that involves forfeiting the right of God, or a human being, it falls under what makes forbidden things permissible¹.

Ibn al-Qayyim gave the same definition and joked about it, saying: "This is more specific than its subject matter in the origin of the language, and whether the intent is something permissible or forbidden, and more specifically than this is its use in reaching a purpose that is forbidden by Sharia, rationality, or custom².

As for Al-Shatibi, he mentioned that it is: (Presenting an apparent act of permissibility to invalidate a legal ruling, and transferring it to another ruling on the surface)³.

And Ibn Hajar Al-Asqalani defined it as: (a ploy, which is what leads to a goal by a hidden path)⁴.

¹ Ibn Taymiyyah, Ahmed Al-Harrani, Explanation of the Evidence for the Invalidity of Analysis, Carefully: Muhammad Bin Riyadh Al-Ahmad, Beirut, Al-Maktabah Al-Asriya, 1, 1427 AH / 2007 AD, p. 102.

² Ibn al-Qayyim, Shams al-Din Muhammad ibn Abi Bakr Abu Abdullah al-Dimashqi, Media of the Signatories on the authority of the Lord of the Worlds, edited by: Essam al-Din al-Sabbati, Cairo, Dar al-Hadith, without edition number, 1427 AH / 2006 AD, part 3, p. 177.

³ almuafaqati, by Al-Shatby, vol. 4, p. 201.

⁴ Fath al-Bari, by Ibn Hajar, vol. 12, p. 326.

Al-Hamawi also defined it as: (What is legitimately helpful to the one who has been afflicted by a religious incident)¹.

Among those who knew her from among the contemporaries of al-Bouti; he said: (intended to reach the transfer of a ruling to another by means of a legitimate source)².

3.3 The relationship between linguistic and idiomatic definition

Through a closer look at the previous definitions, it becomes clear that ploys in their idiomatic sense are more specific than their linguistic meaning, given that the ploy in its linguistic meaning revolves around the transition from one situation to another with a kind of cleverness and ability to act, and it is only realized by a kind of intelligence.

It is called what was legally reprehensible, as it comes under the heading of using the absolute in some of its types, such as the beast and the animal³, except that some jurists used the ploy in the sense of the exit, and this is what the Hanafi term is often⁴.

4. Types of ploys

The division of tricks varies according to the consideration on which it is based. Therefore, some of the scholars took into account in dividing it the rule that goes through the trick. So, for them, it is divided in five types, and some of them considered the means and the intent as a trick, and the rulings that they encountered. The division for them was four types, and some of them looked at it from where it is, and it is the researcher who adopted a

¹ Al-Hamwi, Abu Al-Abbas Shihab Al-Din Ahmed bin Muhammad Makki Al-Husseini, Ghamz Oyoun Al-Baseer Sharh Kitab Al-Shabah wa Al-Nazair, Zain Al-Abidin Ibn Najim Al-Masry, investigation: Ahmed bin Muhammad Al-Hanafi Al-Hamwi, Beirut, Dar Al-Kutub Al-Ilmiyya, 1, 1405 AH / 1985 AD, Volume 1, p. 38.

² Al-Bouti, Muhammad Saeed Ramadan, Controls of Interest in Islamic Sharia, Al-Resalah Foundation, without edition number, without publication date, p. 294.

³ 'i'ielam almawqieayn, Ibn al-Qayyim, vol. 3, p. 177.

⁴ Ibid., vol. 3, p. 177. Saleh bin Saud Al Ali, Pretexts, tricks, and the position of Islamic Sharia regarding them, 1, Dar Al-Obeikan, 1432 AH - 2011 AD, Riyadh, Saudi Arabia. p. 106.

criterion for division because of the advantage it entails highlighting the real dispute between those who say tricks and those who prevent them.

Types of ploy in terms of ploy itself are divided into three types:

- A type which is closeness and obedience, and it is one of the best deeds in the sight of God Almighty.
- A type that is permissible, and there is no blame on the one who does it, nor on the one who leaves it, and his action is more likely than his omission, or the opposite is in his interest.
- A type that is neither of this nor that, but rather that it defrauds prohibitions, and this is what is in dispute between scholars¹.

5. Relationship between ploys and Maqassid (Shari'ah objectives)

The science of Maqassid and its topics is related to the topic of ploys, and the one who focuses on cannot highlight its intentional features except by clarifying the links between them and the most important intentional issues that intersect with them and celebrate them, and this is when we talk about the merits of these relationships.

