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The Role of Maqashid al-Shariah in Shaping a Civilizational Ethic: Reflections from Tunisia

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Abstract:

This paper proposes Maqāṣid al-Sharīʿah as an ethical paradigm transcending the limited halal-haram discourse prevalent in Islamic law. It argues that the maqāṣid framework offers a coherent vision for confronting global crises such as poverty, inequality, ecological decay, and authoritarian governance. Using qualitative-descriptive methods and policy text analysis, Tunisia serves as a case study exemplifying the integration of maqāṣid values into legislation, particularly family law, without adhering to state Islamization. The study concludes that maqāṣid constitute not a mere legal instrument but a philosophical and moral foundation for safeguarding life, intellect, wealth, lineage, and human dignity.

Keywords: Maqāṣid al-Sharīʿah, Islamic Ethics, Civilizational Framework, Public Policy, Tunisia

الملخص:

تتناول هذه الدراسة مقاصد الشريعة باعتبارها إطارًا أخلاقيًا حضاريًا يتجاوز المقاربات الفقهية التقليدية المحصورة في ثنائية الحلال والحرام .وتجادل بأن المنهج المقاصدي يقدم رؤية فلسفية وأخلاقية قادرة على معالجة التحديات العالمية المعاصرة مثل الفقر، والاستبداد، والأزمات البيئية التي تتعارض مع الغايات العليا للشريعة . وبالاعتماد على المنهج الوصفي–النوعي وتحليل السياسات، تعتمد الدراسة تونس نموذجًا تطبيقيًا يدمج قيم المقاصد في السياسات العامة، ولا سيما قوانين الأحوال الشخصية، دون تبني الإسلام كأيديولوجيا رسمية للدولة . وتخلص النتائج إلى أن المقاصد ليست مجرد أداة قانونية شكلية، بل هي أساس فلسفي وأخلاقي لحماية الضروريات الخمس وكرامة الإنسان وبناء استجابة حضارية شاملة لقضايا العصر.

الكلمات المفتاحية:مقاصد الشريعة، الأخلاق الإسلامية، الإطار الحضاري، السياسة العامة، تونس.

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Introduction

Muslim Civilization, Ethics, and Maqāṣid

To speak of civilization is to acknowledge the importance of a future-oriented vision and a conscious effort to elevate the human condition toward a more dignified state. Civilization cannot be separated from the quality of knowledge and ethics that underpin both individuals and societies (Ali, 2022). In other words, the moral values collectively upheld by a society serve as a mirror reflecting its present state.

Islam, as a comprehensive system of life (*niẓām ḥayāh*), presents a coherent and holistic message: (1) to ensure the well-being of all humankind in this world and the Hereafter, and (2) to guarantee the preservation and flourishing of the Earth as a divine trust. These two core objectives encapsulate the essence of *maqāṣid al-sharīʿah*—the higher aims of Islamic law, which emphasize the protection and enhancement of human life. Ibn ʿĀshūr highlights that a true religion (*al-dīn al-ṣaḥīḥ*) is one that promotes public welfare and elevates the standard of living in society (Ibn ʿĀshūr, 1985).

However, this ideal vision is not always reflected in the lived reality of contemporary Muslim societies. Ahmet T. Kuru observes that the 49 Muslim-majority countries, on average, rank lower than Western nations on human development indicators such as economic performance, education, health, and life expectancy. This discrepancy suggests a disconnection between Islam's ethical message and the actual social practice of its adherents (Kuru, 2022).

Drawing from these observations, it becomes evident that contemporary Islamic civilization mirrors the ethical framework embraced by its people. If the lived reality diverges significantly from the higher objectives of the Sharīʿah, it is likely that Islamic ethics—meant to shape habits and behavior—have been neglected or distorted. This analysis, of course, temporarily sets aside external factors such as colonialism or global hegemonic systems.

In philosophical traditions, the term "ethics" derives from the Greek *ethos*, meaning custom, habit, or way of life. Aristotle viewed ethics as the science of human action, dealing with manners and customs that determine the moral quality of behavior. In the Islamic context, *maqāṣid* (the higher objectives of the Sharīʿah) can be seen as the moral heart of Islamic law—they are not only legal limits but also moral and civilizational directions. When *maqāṣid* are employed as an ethical framework for civilizational development, Islam is no longer confined to positive law (*fiqh*), but becomes a value system that animates institutions, shapes public policies, and nurtures a dignified society.

