

Uses of the Legitimate Purposes in the Jurisprudence of Messrs Maliki - Examples and Models -

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Abstract:

The most important topics related is that many issues of jurisprudence are linked to the divine legislative purposes. Noticing that the branches of the *Maliki* doctrine are full of examples bounds to these honorable task; Therefore, in this paper, I clarify the relationship of the branches of Maliki jurisprudence to the purposes of Sharia. So, the aim of the research is to demonstrate the Maliki school's interest in the purposes of Islamic law, and I concluded in the results that their doctrine employed many of them in its jurisprudence The research was organized in two topics as follows: The first is devoted to mention this purposes attached to the acts of worship. As for the second is devoted to mention the purposes attached to the acts of transactions with some examples and models, finally I concluded some results and recommendations.

Keywords:

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1. INTRODUCTION:

Praise be to Allah, abundant praise, and I send blessings and peace upon the one sent as a bringer of good tidings and a warner, and upon his family and companions. The purposes of Islamic law (Maqāṣid al-Sharʿīyah) achieve comfort and happiness for people, and true happiness is only found in this religion which the Creator has chosen for His servants. Muslims have come to know its foundations and principles, and have understood its purposes and aims, thus adopting it as their religious and devotional life methodology, as well as in their transactions and ordinary affairs. Accordingly, the importance of this research lies in the connection of many jurisprudential issues to the purposes of Islamic law. It is well known that the branches of the Maliki school are rich in their application of these purposes. Hence, the problematic question that can be posed is: To what extent has Maliki jurisprudence contributed to clarifying the purposes of Islamic law? And have the Malikis employed and utilized these purposes in their writings? Therefore, this research aims to clarify the relationship between the branches of Maliki jurisprudence and the purposes of Islamic law; it endeavors to highlight how these purposes are realized and how the considered interests are safeguarded in the jurisprudential branches of the school. Reference will be made to opinions outside the school when necessary. The research relies on both the analytical and partial inductive methodologies, as follows:

2. Models of the Uses of the Purposes of Islamic Law in the Chapter of Acts of Worship

Allah, the Exalted, created creation for His worship. He commanded them to perform it to bring about benefits and to avoid sins to prevent harms. He obligated them to do so in a manner free of hardship or difficulty, Allah Almighty says: ﴿لَا تُكَلِّفُ نَفْسٌ إِلَّا وُسْعَهَا﴾

{No person is charged with more than his capacity} [Albaqara: 233],

and Allah says: ﴿مَا يُرِيدُ اللَّهُ لِيَجْعَلَ عَلَيْكُمْ مِنْ حَرَجٍ﴾

{Allah does not intend to make difficulty for you} [Al-Maida: 06],

The religion of Allah is based on the purpose of mercy and facilitation.

Al-Shāṭibī mentioned in his book Al-Muwāfaqāt that what has been legislated in acts of worship, in terms of commands and prohibitions, encompasses the bringing about of benefits and the repelling of harms upon compliance, and the opposite upon disobedience. All of this is based on the premise that the Sharī‘ah was established to bring about benefits and repel harms. (Al-Shatibi, 1997, Vol. 3, p. 538)

2-1. Purification (Al-Ṭahārah) :

Purification is a condition for the validity of prayer, and to preserve the self and to lift hardship from it, Allah Almighty says:

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا قُمْتُمْ إِلَى الصَّلَاةِ فَاغْسِلُوا وُجُوهَكُمْ وَأَيْدِيَكُمْ إِلَى الْمَرَافِقِ وَامْسَحُوا بِرُءُوسِكُمْ وَأَرْجُلَكُمْ إِلَى الْكَعْبَيْنِ وَإِنْ كُنْتُمْ جُنُبًا فَاطَّهَّرُوا وَإِنْ كُنْتُمْ مَرْضَى أَوْ عَلَى سَفَرٍ أَوْ جَاءَ أَحَدٌ مِنْكُمْ مِنَ الْغَائِطِ أَوْ لَامَسْتُمُ النِّسَاءَ فَلَمْ تَجِدُوا مَاءً فَتَيَمَّمُوا صَعِيدًا طَيِّبًا فَامْسَحُوا بِوُجُوْهِكُمْ وَأَيْدِيكُمْ مِنْهُ مَا يُرِيدُ اللَّهُ لِيَجْعَلَ عَلَيْكُمْ مِنْ حَرَجٍ وَلَكِنْ يُرِيدُ لِيُطَهِّرَكُمْ وَلِيُتِمَّ نِعْمَتَهُ عَلَيْكُمْ لَعَلَّكُمْ تَشْكُرُونَ﴾

