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**Maqasid al-Shariah and Legislative Reform in Pakistan: Reconstructing the Relationship between Islamic Jurisprudence, Human Rights, and Contemporary Legal Development**

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**Abstract**

*The doctrine of Maqasid al-Shariah (higher objectives of Islamic law) has become the object of increasing scholarly attention as a potential approach to overcome the problems which are faced in the contemporary process of law development in States with Muslims as the majority of their population. In the case of Pakistan, the situation is particularly interesting because in a single constitutional form both the supremacy of the constitution, of fundamental rights and the Islamic character of the State is recognized. The purpose of this paper is to consider how the use of Maqasid al-Shariah can improve law reform in Pakistan through a re-invented process of re-constructing relationship between Islamic jurisprudence, human rights and present-day needs of the legal system. It takes it upon itself to say that Maqasid was not just a theological way of describing the purpose of the rules that already exist but can be used as a disciplined method to evaluate laws based on justice, human dignity, public welfare, equality, and avoidance of evil. Qualitative doctrinal methodology is used in the study, which involves the analysis of the most recent literature on the Maqasid and Islamic legal reform, human rights and Pakistani constitutionalism. It also explores how a Maqasid-oriented approach can help in legislator development such as; family law, gender justice, minority protection, environmental regulation, digital governance and access to justice. The paper argues that this way can offer an Islamic engagement with Islamic methodology for legal reform internally without at the same time narrowing down Islamic*

*jurisprudence into mere textualism or simply copying another legal model. Finally, it suggests a framework for a legislative approach to the use of maqasid in Pakistan by applying the elements of 'morality of the text', 'morality of context', 'morality of public welfare', 'morality of constitutional rights', and 'morality of institutions'.*

**Keywords:** *Maqasid al-Shariah; Islamic Jurisprudence; Legislative Reform; Pakistan; Human Rights; Constitutionalism; Ijtihad; Public Welfare; Legal Development.*

## 1. Introduction

In a Muslim majority state such as the question of response of Islamic jurisprudence is becoming increasingly important, to the legal realities of the contemporary State. Today's laws cover issues that were either unknown or institutionally distinct to the early years of Islamic jurisprudence, such as constitutional government, international human rights, digital technologies, environmental degradation, complex financial systems, biomedical development and sophisticated regulatory institutions. The problem is therefore not just one of compatibility of Islamic law with modern laws, but one of whether Islamic jurisprudence has an interpretative system that can make a positive impact upon the ongoing evolution of the law.

In this debate, Maqasid Al-Shariah has a special position. This doctrine focuses on the goals, objectives, benefit and values in the Islamic jurisprudence instead of just limiting the jurisprudence reasoning to the literal ISLAH of the specific rules. In recent times, scholars have contended that Maqasid could offer a potential platform for legal reform that aims at fulfilling human well-being, dignity, justice, and alterations in social contexts (Ihdah et al., 2025). A recent systematic treatment on the basis of reform through the lens of maqasid, including in Islamic law, likewise suggests that Islamic law should be engaged with less in text-centric fashion, and more through a purposeful methodology which captures the need for social transformation and public welfare (Al-Turabi & Auda, 2025a).

This discussion is more pertinent for Pakistan. The Constitution of Pakistan 1973 aims to state that Islam will be the state religion and that Objectives Resolution would be included in the Constitution of Pakistan by adding Article 2A in the constitution. Simultaneously it provides a full check list of fundamental rights, and it pledges representative constitutional government (Pakistan & Munir, 1967). Existing laws are to-be brought in line with the injunctions of Islam as set forth in the Qur'ān and Sunnah, as per Article 227. Thus Pakistan has a constitutional system where Islam is not outside of the legal system, but is a part of the system of norms that produces and checks laws.

Not only is this a chance to adopt a new constitutional framework, but is also a challenge. The opportunity is found in building an Islamic method of legislation which would be able to solve problems of today in the face of the principles of the constitution. The challenge comes when they expound Islamic legal principles in such a manner that all jurisprudential developments in the contemporary world can only be a repeat of a historical version of "Islamic legal thought." In this context it is important to throw light upon the difference between Shariah and Fiqh. The meanings of Shariah and Fiqh are very similar, but there is this contrast: Shariah is the Divine Normative Framework; Fiqh is the Human Interpretive Framework, which is an effort to interpret and apply the Divine Normative Framework in the specific

context. Maqasid can consequently serve as a method of linking in between timebound realities of society and foundational principles.

The distinction continues to have importance as demonstrated by recent research on Maqasid and Ijtihad. A study to discuss the theory of Maqasid in al-Shatibi's thought in 2021, it is concluded that the purposes of Islamic law are basic which are related to the realization of human benefit and can be used as a tool for legal reasoning in the process of making law (Yusdian et al., 2021a). There is even a greater value in the doctrine nowadays because of its power to unite the effort of the jurists with the purposes that endow Islamic law with its normativity.