Maqāṣid signify a consciousness that the Sharīʿah is a holistic life-system directly linked to higher divine goals, transcending the realm of codified statutes. These objectives offer a panoramic view of Islam as a system in which all components interact organically. Such a perspective also aids in identifying elements that may compromise the coherence of the system.

In this sense, *maqāṣid* breathe ethical life into legal norms. They are not merely legal dictates, but moral compasses that render the Sharīʿah relevant, contextual, and transformative. Even in matters not directly related to ritual worship or theological dogma, Islam continues to address humanity through its values and structural worldview. Islam is a path aimed at human betterment, to the extent that individuals open themselves to its moral message.

The ethics of civilization, in this context, refer to the foundational values that shape the social structure of a society—values such as justice, human dignity, freedom, and solidarity. When *maqāṣid* are elevated from legal principles to foundations for public policy and national development, they evolve into a transformative force capable of generating collective ethical frameworks. Classical and contemporary discourses on *maqāṣid* must not remain confined to academic debate. They must be translated into educational programs, public policy, and socio-economic systems through movements and institutions inspired by the spirit of *maqāṣid* (Auda, 2025).

This paper seeks to explore the role of *maqāṣid al-sharīʿah* in shaping a civilizational ethic by examining Tunisia as a case study. Tunisia presents a compelling model: while it does not adopt Islam as a state ideology, religion continues to play a significant role in shaping public law and societal norms. Tunisia demonstrates how a modern Muslim-majority state seeks to integrate *maqāṣid* into contemporary legal and policy frameworks, particularly in areas such as polygamy regulation, marriage systems, and family courts.

Using a qualitative-descriptive method and textual analysis, this paper aims to address the following questions: How can *maqāṣid* serve as a framework for civilizational ethics? To what extent can it be effectively applied in modern socio-political contexts? More deeply, in what ways can Islamic law contribute meaningfully to the civilizational project?

Maqāṣid al-Sharīʿah as a Theory and Methodology for the Formation of Civilizational Ethics

Literally, *maqāṣid al-sharīʿah* means "the objectives of Islamic law." In classical Islamic scholarship, the term traditionally refers to the five essential protections upheld by the Sharīʿah: religion, life, intellect, progeny, and property (al-Shāṭibī, 2004, p. 222). However, in the modern era, the scope of *maqāṣid* has evolved into a civilizational-ethical approach that seeks to bridge Islamic legal norms with the complexities of contemporary life. Thinkers such as Ibn ʿĀshūr (d. 1973) and Jasser Auda have advanced a renewed reading of *maqāṣid*, treating it not only as a legal theory but also as an epistemological and ethical framework that informs public policy and civilizational development.

Ibn ʿĀshūr's work *Uṣūl al-Niẓām al-Ijtimāʿī fī al-Islām* (The Foundations of Social Order in Islam) exemplifies his effort to link *maqāṣid* with societal formation. He posited that *maqāṣid* expresses the universal values of Islam that

transcend time and space. He emphasized that Sharīʿah was revealed not merely for individuals but to establish a just and balanced society (Ibn ʿĀshūr, 1985). Hence, *maqāṣid* should not be confined to the static particularities of *fiqh*, but should serve as the ethical foundation for social progress and the global integration of the Muslim community.

Jamaluddin Athiya further categorized *maqāṣid* according to the objects of human welfare into six levels: (1) *maqāṣid al-khalqī* (objectives of human creation), (2) *maqāṣid al-sharīʿah al-ʿāliyyah* (higher and fundamental objectives of Sharīʿah), (3) *maqāṣid al-sharīʿah al-kulliyyah* (universal objectives encompassing all branches of Islamic law), (4) *maqāṣid al-sharīʿah al-khāṣṣah* (objectives pertaining to specific legal domains), (5) *maqāṣid al-sharīʿah al-juzʾiyyah* (partial objectives in subsidiary legal rulings), and (6) *maqāṣid al-mukallafīn* (objectives related to the moral responsibility of legally accountable individuals). This multilayered classification allows for analysis of *maqāṣid* from cosmological levels to individual praxis (Shofi, 2022).

