M aqasid Al Shariah A s Philosophy Of Islamic Law A S ystems A pproach

This book is a collection of essays that aims to identify the multitude of ways in which Australian Muslim women negotiate both Australian Family Law and Islamic Family Law in the key areas of marriage, divorce, child custody, property settlement and inheritance. The book also seeks to provide a timely and significant insight into the various legal, cultural and social processes that Australian Muslim women used when disputes in these key areas arise.

This book takes an important step "towards the realization of the higher intents of the Islamic law".

First, it opens the door towards the integration of contemporary values and worldview into the maqasid terminology. This is carried out via the sections on "the role of reason and experience in identifying maqasid". Secondly, the book gives answers to the various theoretical questions on the role of maqasid in ijtihad, juristic theorization (usul), and the Islamization of the human, social, and physical sciences. Last, but not least, the book highlights the role and the necessity of a 'maqasid-informed' mindset on the intellectual and communal levels, and takes a pioneering futuristic look into this very important branch of Islamic knowledge. M aqasid Al-Shariah (Higher Intents of the Islamic Law) is the most promising tool for the 'contemporization' of Islamic law and its philosophical foundations. It is also - as this book reveals - a promising tool for the realization of Islamic values and principles in the realms of judiciary, society, and even science.

Islamic economics, which is a discipline for studying economic behaviour from an Islamic perspective, advocates comprehensive human development defined by advancement and progress in multiple dimensions beyond GDP, income, or standard of living. Not only should socio-economic progress be in all dimensions, but it should also have a higher purpose. A society is considered economically and socially developed if adequate protections are provided for faith, life, intellect, progeny, and wealth. This concept of balanced progress itself is an important idea recognized by the sociologists. However, the same has so far not been practiced or used in policy making by economists. Similarly, lack of adequate protections in a society along these dimensions indicates poverty which is another way of measuring slack in development. The chapters in this edited volume deal with conceptualization of socio-economic development on these lines, and show how to measure socio-economic development in a comprehensive way. The book will be of interest to academics in the fields of economics, economic development, and Islamic economics. It will also be of interest to policy makers engaged in economic development, social progress, and poverty alleviation.

This book approaches the question of technology from an Islamic ethical perspective. The book tries to broaden the scope of the Sharia to deal comprehensively with the ethical questions and dilemmas that arise in the midst of a postmodern technological culture due to the absence of well-defined religious-ethical ends. It looks at the maqasid as a universal ethical theory to be interpreted and applied in the global technological context. It weaves the contemporary philosophical analysis of technology within the maqasid discourse and assesses modern technology through the lens of the ultimate aims and purposes of the Sharia. It works out the relationship between the various objectives and how they can be developed into an Islamic ethics of technology. Following in the recent interest in the objectives of the Sharia, the book further expands the scope of the maqasid and carries it further to encompass metaphysical and ethical debates surrounding technology. Anyone interested in finding alternatives to the existing model will find this book valuable. Specifically those interested in Islam and Modern World and how ijtihad is being undertaken to tackle contemporary ethical problems will find this book helpful.
In this path breaking study, Jasser Auda presents a systems approach to the philosophy and juridical theory of Islamic law based on its purposes, intents, and higher objectives (maqasid). For Islamic rulings to fulfill their original purposes of justice, freedom, rights, common good, and tolerance in today's context, Auda presents maqasid as the heart and the very philosophy of Islamic law. He also introduces a novel method for analysis and critique, one that utilizes relevant features from systems theory, such as, wholeness, multidimensionality, openness, and especially, purposefulness of systems. This book will benefit all those interested in the relationship between Islam and a wide variety of subjects, such as philosophy of law, morality, human rights, interfaith commonality, civil society, integration, development, feminism, modernism, postmodernism, systems theory, and culture.