5.1 Relationship between ploys and looking at the outcome

Al-Shatibi was exposed to ploys as the second rule branching off from the origin of the consideration of the outcome, aiming with this to resolve the means of invoking the reasons that lead to the dismissal of the legal ruling from its original status, and its transformation into a different ruling, and he elaborated on it when talking about the intent in actions, and

¹ Ibn Qayyim al-Jawziyya, Shams al-Din, Ighaath al-Lahfan in the traps of Satan, graduation: Nasir al-Din al-Albani, edited by: Ali bin Hassan al-Halabi, Dar Ibn al-Jawzi, without the edition number, without the date of publication, vol. 1, p. 658.

his purpose this time is a statement contrasting tricks with the intent of the legislator in legislation, Then the ploys will be the result of the two originals together: (bad intention in actions) and (origin of looking at the outcome)¹.

The basis for implementing the rule of tricks is in fact nothing but the implementation of the principle of taking into account the outcome, for the first is a branch of the second, and one of its rules emanating from it, and by which its meaning and control are realized from the outside².

The link between the principle of outcomes and the rule of ploys can be controlled, in that deception is an act that includes two prohibited things that contradict the spirit of this universal principle:

The first: the existence of the illegal motive, which is represented by the intent to violate and contradict the intent of the Lawgiver.

Second: the expected corruption that most likely occurs in the end³.

There is another aspect of the link between these two origins, which appears in the close relationship between (bridging excuses) and (the rule of ploys), in terms of their participation in the preventive policy that ensures the prevention of corruption before it occurs⁴, and the features of this connection will be evident in the next topic

¹ Ammari, Badr al-Din Ahmad, *The Theory of Abuse of Right According to Imam al-Shatibi (Its Building and Meaning)*, Beirut, Dar Ibn Hazm, 1, 1430 AH / 2009 AD, p. 238.

² In the previous source, p. 242.

³ Abd al-Rahman ibn Muammar al-Senussi, *Considering the Fate and Observing the Consequences of Actions*, Dammam, Dar Ibn al-Jawzi, 1, 1324, p. 286.

⁴ Same source, p. 287.

5.2 Relationship of tricks to blocking excuses

The relationship that connects blocking excuses to blameworthy ploys stands at opposite ends with blocking excuses, if the rule of blocking excuses is with lower enmity, then ploys are in the ultimate enemy, So the Lawgiver blocks the way to it with every possible way, and the fraudster opens the way to it with every trick. So where is the one who prevents the permissible for fear of falling into the forbidden, and other who works the trick in begging for it?¹, and he said in Ighaath Al-Lahfan (to taboos, and that is the opposite of the section on tricks that lead to them, so tricks are means and doors to taboos, and blocking excuses is the opposite, between the two sections is the greatest contradiction)².

Ibn Ashour distinguished between deception and blocking pretexts in terms of comprehensiveness and lack thereof, and in terms of intent and lack thereof the corruption above the interest of the original rule, in general³.

This overlap between tricks and pretexts had an impact on those who dealt with the two issues from the jurists and the fundamentalists, Al-Shatibi, in the course of his speech on the consideration of the outcomes of actions, mentions the means whereby he mentions tricks, and he mentions the tricks where he mentions the means, even he sometimes cites the same examples of the two rules, and once he considers deception as a kind of pretext, and that is in the fifth issue, but in the tenth issue of the purposes of

¹ 'i'ielam almawqieayn, La Ibn al-Qayyim, vol. 3, p. 119.

² Ighaath al-Lahfan, by Ibn al-Qayyim, vol. 1, p. 361.

³ Yunus Mohi Al-Din Fayez Al-Astal, The Weighting Scale of Interests and Corruptions Contrasting with Contemporary Jurisprudential Applications, PhD thesis, Year 1416 AH / 1996 AD, University of Jordan, The Hashemite Kingdom of Jordan, p. 30. See: The purposes of Sharia by Ibn Ashour 365.

the taxpayer, he spoke about tricks and represented issues of term sales, and said: (It is one of the pretexts)¹.

5.3 Relationship of deception to abuse of right

An assignment that depends on an apparent matter is permissible To achieve an illegitimate purpose by means of a forbidden analysis or to drop a duty that is arbitrary because it contradicts the intent of the fraudster with the intent of the legislator, and because the illegal intent in the trick destroys the legitimate intent².

Al-Darini explained the objection to the contradiction, saying: (The gift that the Sharia has assigned to, is intended by its legitimacy to purify the soul from stinginess, provide for the needy, extend a helping hand to the desperate, or reward the one who helps; strengthening the bonds of affection; but the gift of money is near the end of Al-Hawl - which is a disposal of the right of ownership - to escape from and forfeit the zakat, in which it strengthens the vice of stinginess, and deprives the poor of their right, and it contradicts the intention of the Lawgiver in the gift - the fictitious - as you see clearly)³.

The use of the right, which is intended to violate the intention of the Lawgiver and destroy it, is the most dangerous thing that is imagined of arbitrariness, and this requires the necessity to prevent pretexts to cause it, because the contradiction destroys the legal intent, and it is absolutely forbidden, and what leads to the forbidden is forbidden, in order to consolidate the purposes of the Sharia and the real interests that are considered.