As discussed earlier, in reality, Islamic Sharīʿah is often narrowly interpreted through the lens of positive law (*fiqh*), which limits its scope. This is evident in how Muslim societies tend to perceive scholars (*ʿulamāʾ*) primarily in legalistic terms. When experts engage beyond legal matters, they are rarely recognized as *ʿulamāʾ*, and are instead labeled as intellectuals or thinkers. This is in stark contrast to the Prophet's era, during which *ʿulamāʾ* engaged more broadly with the pressing challenges of the ummah (al-Tūnisī, 2011). Through the *maqāṣid* approach, the Sharīʿah is envisioned to transcend its juridical limitations and function as a framework for collective ethical vision.

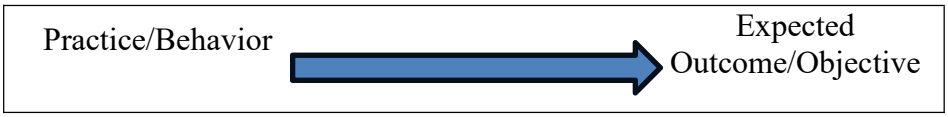
Jasser Auda develops this approach further by proposing a system-based theory of *maqāṣid*. He critiques the linear and atomistic tendencies of classical *fiqh* and offers a six-dimensional framework—incorporating cognition, complexity, functionality, and more—for reinterpreting *maqāṣid* dynamically. According to Auda, *maqāṣid* must function as an instrument for promoting good governance, social justice, public participation, and minority rights, thereby contributing to the construction of a civilizational ethic (Auda, 2007).

In other words, *maqāṣid* aims to position the Sharīʿah not merely as a repository of *ḥalāl* and *ḥarām* rulings, but as a value-laden structure that guides the moral and social trajectory of civilization. It forms the ethical bedrock that unites individuals, societies, and states around sustainable and just goals. The *maqāṣid* approach instills a "teleological consciousness" that views every law, doctrine, and historical occurrence as directed toward a meaningful end. This belief is grounded in the conviction that God does not create anything—including Sharīʿah—without purpose (*ʿabathan*). As affirmed in the Qurʾān:

"And We did not create the heavens and the earth and all that is between them in jest. We created them only in truth, but most of them do not know" (Q. al-Dukhān: 38–39);

"Did you think that We created you in vain and that you would not be returned to Us?" (Q. al-Muʾminūn: 115).

As Baptiste Brodard notes, “Purpose holds a central role, based on the premise that the Qurʾān adopts a teleological approach, in which God the Almighty links actions and practices with desired outcomes, what we might call ‘higher objectives’ or *maqāṣid*” (Brodard, 2024).



For example, prayer (*ṣalāh*) is not merely a set of physical movements but is teleologically aimed at achieving *taqwā* (God-consciousness), as clearly articulated in Q. al-Baqarah: 21. Through this approach, one begins with a reflective process by identifying the divine objective (*maqsad*) behind each command, thereby discerning what God expects of human conduct. This method is particularly valuable in cases of juristic disagreement, such as those surrounding polygamy.

This *maqāṣid*-driven reflection entails two main phases: first, asking what the ultimate purpose of a given command is, and second, assessing whether the actual condition of the legal subject (*mukallaf*) aligns with the command’s spirit. Only afterward does one move to technical implementation. This continuous and consistent cognitive process helps the *mujtahid* (qualified jurist) grasp the broader vision of the Revelation and its intersection with lived realities (Auda, 2025).

Ibn ʿĀshūr asserts that *maqāṣid* can resolve juristic disputes by shifting the focus from legalistic differences to the underlying divine intentions, especially since *maqāṣid* are derived from certain (*qaṭʿī*) evidences (Ibn ʿĀshūr, 2001). Consequently, the *maqāṣid* approach allows for distinguishing between immutable principles and contextual specifics. The former are fixed (*thābit*), while the latter are changeable (*mutaghayyir*). It also provides a framework for navigating apparent contradictions between the Qurʾān and Sunnah.

This underscores the importance of developing a hierarchy of priorities when engaging with the Qurʾān, Sunnah, and broader Islamic literature, to better understand the wisdom, purpose, and spirit behind normative texts (Brodard, 2024).