This book discusses the common principles of morality and ethics derived from divinely endowed intuitive reason through the creation of al-fitha (nature) and human intellect (al-aql). Biomedical topics are presented along with ethical issues related to topics such as genetic testing, assisted reproduction and organ transplantation are discussed. Whereas these natural sources are God’s special gifts to human beings, God’s revelation as given to the prophets is the supernatural source of divine guidance through which human communities have been guided at all times through history. The second part of the book concentrates on the objectives of Islamic religious practice - the maqa' sid - which include: Preservation of Faith, Preservation of Life, Preservation of Mind (intellect and reason), Preservation of Progeny (al-nasl) and Preservation of Property. Lastly, the third part of the book discusses selected topical issues, including abortion, assisted reproduction devices, genetics, organ transplantation, brain death and end-of-life aspects. For each topic, the current medical evidence is followed by a detailed discussion of the ethical issues involved.

It is the first study which comprehensively, systematically and critically examines the role and usefulness of the concept of Maqasid al-Shari'a (higher Objectives of Islamic Law) in contemporary Muslim reformist thought in relation to number of specific issues pertaining to Islamic legal philosophy, law, ethics and the socio-political sphere.

Scholars, thinkers, and activists around the world are paying increasing attention to a legal reform method that promises to revolutionize the way people think about Islamic law. Known as “The Objectives of the Shar'a” (maqasid al-shar’ah), the theory offers a way to derive and apply new Islamic laws using an ancient methodology. The theory identifies core objectives that underlie Islamic law, and then looks at inherited Islamic laws to see whether they meet those objectives. Accordingly to the maqasid theory, historical Islamic laws that meet their objectives should be retained, and those that do not—no matter how entrenched in practice or embedded in texts—should be discarded or reformed. Recently, several scholars have questioned the maqasid theory, arguing that it is designed not to reform laws, but to support existing power structures. They warn that adopting the maqasid wholesale would set the reform project back, ensuring that inherited Islamic laws are never fully reformed to agree with contemporary values like gender-egalitarianism and universal human rights. The Objectives of Islamic Law: The Promises and Challenges of the Maqasid al-Shar’ah captures the ongoing debate between proponents and skeptics of the maqasid theory. It raises some of the most important issues in Islamic legal debates today, and lays out visions for the future of Islamic law.

Dr. Musafir bin Ali al-Qahtani's work contributes to the ever growing body of scholarly literature in the field of maqasid and objectives of Islamic law. Understanding Maqasid al-Shari'ah calls for the development of a juridical sense that is finely tuned to the higher objectives and purposes of Islamic rulings, the aims of which are the formulation of a new methodology in understanding the revealed texts and the reform of Muslim thought and its application. The author draws attention to the importance of understanding various levels of maqasid, including distinguishing between primary aims (al-maqasid al-asliyyah) and secondary aims (al-maqasid al-tabiiyah). Al-Qahtani asserts that a positive understanding of the objectives of the Shari'ah should produce affirming human and cultural developments in Muslim societies. The real strength of this work, however, is in the author's application of higher objectives and aims to different areas of jurisprudence, such as in deriving and issuing religious rulings (ifta').

The application of Shariah compliance in business transactions continues to increase. The Asian financial crisis of 1997, global financial crisis of 2007-2008, Enron scandal and other reported ill's besieging conventional business transactions have led to advocates of Shariah-compliant business transactions promoting it as an alternative. However, unlike the banking, commerce and financial sectors, the uptake by the construction sector was sluggish due to limited understanding of Shariah among the practitioners and policymakers compounded by the lack of research and publications on its application for the construction sector. This book is intended for students, researchers, practitioners and policymakers of the construction industry as well as the related upstream and downstream activities. It
offers basic theories, challenges current practices, and proposes innovative ideas on Shariah compliance and its application for the construction industry. Related Link(s)

