

Book Reviews

Understanding *Maqāṣid al-Sharī‘ah*: A Contemporary Perspective

Mufsir bin Ali al-Qahtani

Herndon, VA and Surrey, UK: IIIT, 2015. 202 pages.

Musfir al-Qahtani’s translated book is a recent contribution on the contemporary relevance of *maqāṣid al-Sharī‘ah*. After a lengthy introduction in which he outlines some technical aspects of the subject, he turns to their relevance for issuing fatwas (e.g., “cultural development,” “religious extremism,” and “the Muslim mindset”) before rounding-off with what he calls the “goal awareness crisis.” Helpfully, the reader is provided with a synopsis at the beginning of every chapter.

The book is divided into five main chapters. The introduction seeks to establish a definition for the *maqāṣid al-Sharī‘ah* while drawing attention to how others have referred to them. The reader is then briefly presented with the textual and “logical” (read: theological) arguments in favor of *ta’līl al-aḥkām* (determining the *ratio decidendi* of rulings), a fundamental query in the quest to establish the field’s validity. Neither section is very detailed, and it soon becomes clear that the author wrote this book for activists who want to understand what the *maqāṣid* are and what relevance they hold for their cause.

Having established the proofs for the concept, al-Qahtani turns to the *maqāṣid*’s meta-structure. There is nothing original in this chapter, as al-Izz bin Abdussalam (d. 1262), al-Shatibi (d. 1388), Ibn al-Qayyim (d. 1350), and the other usual figures are cited. It is much to the author’s credit, however, that he refers (albeit once and almost just as a gesture) to Mustafa Shalabi (d. 1997), who has been largely overshadowed by other scholars despite his major contributions to the field of Islamic law and legal theory, most notably in his 1944 Azhar ‘*ālimīyah* thesis *Ta’līl al-Aḥkām*.

The first chapter focuses on issuing fatwas. Here, the author highlights why this undertaking is significant and provides two approaches. He labels the first approach “excessive” and austere, which means that the mufti has read

the legal texts in a literal fashion or is uncompromisingly biased in favor of his legal school. This approach is unfairly attributed to the Khawarij and Zahiris. The second approach is excessively concerned with legal concessions and juristic evasions. Some of the examples he offers are questionable, such as the lawfulness of *ribā* – an inaccurate depiction of the opinions to which he seems to be referring. But other examples do stand up to scrutiny, such as the one regarding inheritance (i.e., are the shares allotted in the Qur’an immutable?).

We should remember that the book is a translation seemingly addressed to a Middle Eastern audience, with perhaps a particular focus on Saudi Arabia, where the author lives. Al-Qahtani offers some guidelines that pertain to how fatwas should be formulated, among them the role of context and consequence and the importance of the mufti saying “I don’t know” when he does not know. He illustrates this with examples of what he believes to be “balanced” modern fatwas.

Chapter 2 details his controversial thesis. Although popular among modern writings on the *maqāṣid*, a subject that was traditionally a technical – even obscure – element of Islamic legal theory and essentially a subdivision within chapters discussing analogy, this subject has increasingly become conflated or identified with notions of progress and development. In that sense, the book shows how contemporary authors have shifted the role of the *maqāṣid* from classical demarcations. This chapter also focuses on definitions of civilization. A true grasp of this chapter’s contents can only be acquired, however, if the readers are familiar with the author’s other main work on “civilizational awareness,” as he essentially summarizes it here.

This largely applies to chapter 3 as well, which concentrates on religious extremism. A technical specialist may be startled at the author’s decision not to explain how religious extremism in classical Islamic law differs from that provided by the rather standard usage associated with government policy. Accordingly, “jihad” is effortlessly assimilated into the United Nations Charter because it is the equivalent of “resistance to aggression.” While his intention may be laudatory, al-Qahtani spends almost no time analyzing how such conclusions are derived, which only undermines his argument’s credibility. This approach offers little guidance on how one should deal with dissenting scholarship and ignores the wealth of legal material highlighting the many other *maqāṣid* of jihad. More interestingly, the chapter does lay down several rules of thumb that Muslims ought to bear in mind when undertaking the task of “commanding good” and “forbidding evil.”

Chapter 4, which continues in the same vein, focuses on the vast topic of the Muslim mindset. We are informed that Muhammad Abid al-Jabiri (d.

2010), Muhammad Arkun (d. 2010), Muhammad Shahrur (b. 1938), and others who have tried to “reform” the Muslim mindset have failed to do so, ostensibly because they derived their epistemological tools from “secular intellectual” environments. The author does not explore this further; he only states that Ibn Ashur (d. 1974) and al-Fasi (d. 1973) are examples of scholars who made the *maqāṣid* the centerpiece of their reformist methodology – a dubious rendering of their scholarship. We are then treated to an assortment of legal maxims and to what can only be considered a facile exploration of post-modernist thought and its impact on Muslim thinkers. Connecting these two subjects to one another makes for troubling, disjointed reading.

Chapter 5 is a continuation of the same spirit found in the preceding two chapters: further platitudes about the spread of love, harmony, and the purposefulness of beauty, including a small section on the role of Muslim women in society. Al-Qahtani does, however, seek to invigorate readers with the need to face up to today’s challenges and thus leaves them with a series of questions that demand answers.

While the book, especially in its introduction and first chapter, provides a basic coverage of the *maqāṣid* for beginners, the remainder is better seen as an example not just of how the *maqāṣid* have been transported out of their juristic domain, but also how some Muslims who wish to remain true to their juristic tradition use them as an instrument to hurl themselves into “modernity.” While clearly not written for the specialist, I cannot help but note how much this book displays flaccid thinking and distorts a sober and austere technical field. One imagines that many scholars find such a treatment risible and demeaning of the topic itself in comparison to other authoritative writings on *uṣūl al-fiqh*, such as Muhammad Sa‘id Ramadan al-Buti’s *Dawābit al-Maṣlaḥah*.

The book is useful for those interested in how the *maqāṣid* are commonly discussed, how this concept is used (or abused), and how they have become one of the prime instruments in contemporary discussions among scholars and activists. However, its contents exhibit a fairly narrow and limited understanding of the topic, given the rigorous manner in which the *maqāṣid* have been discussed in the classical *uṣūl al-fiqh* texts. How macro-*fiqh* and micro-*fiqh* are interrelated, which the reader would have hoped to be the focus, is largely overlooked. What remains amounts, regrettably, to yet more *maqāṣid* mantras.

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