As an approach, *maqāṣid* seeks to integrate Islamic law with its higher objectives, enabling scholars to challenge outdated legal norms and propose new ethical directions that resonate more deeply with the teleological spirit of the Qurʾān and Sunnah (Brodard, 2024). Thinking in terms of *maqāṣid* is not a binary exercise of right versus wrong, but a multidimensional reflection on how networks of meaning are formed, what truths they reveal, and why they matter

for our understanding of Revelation and its impact on daily life and long-term civilizational vision (Auda, 2025).

In contrast, the antithesis of the *maqāṣid* approach is atomism, which fixates on technical details while neglecting the overarching purpose. The *maqāṣid* paradigm represents a more holistic entry point into religious discourse, whereas atomism merely engages with superficial aspects like legal validity. The Prophet Muhammad (peace be upon him) himself warned against this superficiality—for example, when he criticized those who fasted but achieved nothing beyond physical hunger and thirst, missing the grand spiritual aim of fasting.

Brodard identifies two distinct approaches to reading the Qurʾān. The first is a partial reading, which focuses on isolating specific verses or hadiths in order to extract legal rules. In contrast, the second is a holistic reading that views Revelation as a coherent and integrated system, where all relevant texts are considered in harmony. It is within this comprehensive and interconnected framework that the maqāṣid approach finds its true expression and significance (Brodard, 2024, p. 143).

Ultimately, the *maqāṣid* methodology speaks to the urgent needs of today's Muslims, who require not only legal solutions but also ethical visions to address global challenges—poverty, inequality, disinformation, environmental degradation, and authoritarianism—all of which reflect the absence of *maṣlaḥah* (public good), the very objective the Sharīʿah was revealed to fulfill. Islam envisions *maṣlaḥah* both in this world and the hereafter, and aims for human prosperity on earth.

The *maqāṣid* paradigm fosters a teleological consciousness—that is, a future-oriented awareness. And future orientation is a hallmark of civilizational development. It is precisely this forward-looking posture that Auda presents as the defining feature of the *maqāṣid* approach.

The Muslim ummah desperately needs this forward-looking orientation. Presently, much of Islamic discourse is backward-looking, preoccupied with past models while struggling to respond effectively to current realities. As a result, decisions—both individual and collective—are made without adequate attention to well-planned short- and long-term goals. By neglecting serious reflection on how a better future may be envisioned and attained, Muslim scholars across ideological spectrums risk forfeiting the ummah's civilizational potential (Auda, 2025).

Ibn Khaldūn and Ibn ʿĀshūr: Maqāṣid al-Sharīʿah as the Ethical Foundation of Social Order and Civilizational Development

The discourse on *maqāṣid* did not emerge in an intellectual vacuum. Rather, it is a continuation of the Islamic intellectual legacy that underscores the integration of values, law, and social dynamics. Two prominent figures whose

contributions are particularly relevant in this context are Ibn Khaldūn and Ibn ʿĀshūr—both of whom hail from Tunisia. Despite living in different historical periods, each perceived a deep connection between religious values, social ethics, and civilizational progress.

Ibn Khaldūn (d. 808 AH / 1406 CE), in his seminal work *al-Muqaddimah*, emphasized the concept of *ʿumrān*—the social structure of civilization founded upon social solidarity (*ʿaṣabiyyah*), justice, and order. He argued that the decline of civilizations begins when justice ceases to guide political institutions and societal structures. Ethics, in Ibn Khaldūn's perspective, are not merely matters of personal morality but serve as foundational determinants of social cohesion and political stability. When both rulers and citizens abandon the ethics of justice and responsibility, what ensues is social collapse and a cycle of decadence (Ibn Khaldūn, 2004).

Ibn ʿĀshūr, writing in twentieth-century Tunisia, reformulated *maqāṣid* as an ethical framework that transcends the traditional confines of *fiqh*-based legalism. In his work *Uṣūl al-Niẓām al-Ijtimāʿī fī al-Islām*, he asserted that Islam came to establish a just, equitable, and sustainable social order. For Ibn ʿĀshūr, the Sharīʿah is not merely a compilation of ritual or transactional rulings; it is a comprehensive social project aimed at fostering civility (*madaniyyah*). As such, *maqāṣid* must operate as an active principle in the reconstruction of social and political institutions, rather than merely serving as normative justification for existing legal frameworks (Ibn ʿĀshūr, 1985).