{O you who have believed, when you rise to [perform] prayer, wash your faces and your forearms to the elbows and wipe over your heads and wash your feet to the ankles. And if you are in a state of janabah, then purify yourselves. But if you are ill or on a

journey or one of you comes from the place of relieving himself or you have contacted women and do not find water, then seek clean earth and wipe over your faces and hands with it. Allah does not intend to make difficulty for you, but He intends to purify you and complete His favor upon you that you may be grateful} [Almaida: 06],

It has been demonstrated by our scholars that the verse provides evidence for the permissibility of performing Tayammum (dry ablution) for the person present who fears harm from contact with water due to cold or similar causes; because it entails hardship and difficulty. Allah did not intend hardship or difficulty in religion, the evidence for this is the saying of Allah: ﴿وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ﴾

{Allah has not placed upon you in the religion any difficulty} [Al-Hajj: 78]

But rather to complete His favor upon you by permitting tayammum in cases of illness, travel, and the removal of hardship. Indeed, this concession is part of the completion of blessings. (Al-Qurtubi, 1964, Vol. 6, p. 80 and Vol. 6, p. 108, Ibn Juzay, 1996, Vol. 1, p. 225, Al-Tha'alibi, 1998, Vol. 2, p. 206, Ibn Arafa, 2008, Vol. 2, p. 93)

Among the elements of purity is the use of the siwak (tooth-stick); it is recommended to use the siwak during wudu (ablution) before rinsing the mouth, and then to rinse the mouth afterward to expel what has been loosened, And the Prophet (PBUH) says about that: **«Had it not been that I might overburden my Ummah - or people - I would have commanded them to use the Siwāk (toothstick) at every prayer»** (Bukhari, (887)); Its meaning is imposed.

This indicates that its benefit justifies the obligation, and the obligation is lifted due to hardship. This demonstrates that the command is lifted when hardship results from assuming the command's application. The principle is that our Shariah is founded

on ease, unlike previous legislations. (Al-Qarafi, 1994, Vol. 1, p. 75 and Vol. 2, p. 509, Al-Kashnawi, Vol. 1, p. 90, Muhammad Al-Amir, 2005, Vol. 1, p. 657)

2-2. Prayer

Prayer is the pillar of religion and an essential pillar of Islam, one of the greatest rituals. Its essence is the connection with Allah Almighty and the submission of the face to Him, Glorified and Exalted. God has prescribed reward and recompense for its establishment, and sin and blame for its neglect or negligence. God has made the performance of this act of worship lighter according to ease, taking into account the purpose of preserving the life of the worshipper. Hence, the concession of omitting standing during prayer is allowed to ease the burden on the incapable. In the hadith, Imrān ibn Husayn (may Allah be pleased with him) reported: I was suffering from hemorrhoids (piles); so I asked the Prophet (may Allah's peace and blessings be upon him) about the prayer and he said: **«Pray while standing; if you cannot, then while sitting; and if you cannot, then while lying on your side»**. (Bukhari, (1117))

Ibn Battal al-Maliki transmitted the consensus of scholars that one should pray as much as one is able until one ends up gesturing with the back or the side of the body, whichever is easier. (Ibn Battal, Vol. 3, p 104)

Similarly, this applies to combining Maghrib and Isha prayers due to rain, combining prayers for travelers, shortening prayers, praying during fear, and all other concessions regarding prayers made under such circumstances. Their essence is ultimately considered in terms of achieving benefits or averting harms specifically, where the general evidence would prohibit this; because if we were to adhere strictly to the original general evidence, it would result in the removal of the benefit that the evidence requires. Therefore, it is obligatory to consider the outcome and the concession accordingly. (Ibn Battal, Vol. 5, p. 195)

2-3. Zakat:

Zakat is the third pillar of Islam, and it embodies some of the Shariah purposes such as the preservation of religion, wealth, and life. Among the purposes of preserving religion is that those who refuse to pay zakat are fought until they comply, as exemplified by Abu Bakr, may Allah be pleased with him, fighting those who withheld zakat. If he had left them alone, this pillar would have been lost. He fought them and said his famous statement: **"By Allah, I will fight whoever separates prayer from zakat"**. (Bukhari, (1400), Muslim, (32))

The purpose of preserving life includes that the wealthy pay zakat to the poor, which safeguards their dignity and ensures their livelihood.