Shaikh Muhammad al-Tahir ibn Ashur is the most renowned Zaytuna Imam and one of the great Islamic scholars of the 20th century. The publication of this translation of Shaikh Ibn Ashur’s Treatise on Maqasid al-Shari‘ah is a breakthrough in studies on Islamic law in the English language. In this book, Ibn Ashur proposed Maqasid as a methodology for the renewal of the theory of Islamic law, which has not undergone any serious development since the era of the great imams. Ibn Ashur – quite courageously – also addressed the sensitive topic of the intents/Maqasid of Prophet Muhammad (SAAS) behind his actions and decisions. He introduced criteria to differentiate between the Prophetic traditions that were meant to be part of Islamic law and the Prophetic actions/sayings that were meant to be for the sake of specific purposes such as political leadership, court judgment, friendly advice, and conflict resolution. But Ibn Ashur’s most significant contribution in this book has been the development of new Maqasid by coining new, contemporary, terminology that were never formulated in traditional usul al-fiqh. For example, Ibn Ashur developed the theory of the ‘preservation of lineage’ into ‘the preservation of the family system’, the ‘protection of true belief’ into ‘freedom of beliefs’, etc. He also introduced the concepts of ‘orderliness’, ‘natural disposition’, ‘freedom’, ‘rights’, ‘civility’, and ‘equality’ as Maqasid in their own right, and upon which the whole Islamic law is based. This development opens great opportunities for Islamic law to address current and real challenges for Muslim societies and Muslim minorities.

Wael B. Hallaq has already established himself as one of the most eminent scholars in the field of Islamic law. In this book, first published in 1997, the author traces the history of Islamic legal theory from its early beginnings until the modern period. Initially, he focuses on the early formation of this theory, analysing its central themes and examining the developments which gave rise to a variety of doctrines. He concludes with a discussion of modern thinking about the theoretical foundations and methodology of Islamic law. In organisation, approach to the subject and critical apparatus, the book will be an essential tool for the understanding of Islamic legal theory in particular and Islamic law in general. This, in combination with an accessibility of language and style, will guarantee a readership among students and scholars and anyone interested in Islam and its evolution.

Examines the diverse uses of conspiracy theory in Egyptian fiction over the last century.

This beautiful collection discusses the legal and moral implications of some fundamental Islamic principles. With an emphasis upon concision and concentration of meaning each aphorism, and its accompanying commentary, is full of value and significance. Dr. Shahruh Hussain is Lecturer in Islamic Studies at Markefield Institute of Higher Education, United Kingdom. He studied classical Islamic studies and Arabic before attending the University of Al-Azhar, Cairo, Egypt, where he graduated from the Faculty of Islamic Jurisprudence and Law in 2001. In 2010 he completed his PhD at the University of Aberdeen, Scotland.

Explains the exchange economics behind the Shariah compliance conditions of Islamic finance. Drawing on received sources of ‘maqasid’ (Shari‘ah’s practical objectives), this book demonstrates how the principles of market economics affect how markets and financial institutions actually operate under Shariah law. It shows where Islamic economics converges with and differs from conventional economics through the banning of usury and other Shariah-prohibited trade practices. Islamic finance rests on the principles of free market exchange of Islamic economics. But the latter has failed to keep pace with the rapid developments of the former. Much work published about Islamic economics is at least idealistic if not radically ideological, with little relevance to the Islamic financial industry. This book provides the coherent body of economic theory that students and practitioners of Islamic finance need in order to understand how the maqasid gives a sense of direction to developments in the industry.

The maqasid al-Shari‘ah (higher intents and purposes of Islamic Law) have been either directly stated in the Qur’an and the Sunnah or inferred from these by a number of scholars. All of these address the raison d’être of the Shari‘ah which, as recognized by almost all the jurists, is to serve the interests of all human beings and to save them from harm. In this paper Dr. Chapra explores the Islamic vision of development in relation to the maqasid al-Shari‘ah arguing that Islam has emphasized all the ingredients of human well-being, including the human self, faith, intellect, posterity as well as wealth, for society to flourish. For the Muslim world to focus on economic development only may in the short term result in relatively higher rates of growth but in the long-run will lead to a rise in inequities, family disintegration, juvenile delinquency, crime, and social unrest.

This book advances an Islamic political philosophy based on the concept of Ihsan, which means to do beautiful things. The author moves beyond the dominant model of Islamic governance advanced by modern day Islamists. The political philosophy of Ihsan privileges process over structure, deeds over identity, love over law and mercy and forgiveness over retribution. The work invites Muslims to move away from thinking about the form of Islamic government and to strive to create a self-critical society that defends national virtue and generates institutions and practices that provide good governance.