Another significant aspect of the discussion are human rights. The interconnection of Islamic jurisprudence and the contemporary human rights discourse has been often depicted as one between religious based 'obligations' and 'universal' rights. But ignoring the significant overlap in this binary strategy glosses over the importance of these areas of convergence. A Maqasid-based reconstruction can, however, in the view of the recent scholarship, be used to attain the Islamic basis for the protection of fundamental rights such as the protection of basic human interests (Ibrahim et al., 2024). Hence, the question becomes not so much whether Islamic law ought to just embrace or reject the contemporary human rights discourse, but whether Islamic jurisprudence can critically both embrace and interact with human rights in a way that maintains the normative underpinnings of Islamic law.

The question becomes highly relevant when it comes to issues concerning vulnerable populations, in respect to which legislation may have an impact. Issues of family law, gender relations, minority rights, criminal justice and access to social services frequently shape conflicting demands and assertions regarding religious authority, individual autonomy, social welfare and public morality. The purely formal approach can lead to the enacting of laws where the legal compliance takes precedence over justice and welfare goals. In contrast, when people are allowed to say Maqasid in an unconstrained way, it means that if legislators say public interest, they don't use any method.

This means, methodological safeguards are needed for the contemporary use of Maqasid. The doctrine cannot be a blank cheque for legislators or judges to disregard obvious instructions of the text. Nor should it be turned into something of a "just the fricking policy" explanation afterwards. As for the modern research regarding the reconstruction of Maqasid, the issue of methodology stands out which is actually the issue of the expansion of goals of Islamic legislation, as it demands depending upon principles capable of separating the objective of Islamic legislation from personal preferences (Bassiouni, 2024).

This is a question that cannot be answered without taking into account the Pakistani context, which is already a plural constitutional system. Legal norms are shaped by Islamic jurisprudence, the provisions of the constitution, rulings of judges, legislation, international treaties, and social norms. A methodology based upon the Maqasid might be able to assess and harmonize these sources on an internal Islamic framework.

Hence, it is argued in this paper that the Maqasid al-Shariah is to be reconstructed as a legislative methodology and not just a catalogue of some abstract objectives. This methodology should involve legislators in defining the relevant Islamic goal; reviewing the surrounding social context in which legislation will function; weighing all interests against each other; examining fundamental rights;

forecasting potential effects of the legislation; and constantly reviewing legislation on an ongoing basis. By this means, Islamic jurisprudence, would not be limited to literalism nor overly relativized to become simply freedom of policy choice, but would be able to enter into the modern legal development meaningfully.

The paper therefore discusses the idea on which Maqasid al-Shariah is based, that is its relation with Ijtihad and Islamic jurisprudence, as well as the relevance of Maqasid al-Shariah with human rights. It then examines the constitutional and legislative framework of Pakistan and discusses where a Maqasid approach might help to reform legislation. Removing obstacles to the integration of Maqasid in legislation without jeopardizing the supremacy of the Constitution and legal security, based on the normative force of Islamic sources, is then presented by proposing a structured model.

## **2. Conceptual Foundations of Maqasid al-Shariah**

Nowadays the notion of the Maqasid al-Shariah (purposes of Islamic law) has gained significance in the modern science of Islamic law, with the aim to grasp the Islamic law by its purposes and not by scattered rules. Maqasid is a general term used to indicate the goals, purposes and ends of Shariah. Particularly, the systematic development of the doctrine is the forte of classical jurists, like al-Ghazali and al-Shatibi; but it found a considerable reconsideration in the light of the current social, political and legal context (Yusdian et al., 2021b), which differs significantly from the classical context. (Yusdian et al., 2021b).

The basic premise of the doctrine is that the Islamic law aims towards the actualization of human good (maslahah) and the avoidance of human evil (mafsadah). Preservation of five interests was indicated to be essential interests in the classical formulations: (1) religion, (2) life, (3) intellect, (4) lineage and (5) property. Human dignity, freedom, justice, equality, social welfare and so on have been added to the discussion of human interests that might be needed for a functioning just society in contemporary scholarship. This does not invariably mean that this is breaking the law of classic Islam. Instead, it's a reflection of an effort to find the overarching aims already in the legal tradition (Salman, 2025).

The value of Maqasid is not only being it can really separate the objective of a law from the historical form in which the objective has been attained, but it also provides a fresh look into the foundations of Islamic jurisprudence in an era where we must recognize the authority of Sharia. A rule can be established due to some social, economic or political condition and the intent of the rule can be more general. Thus, in the modern movement to reform the law, careful attention must be paid to the text from which it has been derived as well as the objective to be obtained. The difference is especially significant if the contemporary news covered situations different from those of the classical period, as occurred when new laws came into effect.

This purposeful nature also sets apart Maqasid from a doctrine of public interest which is unrestricted. Not all of a government's actions which it perceives as being in the good of the people are Islamic maslahah. Public interest needs to be linked to the framework of Shariah and cannot violate clear and authoritative principles. In recent years, studies on systemic considerations in Maqasid highlight the need to view the goals of Islamic law as a comprehensive system and not as distinct goals that can be called forth on a case by case basis to achieve the desired results (Al-Turabi & Auda, 2025b).