Among the Shariah purposes that preserve the wealth of the zakat payer is that the amount of zakat is set low compared to the zakat nisab, which is set high. Moreover, zakat is not obligatory on every specific asset nor on all wealth, but rather on specified types of assets. The amount given must be taken from the average or usual portion, not from the most generous or best quality wealth, nor from the lowest quality. As stated in the hadith, the Messenger of Allah (PBUH), said to Muadh, may Allah be pleased with him, when he sent him to Yemen: **«Take from them, but avoid the best of their wealth»**. (Bukhari, (1458), Muslim, (19))

The fundamental principle is that zakat is taken from the asset upon which the obligation is established. If the asset is of a single type, then there is no issue. If there are multiple types, then the average is a just medium between the poor and the owners of wealth; this is the Shariah purpose. It has also been said that zakat should be taken from each type in proportion to its amount, considering each asset individually. Others have stated that if all assets are good, zakat is taken from them; if all are poor quality, zakat is taken from them as well. The correct position is that the zakat payer should not be

required to give what he does not possess; thus, zakat should be taken from the medium-quality asset, neither from the highest nor the lowest quality, nor from every type—unless the zakat payer voluntarily chooses to give from the best—to avoid hardship and difficulty. (Ibn Baziza, 2010, p. 480, Al-Qarawi, p. 170)

2-4. Fasting:

Fasting is the fourth pillar of Islam, and it is obligatory upon a mature, sane, capable, and resident Muslim... (Al-Qarawi, p. 194-195), Fasting cultivates in a person the purposes of solidarity and cooperation that connect Muslims with one another, as the feeling of hunger and need drives him to connect with and assist others.

One of the purposes of preserving the fasting person's self is to protect it from two aspects: from non-existence, which is why fasting is postponed or exempted for some people as a facilitation and easing; Allah Almighty says in the verse on the obligation of fasting:

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا كُتِبَ عَلَيْكُمُ الصِّيَامُ كَمَا كُتِبَ عَلَى الَّذِينَ مِن قَبْلِكُمْ لَعَلَّكُمْ تَتَّقُونَ (183) أَيَّامًا مَّعْدُودَاتٍ فَمَن كَانَ مِنكُم مَّرِيضًا أَوْ عَلَى سَفَرٍ فَعِدَّةٌ مِّنْ أَيَّامٍ أُخَرَ وَعَلَى الَّذِينَ يُطِيقُونَهُ فِدْيَةٌ طَعَامُ مِسْكِينٍ فَمَن تَطَوَّعَ خَيْرًا فَهُوَ خَيْرٌ لَهُ وَأَن تَصُومُوا خَيْرٌ لَّكُمْ إِن كُنتُمْ تَعْلَمُونَ (184) شَهْرَ رَمَضَانَ الَّذِي أُنزِلَ فِيهِ الْقُرْآنُ هُدًى لِّلنَّاسِ وَبَيِّنَاتٍ مِّنَ الْهُدَى وَالْفُرْقَانِ فَمَن شَهِدَ مِنْكُمُ الشَّهْرَ فَلْيَصُمْهُ وَمَن كَانَ مَرِيضًا أَوْ عَلَى سَفَرٍ فَعِدَّةٌ مِّنْ أَيَّامٍ أُخَرَ يُرِيدُ اللَّهُ بِكُمُ الْيُسْرَ وَلَا يُرِيدُ بِكُمُ الْعُسْرَ﴾

{O you who have believed, decreed upon you is fasting as it was decreed upon those before you that you may become righteous (183) [Fasting for] a limited number of days. So whoever among you is ill or on a journey [during them] - then an equal number of days [are to be made up]. And upon those who are able [to fast, but with hardship] - a ransom [as substitute] of feeding a poor person [each day]. And whoever volunteers excess - it is better for him. But to fast is best for you, if you only knew (184) The month of Ramadhan [is that] in which was revealed the Qur'an, a guidance for the people and clear proofs of guidance and

criterion. So whoever sights [the new moon of] the month, let him fast it; and whoever is ill or on a journey - then an equal number of other days. Allah intends for you ease and does not intend for you hardship} [Albaqara: 183-185].