Reforming Modernity is a sweeping intellectual history and philosophical reflection built around the work of the Moroccan-based philosopher Abdurrahman Taha, one of the most significant philosophers in the Islamic world since the colonial era. Wael B. Hallaq contends that Taha is at the forefront of forging a new, non-Western-centric philosophical tradition. He explores how Taha’s philosophical project sheds light on recent intellectual currents in the Islamic world and puts forth a formidable critique of...
Western and Islamic modernities. Hallaq argues that Taha’s project departs from—but leaves behind—the epistemological grounds in which most modern Muslim intellectuals have anchored their programs. Taha systematically rejects the modes of thought that have dominated the Muslim intellectual scene since the beginning of the twentieth century—nationalism, Marxism, secularism, political Islamism, and liberalism. Instead, he provides alternative ways of thinking, forcefully and virtually developing an ethical system with a view toward reforming existing modernities. Hallaq analyzes the ethical thread that runs throughout Taha’s oeuvre, illuminating how Taha weaves it into a discursive engagement with the central questions that plague modernity in both the West and the Muslim world. The first introduction to Taha’s ethical philosophy for Western audiences, Reforming Modernity presents his complex thought in an accessible way while engaging with it critically. Hallaq’s conversation with Taha’s work both proffers a cogent critique of modernity and points toward answers for its endemic and seemingly insoluble problems.

The aim of this book is to explore and analyze the Islamic axioms, foundation principles and values underpinning the field of governance in an attempt to construct the architectonics of a new systemic and dynamic theory and formulate the articulation of ‘Islamic governance’. This discursive and abstract, rather than being an empirical exercise, assumes to produce a ‘good governance’ framework within its own formulation through a value-shaped dynamic model according to maqasid al-Shari’ah (higher objective of Shari’ah) by going beyond the narrow remit of classical and contemporary discussions produced on the topic, which propose a certain institutional model of governance based on the classical juristic (fiqh) method. Through an exclusive analytical discursive approach in this book, readers will find that Islam as one of the major religions in the contemporary world with the claim of promising the underpinning principles and philosophical foundations of worldly affairs and institutions through a micro method of producing homoshamanicus could contribute towards development of societies by establishing a unique model of governance from its explicit ontological worldview through a directed descriptive epistemology.

A rapidly expanding Islamic revival movement shows that Islamic rationalism and not jihadism is to define twenty-first century Islam.

Freedom of Expression in Islam is informative not only on the subject of the possibilities of freedom of expression within Islam, but also on the cultural tradition of Islam and its guidelines on social behaviour. Distinguished by its clarity and readability, this book is not only essential reading for anyone interested in Islamic law, in Muslim society or in issues of comparative jurisprudence, but is also an important contribution to the current debate concerning the definition and limits of the principle of free speech. Suitable for undergraduate and post-graduate courses in Islamic Studies, Comparative Jurisprudence and Political Theory.

Maqasid al-Shari’ah, or the higher goals and objectives of Islamic law, is an important and yet somewhat neglected theme of the Shari’ah. Generally the Shari’ah is predicated on the benefits of the individual and that of the community, and its laws are designed so as to protect these benefits and facilitate improvement and perfection of the conditions of human life on earth. This easy to read guide gives a bird’s eye view of the subject, simplifying its main principles to help readers understand the subject of maqasid al-shari’ah and how it explains the ‘wisdoms behind rulings.’ The paper focuses on a general characterisation of maqasid al-shari’ah and its origins in the Quran; the classification of maqasid; historical developments and the contributions of some of the leading ulama to the theory of maqasid; the differential approaches the ulama have taken toward the identification of maqasid; and finally the relevance of maqasid to ijtihad and the ways in which maqasid can enhance the scope and caliber of ijtihad.

"A merican exceptionalism" was once a rather obscure and academic concept, but in the 2012 presidential election campaign the phrase attained unprecedented significance in political rhetoric. President Obama’s conservative critics—most notably Sarah Palin, Newt Gingrich, and Mitt Romney—accused the president of disbelieving in American exceptionalism and thereby offending the nation’s civil religion. This creed traditionally has included the notion that America is a political "new Israel" called by God and guided by His Providence to be the exemplar, vanguard, and champion of liberal democracy and the free market for all humanity. The newly politicized narrative of exceptionalism portrayed Obama as a president embarrassed by his own country and intent on remaking the United States in the image of the secularist and socialist countries of Europe. This book takes a step back from the partisan rhetorical bluster and examines afresh the historical and analytical meanings of American exceptionalism, and the extent to which religion—both "real" religion and the more ambiguous "civl" religion—has shaped these meanings and their uses/abuses. This book was published as a special issue of The Review of Faith and International Affairs.