One dimension that was of particular importance in this context was the concept of justice, especially within the realm of housing. Justice is not just one of many policies to consider, but one of the

fundamental values in Islamic jurisprudence. So, any law that is arbitrary, that inflicts disproportionate suffering or infringes on liberty without good cause should be scrutinized even if it is a religiously inspired law. The question is whether or not does the legal order contribute to the welfare and dignity of the subjects of the laws themselves (Is a Maqasid inspired approach truly useful)?

There is also an important dimension that is human dignity. The current frameworks on discussing the Maqasid have become well aware that the protection of the human person may not be restricted to the realm of material concerns or physical life only. Dignity means enjoying legal personality, having access to justice, receiving an education and to be able to engage in society free of arbitrary oppression. This expansion of the objectives framework towards such values opens up areas of potential overlap with Islamic jurisprudence and what is now considered constitutional rights (Kamali, 2021).

The doctrine must be held back however as a matter of methodology. One of the threats is the Maqasid reductionism, which is when general terms are referenced without accounting for textual considerations (Hussain & Ahmed, 2025a). Another is the risk of 'reductionism', in which the aims of the law are lost amid tutoring to decontextualized elements of the law. A sound methodology, therefore, must have some relation of text and interpretation, objective (problem) and context, as well as consequence.

It occurs mainly in legislation. Legislators make the rules and they create general rules that can impact millions of people for long periods of time. The application of the legislative process using the maqasid should then involve identifying the objective behind the proposed law and mapping out its probable consequences, identifying groups that may be impacted, assessing interests of different groups, and determining if the rules are oriented towards achieving or obstructing the goal of the law as stated in Shariah (Hussain & Ahmed, 2025b).

Hence, contemporary reconstruction of Maqasid is a great potential in the context of Pakistan. It may offer the methodology within which Islamic legal principles engage in legislative development and the need to respond to modern legal problems that must be addressed by way of direct analogy to historical cases is not necessary. Meanwhile, it should be within the boundaries of the constitution and explainer Islamic and legal issues in an open manner.

### **3. Maqasid al-Shariah, Ijtihad, and Contemporary Islamic Jurisprudence**

The relationship of a Maqasid al-Shariah to Ijtihad plays an important role toward the use of Maqasid al-Shariah itself in practice. Ijtihad is the legal reasoning, which is disciplined intellectual efforts to deduce or arrive at a conclusion (ru'u'y) from the sources of Islam where it has not been explicitly stated. It is even more important in today's world, as the legislative process has to respond to questions arising out of technological, economic, institutional and social change. Maqasid is able to offer a purposive framework to such interpretative reasoning.

Classical Islamic jurisprudence makes it clear that jurists did not make only textual interpretations. For example, Qiyas (analogical reasoning), Istihsan (juristic preference), Maslahah Mursalah (public interest per se) and Sadd al-Dhara'i (blocking the means to harm) show a recognition of the necessity of considering circumstances and consequences in legal reasoning. Next, the validation of these methods from Islamic jurisprudence came with the systematic development of Maqasid which gave a wider context for how these methods could work within Islamic jurisprudence as something that was legitimate (Yusdian et al., 2021c).

The question today, hence, is thus not whether there should be any Ijtihad or not, but how it should be implemented in a constitutional legislative structure. Collective reasoning, rather than purely individual reasoning is present in modern legislation. Legal norms can be developed through Parliament, independent and specialized committees, via the courts, religious scholars, experts of policy and civil society. An understanding of Ijtihad should therefore give weight to deliberation at the part of institutions and collectives.

The link between Ijtihad and Maqasid is especially significant when one sees that there are many opinions in the current legal tradition which are valid. Disagreement is not to be seen as a flaw but legislative rationale can explore the goals common among disparate interpretations. Whereas rights-based viewpoints expressed from different juristic positions defend the same underlying interest, but use different kinds of legal instruments, contemporary legislators might consider the effect of the means they support the cause, which one is most likely to produce the goal in the current situation.

This is an especially appealing technique for the social legislation. Often, issues raised under the rubrics of family relations, welfare of children, finance, medical treatment, privacy of information and the environment present situations that differ markedly from the circumstances of the early opening years of Islamic jurisprudence. A contemporary Ijtihad based on the Maqasid will be able to answer these questions, and stay connected to Islamic sources. Recent research on the relation between Maqasid / goals and Ijtihad shows that the objectives of Shariah can be utilized as a valuable means of revitalizing Islamic jurisprudence in modern times (Al-Turabi & Auda, 2025c).

However, it is not as if unrestricted legislative discretion is Ijtihad. Evidence, methodological competency and institutional accountability needs to accompany a Maqasid based approach. This is because a legislating body could not simply declare the interest of a policy and in so doing declare its Islamic validity (Quraishi-Landes, 2014). Consulting textual evidence, constitutional requirements, social consequences predicted from the utilization of the proposed measure is an evaluation of the proposed measure to the objectives of Shariah.

It is here that the difference between means and ends is important. There can be a difference between objective and institutional means in variables determined by Shariah. Thus, the idea of property protection does not entail in particular a uniquely modern form of regulation of financial markets. Likewise, a modern law of health, environment and public safety, not yet in existence in classical laws, might be necessary to ensure life. The job of the legislator is thus to find out what the purpose should be and to form legal instruments for it to be achieved.