Likewise, pregnant and nursing women are permitted to break their fast out of mercy for them and for the fetus or infant. All of this is to preserve lives from the aspect of non-existence. On this, Sheikh Al-Dardir said: "Breaking the fast is obligatory for the sick and healthy alike if fasting is feared to cause death or severe harm; such as disabling the benefit of hearing, sight, or others, due to the obligation of preserving the self". (Al-Desouki, vol. 1, p. 535)

As for the purpose of preserving the fasting person's self from the aspect of existence, it appears in the fact that fasting is a healthy means that protects the body from diseases; indeed, fasting is considered the best diet for a person, and modern medicine has proven these facts. This is among the scientific miracles of the Qur'an and the Prophetic Sunnah. It is well known in our doctrine that the emission of semen invalidates the fast; if a fasting person ejaculates with the first thought or first glance without continuation, he must make up the fast without expiation, except if it occurs frequently, then the obligation to make up the fast is also lifted due to hardship. This is the position of Al-Mudawwana. (Mayara, 2008, p. 476)

2-5. Hajj:

Hajj is the fifth pillar of Islam; it was ordained by Allah Almighty upon those who are able, with the condition of physical and financial capability to preserve oneself and one's wealth, easing and facilitating the obligation, Allah Almighty says:

﴿وَلِلّٰهِ عَلَى النَّاسِ حِجُّ الْبَيْتِ مَنِ اسْتَطَاعَ اِلَيْهِ سَبِيْلًا﴾

{And [due] to Allah from the people is a pilgrimage to the House - for whoever is able to find thereto a way} [Al-Imran: 97].

This purpose—the preservation of life and wealth—is further emphasized by the Prophet's (PBUH) statement: **«O people, Allah has prescribed Hajj (pilgrimage to the House of Allah) upon you, so perform Hajj»**. A man inquired: "O Messenger of Allah, is it prescribed every year?" He (PBUH) remained silent till the man repeated it thrice. Then He (PBUH) said: **«Had I replied in the affirmative, it would have surely become obligatory, and you would not have been able to fulfill it»**. Afterwards he said, **«Do not ask me so long as I do not impose anything upon you, because those who were before you were destroyed on account of their frequent questioning and their disagreement with their Prophets»**. (Muslim, (1337)),

In this regard, Al-Qadi Iyad Al-Maliki, in his commentary on Sahih Muslim, states that the servant must comply with what he is commanded, and he is only commanded with what he is able to do, and no hardship is imposed on him in religion. (Iyad, 1998, Vol. 4, p. 444)

Accordingly, since Hajj is the most arduous of the pillars of Islam, it is obligatory upon the one who is able to perform it once in a lifetime. (Al-Nafrawi, 1995, Vol. 1, p. 350)

3. Models of the Uses of Sharia Purposes in the Domain of Transactions:

In the previous chapter, we examined some models of the Sharia purposes (Maqasid al-Sharia) that encompassed the domain of worship ('Ibadat). We will observe that they also include the domain of transactions (Mu'amalat). Before elaborating on that, it is preferable to mention the Sharia purposes related to the preservation of wealth, which are as follows:

Concerning the specific purposes related to wealth, I briefly quote the statement of Sheikh Muhammad al-Tahir ben Ashour that the Sharia purpose in all types of wealth comprises five matters:

circulation, clarity, preservation, stability, and justice therein. (Ben Ashour, 2001, p. 464)

Accordingly, some of the Sharia purposes related to wealth are as follows:

Firstly: Justice: This is the most important purpose; justice is the foundation of everything. Islam has established transactions and financial dealings between people on the purpose of justice and consent. Sheikh ben Ashour states that justice in wealth is achieved by acquiring it lawfully without oppression, either by earning it through the labor of its acquirer, or by giving compensation to its owner, or by donation, or inheritance, etc.