Fundamentally, both Ibn Khaldūn and Ibn ʿĀshūr articulated a shared vision: that the sustainability of civilization hinges upon values and ethics that govern social relations. In the context of *maqāṣid*, this implies that Sharīʿah should not be reduced to the formalistic implementation of laws. Instead, it must function as an ethical force shaping worldviews, ways of life, and the architecture of a just and humane society.

Through this lens, *maqāṣid* becomes a bridge between Islamic spirituality and the socio-political needs of the modern world. It lays the foundation for what may be termed an Islamic civilizational ethic—a core set of values guiding the Muslim community in its efforts to build a society marked by the protection of life and intellect, the advancement of education and economy, the dignification of family and women, and the pursuit of justice in the distribution of resources.

Ṭāhir Ḥaddād: Maqāṣid, Gradualism, and Emancipatory Ethics

Ṭāhir Ḥaddād, a pioneering Tunisian thinker, offered a holistic approach to Islam by distinguishing between *Jawhar al-Islām* (the essence of Islam) and *ʿAraḍiyyāt al-Islām* (its contingent, temporal aspects). According to him, the essence of Islam lies in the framework of *Maqāṣid al-Sharīʿah*—universal principles such as justice, freedom, and public welfare (*maṣlaḥah*). In contrast,

historically conditioned rulings such as slavery or polygamy fall under *ʿaraḍiyyāt*, which are subject to transformation in accordance with the evolving conditions of time and society (Ḥaddād, 2011).

One of the key principles in Ḥaddād's thought is *mabdaʾ al-tadarruj* (the principle of gradualism). Drawing from the Qur'an and the Prophet's history, he observed that many legal injunctions in Islam were revealed and implemented gradually. Rather than viewing this phenomenon through the lens of *naskh-mansūkh* (abrogation), Ḥaddād interpreted it as a reflection of Islam's intrinsic flexibility and its consideration of social readiness in the process of legal implementation.

Ḥaddād also emphasized the principle of *istiʿdād al-insān ilā al-kamāl*—the belief that human beings are naturally predisposed toward gradual moral and spiritual refinement. Whether male or female, young or old, every individual has the potential to progress continuously—from a lower to a higher moral condition—in a lifelong process of *irtiqāʾ* (ascent or growth).

His intellectual framework emerged not only from textual exegesis but also from a deep engagement with historical and social realities. Ḥaddād's project was rooted in a desire to combat ignorance, foster hope, and resist injustice—particularly through the liberation of women from oppressive social structures, such as patriarchal marriage systems and demeaning cultural practices that undermined female dignity.

For Ḥaddād, Islam is a living religion that coexists with reality—it is not a static doctrine removed from the human condition. Therefore, the *sunnat al-tadarruj* (tradition of gradual application of the law) remains relevant as long as the legal rulings pertain to social conditions, rather than immutable domains like *ʿaqīdah* or ritual worship. He contended that there is no textual evidence indicating that this principle ended with the Prophet's passing. On the contrary, as long as society continues to evolve, *tadarruj* should remain a fundamental methodological guide for the contextual application of Islamic law.

To Ḥaddād, Islam is a religion of liberation, one that tolerates no servitude except to God. Thus, he believed that the focus of Islam should be the cultivation of character and ethics, rather than the construction of a punitive legal apparatus. He critiqued the tendency among some Muslim communities to prioritize retribution over ethical formation and spiritual development.

He cited a ḥadīth about a man who frequently drank wine but continued to perform prayer with the Prophet. When some companions expressed their discontent, the Prophet responded: "Indeed, his prayer will eventually deter him from that act." And indeed, the man later repented. For Ḥaddād, this ḥadīth was evidence that ethical guidance and *irshād* (gentle exhortation) are more enduring and transformative than rigid, punitive approaches.