Kim Beng Phar analyzes the polarized structure of Islamic institutions in Malaysia, "where each party tries to out-Islamize the other with bold Islamic plans, symbols, and rhetoric, which in turn lend themselves to callous application." He argues that it is important for those in power to understand the broad outlines of the objectives of shariah before trying to move on to specifics. --

This work charts new territory in Islamic scholarship by attempting to address the field of public policy from a maqasid (higher objectives of the Shariah) perspective. Public Policy is an independent discipline from both law and politics. Thus, Public Policy in Islam is introduced here as a qualitatively different enterprise from both fiqh (Islamic jurisprudence) and siyasah shar'iyyah (Shariah-oriented politics). The book deals with a number of critical topics that include methodology, governance, human rights, ethics, political power, and reform and renewal. It highlights how the maqasid approach is indispensable to the theory and practice of public policy in Islam, how it could resolve some of the most persistent
governance dilemmas throughout Muslim history, but more significantly, how it forces a re-conceptualisation of the wealth of knowledge available in Islam’s primary sources to introduce Public Policy in Islam to mainstream policy studies.

"Islamic Legal Philosophy is a study of the famous Spanish M aliki jurist A bu Ishaq al-Shatibi's (d. 790/1388) life and legal thought. Shatibi is one of the prominent jurists whose thought, particularly the idea of maslaha, which is the focal point of his legal philosophy (maqasid al-shari'a), has played a very significant role in the modern Muslim liberal legal thought. In fourteen chapters, the book is a pioneering study of Shatibi’s essential legal concepts. The analysis is preceded by a detailed study of the historical and intellectual background of social changes which necessitated a reinterpretation of Islamic Legal Theory." - Page [4] of cover.

This volume shows how and why legal empowerment is important for those exercising their religious rights under various jurisdictions, in conditions of legal pluralism. At the same time, it also questions the thesis that as societies become more modern, they also become less religious. The authors look beyond the rule of law orthodoxy in their consideration of the freedom of religion as a human right and place this discussion in a more plurality-sensitive context. The book sheds more light on the informal and/or customary mechanisms that explain the limited impact of law on individuals and groups, especially in non-Western societies. The focus is on discussing how religion and the exercise of religious rights may or may not empower individuals and social groups and improve access to human rights in general. This book is important reading for academics and practitioners of law and religion, religious rights, religious diversity and cultural difference, as well as NGOs, policy makers, lawyers and advocates at multicultural jurisdictions. It offers a contemporary take on comparative legal studies, with a distinct focus on religion as an identity marker.

With the end of the early Islamic period, Muslim scholars came to sense that a rift had begun to emerge between the teachings and principles of Islam and Muslims’ daily reality and practices. The most important means by which scholars sought to restore the intimate contact between Muslims and the Qur’an was to study the objectives of Islam, the causes behind Islamic legal rulings and the intentions and goals of law making, or Islamic Law. They made it clear that every legal ruling in Islam has a function which it performs, an aim which it realizes, a cause, be it explicit or implicit, and an intention which it seeks to fulfill, and all of this in order to realize benefit to human beings or to ward off harm or corruption. They showed how these intentions, and higher objectives might at times be contained explicitly in the texts of the Qur’an and the Sunnah, while at other times, scholars might bring them to light by means of independent reasoning based on their understanding of the Qur’an and the Sunnah within a framework of time and space. This book represents a pioneering contribution presenting a comprehensive theory of the objectives of Islamic Law in its various aspects, as well as a painstaking study of objectives-based thought pioneered by the father of objectives-based jurisprudence, Imam A bu Ishaq al-Shatibi; in addition, the author presents us with an important study of al-Shatibi himself which offers a wealth of new, beneficial information about the life, thought and method of this venerable man.