Enter here the text of second subtitle, enter here the text of second subtitle, enter here the text of second subtitle, enter here the text of second subtitle, enter here the text of second subtitle. (Ben Ashour, 2001, p. 477)

Secondly: Circulation: Also referred to as the purpose of trading. Our religion calls for the growth and investment of wealth and prohibits its hoarding from circulation. Umar ibn al-Khattab, may Allah be pleased with him, referring to the investment of wealth, said: "**Seek benefit with the wealth of orphans; let not charity consume it**". (Al-Daraqutni, (1973))

Thirdly: Clarity: This purpose entails keeping wealth away from sources of disputes and disagreements as much as possible. For this purpose, the legislation of documentation in contracts was prescribed, such as writing, witnessing, and pledging. (Ben Ashour, 2001, p. 473, Al-Alam, 1994, p. 521)

Fourthly :Preservation: This is among the most important purposes, Allah Almighty says: ﴿وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ﴾

{**And do not consume one another's wealth unjustly**} [Al-Baqara :187]

The Prophet (PBUH) said: «**Your blood and your property and your honor are forbidden for you to violate, like the sacredness of this day of yours, in this month of yours, in this city of yours**». (Bukhari, (67), Muslim, (3009)) , and He (PBUH) said: «**Allah has hated for you three things: Vain talks, (useless talk) that you talk too much or about others. Wasting of wealth (by extravagance). And asking too many questions (in disputed religious matters) or asking others for something (except in great need)**». (Bukhari, (1407), Muslim, (5482))

Our Sharia urges earning a livelihood and spending wealth through lawful means. (Al-Yubi, 1431 AH, p. 287-290, Ahmidan, 2004, p. 209-211, Habib, 1427 AH, p. 332)

Fifthly: Stability: Sheikh Muhammad al-Tahir ben Ashour clarified the concept of the stability of wealth as that which is firmly established for its owners in a manner free from risk and dispute. (Ben Ashour, 2001, p. 474-476)

After this introduction, the Sharia purposes related to the domain of transactions can be exemplified as follows:

3-1. Marriage

Marriage is a universal custom for the continuation of human progeny and a religious ordinance. The Qur'an describes it as a solemn covenant and a sacred bond. It is naturally inclined towards by innate disposition and is advocated by the wise Shariah, Allah Almighty says: ﴿وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً﴾

{And of His signs is that He created for you from yourselves mates that you may find tranquillity in them; and He placed between you affection and mercy} [Ar-rum: 21].

Among the Maliki scholars, it is recommended to publicly announce and witness the marriage and to disseminate it. The Prophet Muhammad (PBUH) prohibited secret marriages, as publicizing the

marriage preserves lineage and prevents denial thereof; for a husband might deny the marriage while the woman is pregnant, leaving her no means to prove it, which results in the loss of lineage. Public witnessing and announcement prevent this outcome. (Al-Baghdadi, p. 745-746)

They also permit a woman to marry a sinful, alcoholic man if she feels secure with him, due to the obligation to preserve life. (Al-Zarqani, 2002, Vol. 3, p. 361, Al-Dasouqi, Vol. 2, p. 24)

Through marriage, tranquility is attained, and affection and mercy are established. It unites the scattered and gathers the heart, while seeking offspring. The virtues of marriage are diverse and its benefits manifold; it achieves the purpose of protecting the self from internal repression and from malignant contagious diseases, and it fulfills the purpose of preserving lineage and progeny from confusion and loss.