In the modern world of scholarship on the Maqasid, another aspect of the classical categorization of goals has also been questioned, namely the absolute rigidity of the classical hierarchy. Concern are issues in the modern societies like constitutional equality, environmental degradation, mass surveillance, artificial intelligence and digital manipulation. However, these innovations need not be in conflict with classics' goals; they can simply be "reapplied" to a new class of harms (Tooby & Cosmides, 1996). To illustrate: protection of intellect can involve coverage of education and the integrity of information, whereas protection of life can involve environment safety and public health.

This is especially applicable to the reform of the legislation in Pakistan. The country is socioeconomic and of a legal character in front of classic and new challenges. The focus on areas like climate change,

digital platforms, financial technology, data protection, artificial intelligence, family relations, and access to justice needs to be addressed through legislative controls. The fragmented approach of a methodology confined to the categories of the law has difficulty coping with these developments: A well-designed approach to handling the Maqasid can offer a set of comprehensive norms and principles, while also catering to their legislative relevance to the current institutional context (Fatarib et al., 2025a).

But limitations in the interpretation of text should never be an excuse to cross the boundaries. When an Islamic injunction is clear and authoritative, then the ordinary use of Maqasid is to help the understanding or clarify the injunction; they should not be a substitute for the injunction. The superior methodology is then one of integration where text establishes normative limits, Ijtihad is used to find justifications and interpretative means, and Maqasid gives impetus in the direction of the goals and impact of law.

A comprehensive work methodology like this may greatly enhance the standard of Islamic legislation reasoning in Pakistan. It would enable law makers to consider whether the proposed law is more like an old tradition or whether the law is good, it protects good interests, avoids harm and executes its wider purpose in Islamic law (Zeppos, 1990). Meanwhile, forcing lawmakers to provide written justification would help to make the legislative process more transparent, and subject to judicial and scholarly review. The connection of the two (Maqasid and Ijtihad) is thus a valuable basis for the current development of Islamic laws. Ijtihad will provide the cognitive process while Maqasid will provide a framework of principles for deciding if the legal responses approved within the cognitive process of Ijtihad align with the purposes of Shariah under particular new circumstances. They can be integrated to provide space for legal reform without disrespecting the Islamic norms integral in contemporary legislation. The Violation of Maqasid al-shariah in the Constitution-Legislative Constitution of Pakistan.

#### **4. Maqasid al-Shariah and the Constitutional-Legislative Framework of Pakistan**

The potential contribution of *Maqasid al-Shariah* to legislative reform in Pakistan must be examined within the constitutional structure through which Islamic principles become part of the state's legal order. Pakistan does not operate under a purely secular legislative model. The Constitution expressly incorporates Islamic principles while simultaneously establishing representative government, constitutional supremacy, and enforceable fundamental rights. This creates a distinctive environment in which legislative reform must negotiate between Islamic norms, constitutional requirements, judicial interpretation, and changing social realities.

Article 2 makes "Islam" the state religion and Article 2A includes the Objectives Resolution in the Constitution. The Objectives Resolution mentions democracy, freedom, equality, tolerance and social justice as principles to be adhered to. Yet another important aspect of Article 227 is that existing laws must be harmonized with the commands of Islam and that no law can be passed that is incompatible with the commands of Islam. This creates an important constitutional arena for Islamic jurisprudence, which is not meant to be a rigid one size fits all approach to deciding all legislative issues.

The importance of this arrangement becomes apparent if one takes into account the idea of Maqasid as a method of legislation. Instead of merely inquiring if a bill before Parliament does or does not bear a strict resemblance with an Islamic law, legislators may consider the purpose behind such a law, and the ways in which this purpose can best be accomplished in current society. This way of governance can be

explained by the latest research working on Maqasid governance through its concepts of public welfare, comprehensive justice and objective prioritization in public policies (Hussain & Ahmed, 2025c). This could be an interesting mode for Pakistan, a country where much legislation has to weigh multiple social interests.

The constitutional system, also, establishes an institutional linkage between lawmakers and the Federal Shariat Court. The legislature has the primary power to make legislation and legislation may be reviewed by the Federal Shariat Court for repugnancy to Islamic injunctions. The importance of the quality of the arguments in a legislative process that institutionally factors these considerations. By including Maqasid-based analysis before legislation is passed, this will make the task of Islamic judicial review easier through the elucidation of the objectives, evidence and public interests contained in the laws.

This can be evidenced in the current debate in Pakistan about the vulnerable groups. For instance, a recent study suggests that addressing child abuse in Pakistan should shift from solely punitive measures to include prevention, rehabilitation, protection measures within institutions, and child-rights principles, offering a new perspective on tackling this intricate issue, guided by the principles of a Maqasid approach (Rafiq & Alvi, 2024a). This kind of analysis can show how Islamic goals can be leveraged to improve and not to undermine the protective laws.