¹ Youssef Abd al-Rahman al-Fart, Contemporary Applications to Dam Al-Dhari'a, Cairo, Dar Al-Fikr Al-Arabi, 1, 2003, p. 39. See: Al-Muwafaqat 2/348 and beyond, 2/387 and beyond.

² The theory of abuse in the use of the right, by Amri Badr al-Din, p. 243.

³ Fathi Al-Derini, The Theory of Abuse of Right in Islamic Jurisprudence, Beirut, Al-Resala Foundation, 4th edition, 1408 AH / 1988 AD, p. 202 and beyond.

5.4 Relationship between ploys and the license

Licenses are an exceptional legislation that Islam brought and called on people to act upon it. Because every difficult matter in which the legislator made a way out for the mandated, and the legislator intended that way out for the mandated to investigate it - when the reasons for it are found, If the mandated departs from this issue in the manner that was legislated for him, was in compliance with the order of the legislator, taking firmness in his order, and if he did not do that and wanted to get out of distress without his legitimate face, then he falls into the prohibited in two respects:

- One of them: violating the intent of the Lawgiver.
- The second: closing the doors of ease on himself¹.

If the license is in this way exceptional legislation, then this means that it is indicated by evidence².

The evidence in all its types has referred to it, and in this way it is completely different from tricks - because the trick, although it is a transition from one rule to another - and this is what made it similar to the license, but the first - the original rule - was based on the evidence and indicated it.

¹ almuafaqati, by Al-Shatby, vol. 1, p. 240.

² Al-Ghazali, Abu Hamid Muhammad bin Muhammad, Al-Mustafa min Ilm Al-Osoul, without country, Dar Al-Fikr, without the edition number, without the date of publication, Part 1, p. Abu al-Wafa al-Afghani, Beirut, Dar al-Fikr, 1, p. 93, al-Adud, Adud al-Mullah wa al-Din, Explanation of the Mukhtasar al-Muntaha al-Usuliyah by Ibn al-Hajib, revision and correction: Shaaban Muhammad Ismail, Cairo, Al-Azhar Colleges Library, without edition number, 1403 AH / 1983 AD, Volume 2 , p. 8. Al-Tawfi, Najm Al-Din Abu Al-Rabee' Suleiman, Explanation of Al-Rawdah Brief, edited by: Abdullah bin Abdul Mohsen Al-Turki, Damascus, Al-Resala Foundation, 1, 1432 AH / 2011 AD, part 1, p. 457.

Unlike the second ruling, which is established by subterfuge, no evidence has been established for it, and therefore it is not legislation like a license.

But the matter is accurate if the fraudster wanted by his work to reach the permission of the Lawgiver for him, so that what he wanted from the work except to obtain the license that God Almighty legislated, as if he established a travel with the intention of breaking the fast in Ramadan, and shortening the four prayers. Here and in this assumption, is it permissible for the fraudster to benefit from the prescribed license or not? What is the difference between a license and a trick in such an assumption?¹

An answer to that, the licensee did not violate his intention of the legislator, because he reached his goal from his legitimate face His deception - a way out - justifies what he wanted, as it was narrated from Ibn Abbas may Allah be pleased with him: A man came to him and said: "My uncle divorced his wife three times, he said: Your uncle disobeyed God, and He did not make him a way out, so God Almighty repented him. He obeyed Satan, so he said: Would an other man marry her then divorce in order to make her lawful for him? He said: He who deceives God will deceive him².

The fraudster only reaches his goal in a crooked way - far from the path of the Sharia for which the license is legislated - and by this he is transgressing the limits of God, transgressing what God commanded, so he was beyond the facilitation that God wanted for his servants, so he does not deserve it, and does not benefit from it by doing it. He traveled with the intention of shortening the prayers, or breaking the fast in Ramadan. It is not permissible for him to take a concession - like other travelers who did not intend on their travels to circumvent the provisions of Sharia - so he is similar to the sinner in his travel, and the sinner is not allowed to benefit

¹ Al-Deeb, Mahmoud Abdel-Rahim, The tricks in civil law in Islamic jurisprudence and positive law, Alexandria, New University Publishing House, without edition number, 2004, p. 121 and beyond.

² 'Iiḡathat allahfan fi masayid alshaytan, by Ibn Al-ayyim, vol.1, pg. 486.

from the license that God legislated to ease the servants and facilitate. It came in *Eaqd aljawahir althamina*, in the context of talking about shortening the prayer for the traveler: (As for its legitimacy, when the cause, the place and the condition are present ¹, ([and this is what Al-Shafi'i refers to by his saying: (As for the one who travels unjustly against a Muslim or institutes, or cuts a road or corrupts the land, or the slave brings out a stray from his master, or a man on the run to prevent a right of his obligation, or something in such a sense or other than sin, he has no right to shorten it, from this it becomes clear that the fraudster is not allowed to benefit from his trick, which he committed with the intention of obtaining the license that God Almighty has legislated².