3-2. Obligatory Shares and Inheritance

Obligatory shares (Al-Fara'id) refer to the transfer of specific property and rights due to kinship and similar relationships. (Al-Qarafi, 1994, Vol. 13, p. 7-8)

The science of obligatory shares is defined as: "the jurisprudence related to inheritance and the knowledge that enables one to determine the precise share due to each rightful heir in the estate". (Ibn Arafa, 2014, Vol. 10, p. 521)

Allah the Exalted has guaranteed the division of inheritance to preserve wealth and rights. Allah Himself undertook the division to prevent the unlawful consumption of wealth and the deprivation of the rights of the weak. He granted women their rights and elevated their status. Among what Allah revealed regarding the obligation to safeguard wealth and not to tamper with it is His statement:

﴿إِنَّ الَّذِينَ يَأْكُلُونَ أَمْوَالَ الْيَتَامَىٰ ظُلْمًا إِنَّمَا يَأْكُلُونَ فِي بُطُونِهِمْ نَارًا وَسَيَصْلَوْنَ سَعِيرًا﴾

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{Indeed, those who consume the property of orphans unjustly are only consuming fire into their bellies, and they will be burned in a Blaze}. [An-Nisa: 03]

The Prophet Muhammad (PBUH) warned: «**O Allah, I seek refuge for the rights of the two weak ones: the woman and the orphan**». (Al-Bayhaqi, (19801))

Some Maliki scholars mentioned that the Arabs used to give money to those they loved, whether relatives or strangers. Some previous nations allowed only the eldest male son to inherit. Our noble religion prescribed the distribution of inheritances with mercy and kindness toward the owners of wealth, so their money was given only to their closest relatives. The distribution was according to the degree of kinship, as is well known in the chapter on exclusions (al-hijab) in the science of inheritance (Ilm al-Fara'id), and according to the need for money. (Ben Ashour, 1984, Vol. 3, p. 46-47)

3-3. Consumption of Carrion

Scholars unanimously agree that carrion, blood, and pork are permissible for one who fears for their life and has not eaten from the previous day. (Ibn al-Qattan, 2004, Vol. 1, p. 324), Allah Almighty says:

﴿فَمَنْ اضْطُرَّ فِي مَخْمَصَةٍ غَيْرَ مُتَجَانِفٍ لِإِثْمٍ فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ﴾

{But whoever is forced by severe hunger with no inclination to sin - then indeed, Allah is Forgiving and Merciful}

It is stated in the jurisprudential compendium (Kitab al-Khulasa al-Fiqhiyya) that necessity—which is the preservation of life—permits the person to consume what is otherwise prohibited, including carrion, to the extent necessary to preserve their life. (Al-Qarawi, p. 284).

3-4. Legitimacy of Sales and Trade

Companies and sales were legislated as a mercy to creation and to alleviate hardship, fulfilling the purpose of increasing and preserving wealth. The Prophet Muhammad (PBUH) informed that the wealth of trade is blessed, and that leniency and facilitation therein invoke mercy from Allah, the Almighty. He said (PBUH): «Allah Almighty brought into Paradise a man who was easy to buy, sell, and if he had asked to pay off the debts he owed» (Ahmed, (410)), Ibn Battal al-Maliki mentioned that from the purposes of our Sharia is to encourage tolerance and good treatment, to use the highest and most noble morals, and to avoid quarreling over sales. He (PBUH) prayed for mercy for whoever did that, and He encourage people to stop being oppressed when seeking rights and to seek forgiveness from them (Ibn Battal, 2003, Vol. 6, p. 210-211), and its conveyed the recommendation of forgiveness in buying and selling, and the ease of profit. (Al-Baji, 1332 AH, Vol. 5, p. 109, Al-Zarqani, 2003, Vol. 3, p. 512)

3-5. The Prohibition of Forbidden Sales:

Our noble religion has legislated sales, trades, and partnerships, and has prohibited certain sales for noble purposes, the most important of which is the preservation of the mind and wealth. This includes the prohibition of selling alcoholic beverages and intoxicants of all kinds. Ibn Abi Zaid Al-Qayrawani said: "Allah, the Exalted, has forbidden the drinking of alcohol, whether in small or large quantities, and the Prophet, peace be upon him, clarified that whatever intoxicates in large amounts, its small amount is also forbidden. Whatever clouds the mind and intoxicates from any drink is considered alcohol. The Prophet (PBUH) said: «**Indeed, He who prohibited its drinking has also prohibited its sale** (Muslim, (1579))»". (Al-Qayrawani, p. 152)

3-6. Jihad and War:

Among the legal purposes is the preservation of religion and the protection and continuation of life. Jihad was legislated to safeguard the religion of Allah, and the ruler kills apostates to protect the religion, as Caliph Abu Bakr, may Allah be pleased with him, did in the Ridda wars. Ibn Battal reported the consensus of scholars that whoever withholds zakat, the zakat is taken from his wealth by force, and if he desires war for withholding it, he is fought following the example of Abu Bakr Al-Siddiq, may Allah be pleased with him. The apostasy was of three types: a people who disbelieved and returned to their previous worship of idols; a people who believed in Musaylimah the liar; and a group who withheld zakat and said, 'We have not apostatized from our religion, but we are stingy with our wealth.' Abu Bakr, may Allah be pleased with him, fought them, and all the Companions, may Allah be pleased with them, agreed with him on this matter. (Ibn Battal, Vol. 3, p. 391)

Among the purposes of mercy in our Sharia is that our Prophet, peace be upon him, was more merciful to his opponents and enemies than some of them were to each other; he ordered kindness even in killing. Scholars have unanimously agreed on the prohibition of killing women, children, elderly men, and the mentally ill during jihad because they are not combatants and thus should not be killed. (Ibn Rushd, 1975, Vol. 1, p. 404, Ibn Hazm, Vol. 7, p. 296, Al-Shawkani, 1987, Vol. 2, p. 446) .

The Prophet (PBUH) guided his companions regarding this principle; in the hadith: "We were with the Messenger of Allah, peace be upon him, in a battle, and he saw people gathered around something. He sent a man and said: «**Look at what these people are gathered around**», He came back and said: "It is a killed woman", The Prophet said: «**She was not one to fight**», Then he said: "And at the forefront is Khalid ibn al-Walid", He sent a man and said: «**Tell Khalid: Do not kill a woman or a worker** -who does not participate in war-». (Al-Bayhaqi, (18104))

3-7. Judicial Justice and Law Enforcement:

Islamic Sharia is based on security, justice, and equality among all segments and individuals of society; it achieved safety and justice for Muslims living under its rule, as well as for minorities and non-Muslim communities living under its protection.

One hallmark of judicial justice is the fairness of Caliph Umar ibn al-Khattab, may Allah be pleased with him. Anas ibn Malik narrated that a Coptic man from Egypt came to Umar ibn al-Khattab and said: "O Commander of the Faithful! I seek refuge with you from injustice." Umar said: "You have sought refuge rightly." The man said: "I outran Ibn Amr ibn al-As, so he struck me with a whip and said: 'I am the son of the noble.' Umar wrote to Amr ordering him to come with his son, and he came. Umar said: 'Where is the Egyptian? Take the whip and strike him.' So he struck him with the whip, and Umar said: 'Strike the son of the noble.' Anas said: "He struck him, and by Allah, we loved his striking him. He did not stop until we wished he would, Then Umar said to the Egyptian: "Place the whip on Amr's bald spot." He replied: "O Commander of the Faithful! It was his son who struck me, and I have brought him." So Umar said to Amr: "Since when have you been enslaving people while their mothers gave birth to them free?" He said: "O Commander of the Faithful! I did not know, nor was it brought to my attention". (Al-Suyuti, 2005, (2007))

3-8. Punishments and the Establishment of Hudud (Legal Limits):

The implementation of punishments and the establishment of hudud are integral to our Sharia; it is not permissible to be lenient or delay their application. The Prophet, peace be upon him, ordered their enforcement upon those for whom they are prescribed because of their role in preserving the five essentials: the preservation of religion, life, intellect, lineage, and property. Al-Nafrawi clarified that Qisas (retaliation) serves the purpose of preserving blood and lives; cutting off the hand of a thief serves to preserve property; establishing the

hudud for adultery aims to preserve lineage and offspring; the hudud for drinking alcohol aims to preserve intellect; the hudud for slander aims to preserve honor; and the hudud for killing due to apostasy aims to preserve religion. (Al-Nafrawi, Vol. 2, p. 178)