Family law provides another important area. A comparative study on the legislative reform in a Muslim majority state shows that family-law regimes have been amended several times in Islamic countries, depending on their concerns related to human rights, accountability, accessibility and rule of law (Sezgin, 2023a). This comparative experience has its relevance in Pakistan, as it shows that the Islamic jurisprudence-legislative reform connection is not a rigid one. States with Muslim-majorities have evolved various methods of reconciling religious standards with new circumstances in society.

The same can be the case with the legislative approaches towards new medical and ethical issues in Pakistan. For example, the protection of life, maternal health, medical necessity, religious understanding and interpretation, and women's rights all constitute sensitive issues in the field of abortion. Importantly, some recent studies on the legal system of Pakistan suggest that key clauses in the Penal Code, like “good faith” and the use of “necessary treatment,” are vague, and recommends more interaction between Islamic jurisprudence, Maqasid, and the legal realities of the present day (Qureshi et al., 2025a). Depending on a Maqasid-oriented legislative method, a lawmaker might be forced to differentiate it from different situation instead of a categoric rule to medically and ethically different situations.

The same goes for laws pertaining to sexual violence. A contemporary analysis of the process of turning Islamic values into laws shows the potential of using Maqasid to connect Islamic values with the protection of the victim, public welfare and social justice (Maulana et al., 2024a). Likewise, in the context of Pakistan, the legislative process might be used to assess if any other provisions in the current penal legislation fail to safeguard the interests of the body, dignity or the vulnerable individuals; and/or whether they are exceeding the threshold of the Islamic jurisprudence.

Consequently, the importance of Maqasid from a constitutional perspective is that it can be used as a midway approach between the constitutional concepts and statutory regulations. Fundamental rights set up constitutional protection; Islamic injunctions provide religiously-informed normative stipulations;

and Maqasid can inform legislators in applying these commitments in the current institutional frameworks (Hussain & Ahmed, 2025d).

Maqasid however cannot be interpreted as an unlimited source of legislation. Legislature is still subject to the laws and bounds of the constitution. Nor should a statement that serves the general interest/good (maslahah) be used as an excuse to set aside obvious guarantees in the Constitution. There must be a disciplined framework which forces lawmakers to define the relevant objective, provide serious evidence of the social problem, address existing alternative legislative options, account for the foreseeable implications and explicate how the chosen legislative approach is an appropriate means to the desired objective.

This process might be in a position to enhance legislative transparency as well. Under current procedures, a debate on a bill before the Statutory can be almost entirely on a political basis, or a technical basis. A statement in Parliament, based on the aspirations of the Maqasid, could make it compulsory for Parliament to account for the protection of life, dignity, property, family, intellect, religion or public welfare. This way, law suits and legislative assessments could be guided by a clear notion of norms.

Thus it can be said that Pakistan's constitutional regime offers adequate institutional scope for nurturing a legislative reasoning based on Maqasid. The difficulty lies in how to make Maqasid more specific, result-oriented, and an open and orderly aspect of the legislative process. This will ensure that the Islamic constitutional character of Pakistan is not lost and at the same time the provisions of the law can be adapted to meet the current-day social problems and challenges.

### **5. Contemporary Areas for Legislative Reform through the Lens of Maqasid al-Shariah**

The most obvious in the application of Maqasid al-shariah, when they are applied to specific areas in legislation. The issues that the contemporary Pakistan is grappling with are legal issues which can only be handled by an understanding of Islamic jurisprudence gained not just from history. There is a need for legal responses to protect the established interests in providing protection to the environment, technological change, children protection, family relations, medical ethics, gender based violence and socioeconomic inequality with an eye on emerging forms of harm.

#### **5.1 Family and Child Protection**

Maqasid is one area where it is evident that it can assist in the development of legislature – and that is the area of family law. The care of the family and offspring is classically among the purposes and goals of Islamic jurisprudence. But the legislation in relation to families these days should also take into account the welfare and dignity of children, protection from violence and access to education and equality before law.

New comparative studies highlight that Muslim States have made major reforms in family law to enhance the protection, accountability and access to justice of human rights (Sezgin, 2023b). This comparative experience is not significant for the reason that only the foreign legislation is to be duplicated in Pakistan but the point is that the Islamic legal systems have proved institutional proficiency in adapting their laws.

The case of child protection will make this more evident. The study on child abuse in Pakistan has posited that for effective legal reform, one should look at aspects of prevention, rehabilitation, institution and

theology which will play a pivotal role, instead of limited criminal punishment only (Rafiq & Alvi, 2024b). Maqasid approach would consider the issue of the child's protection to be related to matters concerning the preservation of life, lineage, dignity, intellect and long term welfare. So, besides sanctions for those who commit crimes, a legislation should include prevention, reporting system, institutional responsibility, rehabilitation, and access to justice.

### **5.2 Women's Rights and Protection from Violence**

Another dimension of GBV in which there is a constructive methodology that Maqasid can offer is its impact on the health and well-being of individuals. The rights to life, dignity, protection of the integrity of the person, family welfare and justice give good reasons for the legislative measures in the area of violence. It is evident that there has been significant ongoing research related to sexual-violence law that can use Maqasid to serve as a bridge between Islamic law and the protection of sexual-violence victims and social justice (Maulana et al., 2024b).