He wrote:

"Islam is not a religion of glorification and supplication [*tasābīḥ* and *ṣalawāt*] that, once performed, has no connection to one's daily affairs or social realities. Nor is it a book of the future that seeks to legislate all matters at once. Rather, it is a way of life intended to be beneficial in daily living and to exert a positive impact on the soul and society. Hence, its verses were revealed in response to unfolding events, not as arbitrary legislation. That is why the Qur'an is not arranged into legal chapters by subject matter; instead, it reflects lived experience and engages with human reality. In doing so, it becomes both widely accepted and strikingly revelatory in its truth. For this reason, Islam is a path for engaging life itself." (Ḥaddād, 2011, p. 12)

Tunisia and the Maqāṣid Manifesto: Between Social Policy and Civilizational Ethics

Tunisia, a relatively small Muslim-majority country in North Africa, plays a unique role in the discourse of Islamic reform. The country serves as a practical example of how *maqāṣid al-sharīʿah* can be translated into social policy aimed at upholding human dignity and social justice—two foundational values within the ethics of Islamic civilization. This was clearly exemplified with the issuance of the *Code du Statut Personnel* (CSP) on August 13, 1956, which became one of the most progressive family law frameworks in the Muslim world. Its opening chapters addressed marriage, divorce, and related matters, demonstrating a conscious effort to elevate the status of women and safeguard their rights as human beings—at a time when many Arab states had yet to pay serious attention to such concerns.

During the colonial period, women in Tunisia were marginalized in various spheres of life. Their access to education was limited, they had little to no participation in socio-religious affairs, and their economic roles were largely confined to domestic spaces.

However, in the 1920s and 1930s, as the independence movement gained momentum, voices began to emerge calling for gender equality. Although these calls did not immediately elicit substantive institutional responses, they gradually bore fruit. Over time, women's associations formed, taking up space in the public sphere and articulating their place in society with increasing assertiveness (Zamroni, 2024).

A significant shift occurred with the formal enactment of the *Code of Personal Status* (*Majallat al-Aḥwāl al-Shakhṣiyyah*). Through this legal reform, women obtained expanded legal rights—such as the right to initiate divorce, access to the judicial system, the establishment of a minimum legal age for marriage, and the requirement of mutual consent in the marriage contract. These provisions laid a more robust foundation for women's social status and personal freedom in Tunisia. It can be argued that such civilizational ethics represent a concrete manifestation of *maqāṣid al-sharīʿah*.

This is particularly evident in Tunisia's groundbreaking legal reforms, notably the prohibition of polygamy. As one of the most controversial yet transformative policies, the outright ban on polygamy marked Tunisia as the first Muslim-majority country to take such a step. The rationale behind this decision was rooted not merely in Western secular ideals but in a maqāṣid-oriented interpretation of Islamic principles. This approach emphasized the pursuit of justice, the protection of family welfare, and the upholding of women's dignity. Within this ethical framework, the prohibition was seen as a means of safeguarding essential objectives of the Sharīʿah—namely, al-ʿird (honor), al-nafs (life/soul), and al-nasl (lineage)—from potential social and psychological harm that may arise from the practice of polygamy.

This legal breakthrough was influenced heavily by the thought of Ṭāhir Ḥaddād, who argued:

"I would not say that polygamy is a part of Islam, for I see no genuine trace of it within Islam. Rather, polygamy was one of the pre-Islamic vices that Islam sought to combat through its gradual policy (*tadarruj*). Arab men at the time engaged in polygamy without restraint—using women to work the land, serve domestic needs, or for pleasure. This legacy continues among our people (i.e., Tunisians) to this day, with many women still being subjected to polygamy for similar purposes.

"Then Islam came and placed restrictions on this practice. The Prophet (peace be upon him) said to those who had many wives: 'Keep four and divorce the others.'

"After that, the law continued to develop gradually by requiring equal justice among wives and warning that any fear of injustice was reason enough to avoid polygamy altogether. As the verse states:
'Marry women of your choice, two, three, or four; but if you fear you will not deal justly, then [marry] only one…' (Qur'an, al-Nisāʾ: 3)

"Then came the verse declaring the impossibility of complete justice:
'You will never be able to treat your wives equally, even if you strive to do so…' (Qur'an, al-Nisāʾ: 129).

"Had polygamy continued after the revelation of this verse, it would have necessitated a total ban. However, Islam's commitment to gradualism (*tadarruj*) shows a clear preference for monogamy, particularly by emphasizing the unattainability of perfect justice." (Ḥaddād, 2011, pp. 62–63)

When the Qur'an (al-Rūm: 21) speaks of marriage as being founded upon *sakinah* (tranquility), *mawaddah* (affection), and *raḥmah* (mercy), then any practice that undermines these three pillars is, in essence, contrary to the spirit of the Sharīʿah—even if, textually, it might still fall within the scope of permissibility.