The Prophet, peace be upon him, prohibited intercession in hudud punishments because it leads to the emergence of harms and the prevention of benefits; In the hadith, The Quraish were anxious about the Makhzumi woman who had committed theft, They said: Who will speak to the Messenger of Allah (PBUH) about her ? Then they said: Who will be bold enough for it but Uasmah bin Zaid, the prophet's (PBUH) friend, So Usamah spoke to him, and the Messenger of Allah (PBUH) said: **«Are you interceding regarding one of the punishments prescribed by Allah?»** He then got up and gave an address, saying: **«What destroyed your predecessors was just that when a person of rank among them committed a theft, They left him alone , and when a weak one of them committed a theft, they inflicted the prescribed punishment on him . I swear by Allah that if Fatimah daughter of Muhammad should steal, I would have her hand cut off»**. (Bukhari, (4304), Muslim, (1688))

Allah, the Exalted, has made the establishment of hudud obligatory, where Allah Almighty says:

﴿الرَّائِيَةُ وَالرَّائِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِنْهُمَا مِائَةَ جَلْدَةٍ وَلَا تَأْخُذْكُمْ بِهِمَا رَأْفَةٌ فِي دِينِ اللَّهِ إِنْ كُنْتُمْ تُؤْمِنُونَ
بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَلْيَشْهَدْ عَذَابَهُمَا طَائِفَةٌ مِنَ الْمُؤْمِنِينَ﴾

{The [unmarried] woman or [unmarried] man found guilty of sexual intercourse - lash each one of them with a hundred lashes, and do not be taken by pity for them in the religion of Allah, if you should believe in Allah and the Last Day. And let a group of the believers witness their punishment} [An-Noor: 02]

Allah Almighty legislated the limits for reformation; thus, Mercy and Leniency in their application would result in corruption. This indicates that Allah, who legislated hudud, is more compassionate to

His creation and servants than they are to one another. (Ben Ashour, 1984, Vol. 18, pp. 150-151)

4. CONCLUSION

In conclusion, it is appropriate to clarify some of the results reached and some recommendations, as follows:

First: Results:

1. The purposes of Sharia (Maqasid al-Sharia) are the general rulings and meanings that the law seeks to achieve by legislating rulings with the intention of bringing benefits to the servants and warding off harms from them, both immediately and ultimately. The Maliki school has paid great attention to clarifying these purposes and linking them to their branches.

2. The correct application of the purposes does not conflict with the evidences and Sharia texts; rather, it strengthens and supports them.

3. The purposes, in their various types, are among the suitable evidences to demonstrate the virtues of our religion, and the Malikis have excelled in this regard.

4. The impact of invoking the Sharia purposes in the sound understanding of the Sharia discourse.

5. Considering the purposes in ijtiḥad leads to a holistic view of the texts and rulings of Sharia.

6. Acts of worship were legislated to bring about benefits in this world and the hereafter; they are based on ease and aimed at removing hardship.

7. Transactions were also legislated to uphold the interests of the servants, taking into account leniency and cooperation among them, while prohibiting what causes corruption in the religious and worldly conditions of the people.

8. Jihad was legislated as mercy to the people; the Prophet, peace be upon him, did not initiate fighting but rather began with invitation and conveying the proof. Our Sharia also set conditions and ethics for jihad and war that Muslims must adhere to and embody. However, today we see the enemies of Muslims waging media and field wars against Islam, then accusing it of bloodthirstiness and extremism. Anyone observing the situation of the people of Gaza and the global arena sees the opposite.

9. The establishment of Hudud (Islamic legal penalties) preserves the five essential purposes and safeguards the lives of nations and societies. Before Islam, societies were in conflict, restless, waging wars that lasted years. Islam came, reconciled hearts, and legislated Hudud for the lives of people, yet we are accused of backwardness and reactionism. True backwardness lies in distancing oneself from the teachings of our noble religion.

Second: Recommendations: Among what we can recommend are the following:

1- The importance of studying the dimensions of the purposes from social, economic, educational, political, and other perspectives.

2- The importance of applying the Sharia purposes and implementing their rulings on acts of worship and newly emerging transactional matters.

3- I recommend researchers to conduct further studies to introduce the Sharia purposes and the efforts of Maliki scholars, and I call upon scientific institutions and research centers to teach the Sharia purposes in their curricula.

There is still ample room in the research for further development, expansion of all its ideas, correction, and refinement.

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