Thus, the question of the legislature should not be narrowed down to whether there existed in classical Islamic jurisprudence a given contemporary law. Rather, the legislators should be questioning if the bill will prevent that harm, if the bill is going to protect dignity, if the bill will offer the provision of effective remedies, and if the bill will promote justice. This methodology permits Islamist jurisprudence to relate to present-day coding of violence, without being dogmatic in its application of, or insistence on, historical legal systems as effective solutions for today's social issues.

### **5.3 Medical Ethics and Reproductive Health**

Medical technology raises questions of law which often need to take aspects of opposing interests into account. The issue of abortion is a case in point. While the legal system of Pakistan has provisions to consider situations where an abortion might be legally permitted, the ambiguity in understanding what constitutes "necessary" and "good faith" (Qureshi et al., 2025b).

In reviewing the laws, a maqasid-based legislative review may necessitate greater clarity in the law with respect to different scenarios such as threat to the life of the mother, serious health consequences, the life of the fetus, and/or other situations in which a law makes distinctions. While the value of life is always paramount, life protection must be considered with regard to other lives, health concerns, clinical evidence and the situation of the pregnancy. This would not stop Islamic jurisprudential debate, but rather, one would have to legislate to recognize the validity of a juristic disagreement and establish legal guidelines for the medical practitioners and the courts.

### **5.4 Environmental Protection and Sustainable Development**

Perhaps the clearest example of the need for purposeful Islamic reasoning in the present development of law is on environment. In the traditional classification of the purposes of Sharia the concept of "environmental protection" was not put forward as an independent purpose in the modern legislation. However, the destruction of the environment has direct impacts on life, property, health, food security and the future generations.

Lately the linkage of environmental sustainability with Maqasid al-Shariah has become the target of research. Maqasid is proposed as a grounding for sustainable use of the environment and resources with an ethical bit of norm in a study in 2025 (TUMIRAN et al., 2025). Another recent study looks at Islamic environmental jurisprudence from an eccentric perspective based on a maqasid approach, meaning that

the integrity of the ecology is a prerequisite for protecting life, progeny, intellect, and property (Kurniawan & Fadlillah, 2025).

The impacts of this development are more relevant in the case of Pakistan as it is also facing grievous issues of water scarcity, air pollution, land degradation, flood and climate vulnerability. It is therefore possible to have a legislator has a framework for legislation based on the Maqasid that could take care of the protection of the environment as an incentive for the protection of existing Islamic interests. Environmental laws might be evaluated on their ability to avoid the infliction of injuries, to protect the health, to preserve the homes and to avoid injury not only to individuals but to future generations.

### **5.5 Sustainable Development and Socioeconomic Justice**

Maqasid can also be of help in legislation pertaining to poverty, inequality and sustainable development. Safeguarding of property rights is not the only dimension of safeguarding the wealth; it can also involve a wider concern for economically security and proper management of resources. A study that explored the links between SDGs and Maqasid revealed significant overlaps between modern and Islamic development goals (Rehman et al., 2021).

This holds especially true for laws related to social protection, food security, education, health and employment in the Pakistani context and also for environmentally friendly laws. A Maqasid approach might involve a consideration by the legislators about the fair balance of burden and benefits under economic laws, and the harm of a development policy to a vulnerable community.

### **5.6 Digital Governance and Emerging Technologies**

One new field for fashion in Islamic legislative reasoning is the artificial intelligence and digital surveillance, as well as biometric identification and algorithm-based decision making. Though none of these technologies can be compared with classical technology, their legal ramifications will have to be analyzed according to already laid down objectives like protection of intellect, protection of property, and protection of dignity, protection of privacy, and protection of life.

A Maqasid based approach would thus take a focus on the harms and benefits that would accrue from technology. The laws about artificial intelligence may include transparent requirements, protections for personal data, accountability for automatic decisions, and remedies for discriminatory decisions. Likewise, digital surveillance should be subject to necessity and proportionality considerations in so far as it impacts upon privacy and dignity..

The overall principle is that Maqasid must not be restricted to the extent that it cannot define new forms of harm even though it has to come from its classicistic foundations. The findings of the study are therefore that the objectives of Shariah should be viewed with a more flexible and open approach for making legal principles, not as a historical frozen object.

### **5.7 Towards a Coherent Legislative Methodology**

The examples provided in this paper show how Maqasid al-Shariah can be used to create a common analytical framework in apparently unrelated areas of legislation. However, regardless of whether the subject is child protection, violence against women, medical ethics, environment, economic justice or the digital governance, the legislative inquiry can take place using the following types of questions: What interest is being protected? What dangers (harm) are being avoided? Who is going to suffer the problems arising from the proposed legislation? Is a sense of justice and dignity being advanced? Are there any

less restrictive alternatives? But is the legislation in line with Islamic sources and constitutional demands?

These questions would put Maqasid from a theoretical concept far removed from the world of the law into a legislative methodology. The aim would not be to take away the constitutional power and judicial review of Parliament, but to enhance quality of legislative thinking in Pakistan's presently given constitution.