From a civilizational ethics perspective, *maqāṣid* function as a collective moral compass guiding both individual conduct and public policy toward a more

just and humane society. Civilization is not built solely upon the formal validity of legal texts, but through the lived moral virtues practiced within society. Therefore, when practices such as polygamy lead to "households void of tranquility and happiness" or cause "turmoil between spouses and their children," they must be reevaluated ethically and *maqāṣidī*-wise.

Tunisia provides a compelling example of how *maqāṣid* can transcend the level of normative abstraction and become the moral foundation of a civilizational ethos through social reform. The prohibition of polygamy was not a revocation of scripture, but a prioritization of higher values: justice, women's dignity, and social stability—all of which constitute central pillars of *maqāṣid*. This decision, therefore, stands as a *maqāṣid* manifesto in the form of policy rooted in civilizational ethics, not mere legalism.

So, another significant area of reform can be seen in the sphere of Marriage Law Reform, where Islamic principles concerning zinā (fornication) and marriage were revisited through a maqāṣid-based lens. Islam forbids zinā because its objective is purely sensual pleasure, divorced from obligation and compassion. In contrast, marriage functions as a spiritual and social safeguard against zinā, fostering companionship and procreation. Built upon mutual compassion, marriage therefore implies that a woman has the right to choose her own partner.

Reflecting this ethical vision, the CSP stipulated that marriage is valid only when based on the free consent of both parties and is officially registered. This approach underscores the protection of individual rights and the family unit as the cornerstone of society. *Maqāṣid* values such as *ḥifẓ al-ʿaql* (preservation of intellect) and *ḥifẓ al-nafs* (preservation of life/self) form the ethical bedrock of policies against exploitation, coercion, and child marriage—often legitimized under the guise of culture or literalist jurisprudence.

Ṭāhir Ḥaddād further argued:

"If we return to the Qur'anic description of marriage as a relationship built on affection (*mawaddah*), mercy (*raḥmah*), and spiritual tranquility (*sakan*), we will realize that these sentiments—along with their impacts on shared life—are impossible to divide equitably among multiple wives. Though the historical subjugation of women has often muted these emotions through resignation to male injustice, these very feelings are what make family life devoid of peace and happiness. Today, we witness with our own eyes the real chaos that exists in our households—between husbands and wives, and between parents and children."

This passage delivers a profound critique of polygamy, portraying it as undermining the emotional and moral fabric of marriage as described in the Qur'an. Such a vision aligns with the CSP's ethical orientation, which frames marriage not merely as a legal contract, but as a moral institution grounded in equality and mutual willingness.

The CSP responded normatively and progressively to this reality by mandating that marriage must be based on the free and informed consent of both individuals and be officially registered. This structural safeguard protects against exploitation, coercion, and child marriage—frequently sanctioned in the name of culture or rigid legalism. Here, *maqāṣid* principles like *ḥifẓ al-ʿaql* and *ḥifẓ al-nafs* provide an ethical framework for these social policies.

Hence, the CSP's prohibition of polygamy is not merely a secularist agenda or a product of modernist pressure, but a concrete expression of *maqāṣid* as a civilizational ethic: a principled effort to protect the family structure, elevate women's dignity, and ensure the inner tranquility of households—all in pursuit of the public good (*maṣlaḥah*).

Also, a further area of reform is the regulation and restriction of ṭalāq (divorce), which reflects a significant shift from earlier practices. Prior to these legal changes, ṭalāq was a unilateral right held exclusively by men and could be exercised without any involvement from the state. Tunisia fundamentally transformed this approach by requiring that divorce be legally recognized only through court adjudication, accompanied by a mandatory mediation process. This reform not only aligned with maqāṣid values such as justice and family preservation, but also anticipated global trends, as similar procedures for handling divorce are now adopted in nearly all countries around the world.

One of the most tangible manifestations of *maqāṣid* in Tunisia's social policy is the strict regulation of *ṭalāq*. Since the promulgation of the Code of Personal Status (CSP), Tunisia has abolished the practice of unilateral verbal divorce. Under Tunisian law, divorce is only valid through a court ruling, preceded by mediation and consideration of the child's best interest and the woman's economic rights. This framework reflects the *maqāṣidic* orientation toward preserving life (*ḥifẓ al-nafs*), dignity (*ḥifẓ al-ʿirḍ*), and lineage (*ḥifẓ al-nasl*).