There is a difference between the intent of the fraudster and the intent of the licensee.

The licensee only achieves his goal from the side of the legislator, in addition to the fact that he did not ask for that purpose and did not work for it, according to the normal course of things, unlike the fraudster, his malicious intent and bad intention - according to most of the meaning of the trick - is the way to his goals and objectives³.

6. Ploys controls

It is the general rule of ploys that distinguishes permissible and impermissible ploys, every legitimate path whose behavior results in the realization of the purposes of the Lawgiver by doing what God has

¹ Ibn Shas, Abdullah bin Muhammad bin Najm Al-Khalal, *eaqd aljawahir althaminat fi madhhab ealam almadinat*, edited by: Sherif Al-Mursi, Cairo, Dar Al-Afaq Al-Arabiya, 1, 1432 AH / 2011 AD, p. 143 and beyond.

² Al-Shafi'i, Muhammad bin Idris, *Mother Tah: Rifaat Fawzi Abdul Muttalib*, Mansoura, Dar Al-Wafa, 1, 1422 AH / 2001 AD, vol. 2, p. 364.

³ *Tricks in the Civil Law*, by Mahmoud El-Deeb, p. 123.

commanded, avoiding what God has forbidden, reviving rights, and helping the oppressed, is permissible.

Scams are also those in which the evidence apparently contradicts and the intentions of the legislator are not clear, Hence, scholars differ: Some of them attach it to the permissible oath, and the others follow it to the prohibited oath, each according to what appears to him and is assured of it.

So, tricks, their ruling differs from one type to another, given the different types and the multiplicity of their forms, and therefore the ruling was not steady in them rather, the dispute over the one type occurs when the fraudster's intent is hidden. Therefore, deducing the effects arranged by the ruling was very difficult, as there is no officer who judges tricks.

Nevertheless, it is possible to set an officer that makes it easy to extract the consequences of tricks, if a precise classification of tricks is followed, based on the weight of the foregoing in the topic of types of tricks¹.

Add to that what Al-Shatibi considered as an officer in the context of talking about false scams, and he said: (It does not destroy a legal principle, and contradicts a legitimate interest, so if we assume that the trick does not destroy a legal origin, nor does it contradict the interest of the Shariah testified as being considered; it is not included in the prohibition, nor is it void)².

It can be concluded from the words of Al-Shatibi that the basic criteria for tricks in terms of their invalidity or permissibility are: That the deception does not destroy a legal basis.

¹ Tricks in the Civil Law, by Mahmoud El-Deeb, pg. 390

² Al-Muwafaqat, by Al-Shatby, vol. 2, p. 387. Rules of means in Sharia, by Al-Khadidi, pg. 473. Blocking the excuses, by Al-Burhani, p. 628.

That it does not contradict a legitimate interest, and the practical procedure for judging the trick by looking at its reality, If it is an act of obedience, it is ruled that it is permissible, and this ruling of permissibility is more general than being recommended or obligatory.

And if the trick in itself is permissible to do and is not a means to something prohibited, its ruling is permissibility in its most specific meaning: i.e. the choice between doing and leaving, and one of the two sides of the choice may be preferred due to the preponderance of the interest entrusted to it.

But if the deception is a means to something prohibited, then it is investigated and it is judged to be invalid if one of two things are found, It was originally demolished from the legal principles or contradicts a legitimate interest, If the trick is not on either of them or one of them, it is permissible to give it a choice.

7. CONCLUSION

After this detour on the subject of tricks, I came up with a number of results, the most important of which are:

- Tricks What is meant by it is the hidden ways by which it is reached to invalidate the legal rulings, and to disrupt the purposes of the Sharia.
- The tricks are the subject of Maqasid in the first place, and this is evident through its connection to a number of mabahiths that are at the core of the science of Maqasid and its pillars.
- Deceptions are a maqsid basis that can be relied upon in various fields, sciences and applications. They are not limited to the scope of jurisprudence and its branches.

As is common, it goes beyond it to interpretation, hadith, law, language...

Finally, it is not excluded to say that tricks as a maqasid rule with extended branches in Islamic law, regardless of its various sciences, from jurisprudence, interpretation, hadith, and language, suggests - this extension - the existence of a general theory of tricks, which needs categorization, division, and arrangement of effects, and I am not inventing this

The opinion, as this idea came to me when I was preparing for this research, until I came across a phrase by Mahmoud Abdel Rahim Al-Deeb in his book: (Civil Law Tricks) helps what the researcher tends to do¹.

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