#### **6. A Proposed Maqasid-Based Legislative Framework for Pakistan**

It has been presented above that the contribution of Maqasid al-Shariah in legislative reform in Pakistan would remain unmeaningful unless the principles of maqasid al-Shariah are transformed into a structured approach to legal reasoning. The central issue is not thus whether Maqasid can be related to current legislations or not but how it would be possible to embed such objectives in the legislative process without reducing the constitutional supremacy, fundamental rights and competence of Parliament. As on-going research has identified, the recent literature on maqasid highlights its systemic nature for institutional and policy development that can link Islamic normative principles (Hussain & Ahmed, 2025e).

An effective roadmap should start with determining the legislator's goal. All large-scale pieces of legislation for religious or otherwise contentious matters need to specify what main interest is being served by the proposed legislation. This can concern such things as life, religion, intellect, family, property, dignity, justice, equality or public welfare at large. This step is taken to make sure bills are evaluated based on an intent to achieve a goal and not just based on the way the law reads.

Second stage should be "contextual assessment". Passaging of Islamic legal principles do not stand out from the conditions under which the legislating process exists. Parliament should thus investigate the social nature of the problem, who are the groups involved, the causes of the problem, institutional arrangements already in place, and the potential results and implications of legislation. In recent times, the new methods in the legal reform of Islam have been increasingly relying on systemic and contextual approaches, which recognize that the rules of the law must be understood and interpreted within the broader social and institutional framework at a specific point in time (Fatarib et al., 2025b). By such a means, legislators can differentiate between a permanent Maqasid and a historical legal structure which was employed in order to accomplish the objective of the Maqasid.

A constitutional and human rights assessment should be part of the third stage. Any legislative proposal should be assessed in the light of the basic rights which are also the concerns of the Constitution: Equality, Dignity, Liberty, Privacy, Freedom of religion and belief, and protection of property. This is not necessarily the same as saying that Islamic jurisprudence and human rights law are the same that we have nowadays. Instead, it asks legislators to find the points of substantive agreement, and to solve the points of real disagreement with political clarity and argument, using jurisprudential methods and analysis. According to recent studies on Maqasid and human rights, there are provisions and numerous parallels in the preservation of fundamental human interests as expressed in the protection interests of Islamic law as they have traditionally been understood, especially four basic actions: life, intellect, family, property and two supplementary ones: freedom, 'indufaaniyah and social justice' (Sofian, 2023).

In stage 4, a harm and proportionality and public interest assessment should be conducted. Legislation ought to be assessed based on the benefits that are desired to be accomplished as well as the harms that are caused if the legislation is put in place. Parliament should show that the restriction is necessary for a legitimate aim and that the measures are reasonable if religious freedom is restricted in law or if the law imposes a significant interference on the exercise of religious freedom of individuals or specific groups. But less restrictive alternatives should also be considered. This stipulation is necessary because it is otherwise unclear how a principle which is only based in *maslahah* can fail to be abused as an arbitrary excuse for the government to intervene too much. A real doctrine that follows the *Maqasid* approach should therefore be able to distinguish between a public good in the sense of the true public good and one that rationalizes a prior public political decision (i.e., public good rhetoric).

Empirical evidence and expert knowledge should be added at stage 5. There are a lot of contemporary legislative issues which have issues and situations to be resolved which can't be fixed with textual and juristic dealing with alone. The scientific, economic, technological and sociologic knowledge is necessary to answer questions related with artificial intelligence, reproductive medicine, environmental degradation, or financial and public or digital surveillance technology. The legislative process of a legislator who is mindful of *Maqasid* should thus not prevent Parliament from utilizing a mixture of Islamic jurisprudential knowledge, constitutional law, empirical research and specialized professional knowledge. There is also recent research on “*Maqasid*” in the domain of public policy that highlights the importance of operationalizing Islamic goals in institutional decision-making, as simply abstract normative statements, without being transferred to the institutional realm (Al-Turabi & Auda, 2025d).

The sixth stage should be a consequential and intergenerational assessment. Prevention and realization of welfare has always been the concern on Islamic legal reasoning. Our current laws and regulations must incorporate this logic into consideration of the long-term implications, especially if the laws will have consequences on public health, children or natural resources. The governance of the environment is a good illustration. The constitutional justification of right to clean, healthy and sustainable environment in Pakistan has further enhanced the environmental protection in the country (Haider, 2025). A *Maqasid* based framework may complement this development by linking sustainable environment with sustainable life (*Hawa*), protecting property (*Mal*), health (*Nafs*), human dignity (*Jamua*), and future generations (*Allah*).

This linkage is salient to the new 'climate constitutionalism' paradigm. Constitutionalizing of the environment shows that today's rights can evolve in reaction to harms which were not expressed in previous constitutional or juristic concepts. Similarly, the notion of climate constitutionalism in Pakistan has drawn attention to the connection between environmental rights and sustainable governance, constitutional accountability and environmental justice (Rajper et al., 2024). Your study, *Climate Constitutionalism: Integrating Environmental Rights into National Constitutions* is particularly relevant in this context as it focuses on the shift from climate protection as a policy issue to environmental protection as a issue of constitutional rights (Bashir et al., 2025). In a concept of *Maqasid*, these developments can be understood based on the general principles of preserving life, health and property and maintaining dignity and interests for future generations.