This work charts new territory in Islamic scholarship by attempting to address the field of public policy from a maqasid (higher objectives of the Shariah) perspective. Public Policy is an independent discipline from both law and politics. Thus, Public Policy in Islam is introduced here as a qualitatively different enterprise from both fiqh (Islamic jurisprudence) and siyasa shar’iyah (Shariah-oriented politics). The book deals with a number of critical topics that include methodology, governance, human rights, ethics, political power, and reform and renewal. It highlights how the maqasid approach is indispensable to the theory and practice of public policy in Islam, how it could resolve some of the most persistent governance dilemmas throughout Muslim history, but more significantly, how it forces a re-conceptualisation of the wealth of knowledge available in Islam’s primary sources to introduce Public Policy in Islam to mainstream policy studies.

This book primarily addresses three salient questions which deal with the general philosophy of Islamic law. What is the general philosophy of Islamic law? What is the idea of the general philosophy of Islamic law come from? Why do we need the doctrines of the general philosophy of Islamic law? These are some of the salient questions that this book deals with. The literal application of some aspects of the texts of the Holy Qur’an and prophetic traditions words to words is not always viable. Neither classical Islamic thought nor the literal legal schools provide ready-made answers for the problems of modern Islamic world. This does not mean we must abandon some teachings of Islam as some radical Muslims secularists claim. This does not mean we should ignore intellectual legacies of Muslim scholars of 1400 hundred years of Islamic history. This does not mean we must belittle the text of the Qur’an and the traditions of the prophet to meet the demands of the modernity. There is nothing wrong in the divine texts of the Qur’an and yet, human understanding and attitudes to the divine texts differ from century to century, place to place and person to person. For the last 14 centuries, different Muslim communities have been reading the corpus of Islamic law differently with their own social contexts. There is no uniformity in human understanding of divine texts. The divine texts are prone to different human interpretation for various reasons. The corpus of Islamic rules we have today are the collections of 1400 hundred years of Islamic legal heritage and legal interpretation of different times, different social contexts. We should have not only thorough knowledge of Islamic sciences, but we should also have a thorough knowledge of the general philosophy of Islamic law to choose some appropriate legal ideas, opinions from the 1400 hundred years of Islamic legacy.

What is the real definition of an Islamic state? How do the majority of Muslims govern themselves? How much do Muslims and non-Muslims really understand about the elements of an Islamic state? How can a true Islamic state function in a modern world? These questions bear heavily on the international community.
They dominate the news. They spawn conflict. They generate misinformation. The answers are complex, but finding them is critical. Harnessing the expertise of leading Sunni and Shia academics, Defining Islamic Statehood searches for answers through dialogue, and seeks to define how an Islamic state forms and functions. It examines how Islamic principles bear on a nation's governance, jurisprudence, culture and policies, and measures how Muslim-majority countries meet the definition by analyzing how they deal with the aspects of modern life. Together with a group of eminent contributors, ranging from a retired Prime Minister, a former Chief Justice, and internationally recognized academics and experts on Islamic law and governance, Imam Fesial Abdul Rauf identifies and fulfils the critical need to determine the right balance between institutions of political authority and institutions of religious authority within the context of modern day governance.

A series of sermons meant to challenge the rigid and uncompromising views held by Christianity in England at the time. The Author came to the conclusion that Christianity is based on much older religions and its rituals are directly descended from ancient Egyptian and pagan practices.

A ‘maqasid awakening’ (sahwah maqasidiyyah) has resulted in an increasingly large body of literature covering different aspects in the study of the goals and intents of Islamic law or maqasid al-shari’ah: conceptual, methodological, historical and practical. This surge involves not only students of Islamic jurisprudence and Shari'ah scholars, but also different categories of researchers and writers from the various disciplines of the humanities and social sciences to the natural and hard sciences. We could thus speak of the emergence of a new area of study bearing the name of 'Maqasid studies', in the same manner we talk of language studies, Qur'anic studies, hadith studies, etc. The present volume is an attempt to offer both a comprehensive and diversified view of maqasid al-shari'ah as a crucial and at the same time understudied subject in the English language, covering historical, theoretical and practical aspects thereof. The contributors' sense of intellectual commitment, academic soundness and moral responsibility are certainly what accounts for its quality.

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