Institutional pluralism and participatory consultation should be the seventh stage. The setting up of complex legislation should not be done in the total absence of religious studies and legal know-how in the conventional sense. Where appropriate, Parliamentary committees should solicit the opinion of the fuqaha, constitutional lawyers, judges and former judges, economists, medical experts, environmental scientists, experts on technologies, social scientists and representatives of affected communities. This would enhance the quality of evidence in laws and decrease the risk of having one discipline-based way of thinking control the questions of public concerns that have more than one dimension.

The last step should be post-legislature review. The goal(s) set out at the start of some legislative process should be put against the actual results of the law itself. Consider reconsideration of legislation that does not fulfil its intended purpose, has unplanned and harmful impacts or is no longer appropriate due to technological and social developments. This makes Maqasid a continuous approach and not just an excuse at the time of promulgation. This is also in line with the systemic approach to conceptualize Maqasid in which legal rules are assessed based on their connections, implications, and links to wider social goals (Al-Turabi & Auda, 2025e).

The proposed framework may therefore be expressed as a continuous legislative cycle:

**Identification of objective → contextual and empirical assessment → constitutional and human-rights analysis → harm and proportionality assessment → expert and public consultation → legislative enactment → implementation → post-legislative evaluation and reform.**

Such a system would not give Parliament unlimited powers to make laws, nor would it take over the existing systems of constitutional or Islamic judicial review. It would instead serve to enhance the quality, transparency and coherence of laws from a normative perspective. It would give a lawmaker a systematic model of how the goals of Islam can be achieved through modern laws and legislation.

The promise at stake is both the possibility of transcending the at times false dichotomy of dogmatic traditionalism and total legal secularization. Maqasid al-Shariah may function as a constructive mediator that can bridge the dialogue within Sharia, Constitutional, Empirical and Society values. It could be a fruitful way forward to legislative reform for Pakistan that: keeps to its Islamic constitutional identity, maintains flexibility in order to address new forms of harm, new rights, and the new social conditions.

## 7. Conclusion

The concept of Maqasid al-Shariah serves as a valuable tool in rethinking the connection between Islam, Islamic jurisprudence, constitutionalism and human rights and their proving role in the development of modern legislation in Pakistan. It does not simply discover the traditional goals of Islamic law; it offers a principled approach for how persistent Islamic values might be able to react, as time and circumstances evolve and change, both in terms of social, technological, economic and legal factors.

The analysis reveals the Maqasid al-Shariah cannot be seen as a strong set of historic categories and should not be used as an unlimited discretionary tool in legislation. It must be applied properly by balancing textual authority, jurisprudence, the constitution, and social facts and circumstances, with the impact of the laws. Legitimate public welfare, prevention of harm, and human dignity should continue to be important factors in this process, as should be justice.

In Pakistan, it is all the more important given the constitutional state of affairs. Besides the fundamental rights, representative government and constitutional supremacy, Islamic principles are also adopted in

the Constitution. This helps to maintain an ongoing dialogue between Islamic uses and current constitutional demands. The maqasid can offer a significant methodological gap because it can help to separate the types of forms that the objectives have been realised with - historically - from the objectives themselves.

The legislative framework that is proposed in this paper rests upon the philosophy of Maqasid and entails a practicable mechanism for limiting the formation of this relationship. Legislative proposals should specify their overarching aims, be sensitive towards their social backgrounds, assess their effects on fundamental rights, take account of conflicting considerations, respect the principle of proportionality, listen to the right experts and be open to an evaluation. This would help to make Parliament more transparent, more focused and more responsible in its law-making processes.

This methodology is especially relevant in the new and very dynamic science and technological sectors, like artificial intelligence, digital privacy, environmental protection, biomedical systems and technologies, reproductive health, child protection, economic regulation, and climate governance. These areas are often places, where the juristic literatures of the classical canon could not have offered any detailed statutory solutions. Present day laws accordingly have to be found with a method that is capable of interests on permanent principles, and which knows how to intelligently react to historically new situations.

Meanwhile, those predetermined political or legislative outcome should not use Maqasid as an argument to justify it. It relies on methodological rigor, the ability and willingness to approach the subject with candor, a focus on evidence, and an obligation to the institution. There should be no attempt to disguise differences among the Islamic jurisprudence but incorporation of constitutional rights and legitimate public interest should be into the legislative assessment.

Finally, the role or influence of Maqasid al-Shariah in the development of law in Pakistan will be possible if it goes from a purely theoretical to systematic methodology of law-making. If understood correctly, it can be a positive platform on which Islamic jurisprudence and the present-legal development can co-exist as both do not have to be abandoned or rejected.

So, the continuity of the Maqasid al-Shariah is not about giving an automated solution for all of the questions that appear in present-day laws. Its importance is in offering a principled way of identifying how law can best contribute to the cause of justice, dignity, welfare and the prevention of harm. In this way, Pakistan can maintain its Islamic semi-components of the constitutional character and also create a legal system which will be able to rise to the occasion in the face of twenty first century's complexities.

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