This approach is grounded in the principle that divorce is not an impulsive act driven by anger or patriarchal authority, but a last resort after all efforts at *iṣlāḥ* (reconciliation) have failed. This aligns with a Qur'anic hermeneutic that views divorce not as an act of vengeance by men against women, but as a painful necessity—an outcome that a rational man would regret. As Haddad (2011, p. 71) explains:

"Islam, through its verses, indicates that divorce is not a means for men to exact revenge on women in a moment of rage, but a separation that occurs only after reconciliation has failed—a decision that a man of sound mind would regret."

Thus, Tunisia is not merely administering family law bureaucratically, but embedding within it a civilizational ethic. The legal framework for *ṭalāq* is no longer based on unilateral male power but is decentralized into the public domain, governed by justice and *maqāṣid*-oriented considerations.

Moreover, in the context of *maqāṣid*, the restriction of unilateral verbal divorce serves to prevent legal abuse and manipulative practices such as *muḥallil* marriages—where a man temporarily marries a woman so she may lawfully remarry her former husband—a practice that the Prophet Muhammad (peace be upon him) strongly condemned:

"Allah curses the one who acts as a *muḥallil* and the one for whom it is done." (Reported by Abū Dāwūd)

Tunisia's approach aligns with the Qur'anic vision of divorce as an ethical decision governed by *maʿrūf* (kindness and justice), as articulated in the verse:

"Retain them honorably or release them honorably." (Qur'an, al-Baqarah 2:229)

Accordingly, Tunisia's divorce regulations can be seen as a public policy enactment of the *maqāṣid*, aimed at safeguarding family stability, the dignity of women, and the moral accountability of the state in upholding the values of Islamic civilization.

This initiative is consistent with the goals of *maqāṣid*, particularly in ensuring family stability and preventing injustice within marital relations. Protection of women's rights, children's welfare, and social order are integral components of this policy framework.

Tunisia's measures demonstrate that *maqāṣid* are not merely tools for legitimizing past rulings, but can be applied progressively to address contemporary social and cultural challenges. Here, the civilizational ethic emerges through the legal system and state policy, placing the human being—rational, dignified, and entitled to justice—at the center.

More broadly, Tunisia's approach sends a powerful message: *maqāṣid* as a theory of civilizational ethics need not be in conflict with modern state institutions. Rather, it can synergize with them to cultivate a more just, humane, and balanced society.

In the framework of *maqāṣid al-sharīʿah*, Islamic law aspires to balance the needs of individuals and communities, while integrating truth, justice, and public welfare into daily life. This principle places justice (*al-ʿadl*) as the foundational axis across all domains—legal, economic, political, and social. Thus, the *maqāṣid* approach encourages a deeper engagement with Islamic legal texts—not merely at the literal level, but in pursuit of their higher objectives within broader social realities (Al Amin, 2024).

Conclusion: Towards Maqāṣid as a Civilizational Ethic for Muslims

This discussion has demonstrated that *maqāṣid al-sharīʿah* are not merely legal-formal instruments within the structure of Islamic law, but also constitute an ethical-philosophical framework capable of guiding civilizational orientation. By placing the *maqāṣid* at the heart of how Islam engages with social, political,

and cultural issues, a transformative space emerges—one that prioritizes holistic human welfare: life, intellect, property, lineage, and dignity.

In civilizational terms, the crisis facing the Muslim world today is not simply the result of technological or economic underdevelopment. Rather, it stems more profoundly from the reduction of Islamic ethics to narrow binaries of *ḥalāl* and *ḥarām*, ritualism devoid of engagement with the structures and dynamics of society. When *maqāṣid* are restored to their rightful place as the foundational principles of the Sharīʿah, Islamic ethics can be reinterpreted as a civilizational ethos—a system of values that shapes individuals to live with justice, responsibility, and universal human dignity.

The case study of Tunisia illustrates that *maqāṣid* can serve as both a normative and practical basis for national policymaking. The prohibition of polygamy, restrictions on unilateral divorce (*ṭalāq*), and family law reforms represent concrete efforts to translate the *maqāṣid* into national legal systems oriented toward justice and public welfare. The modern state, with its legal apparatus and institutions, can indeed function as a partner in realizing the aims of *maqāṣid* within society.

Through the *maqāṣid* approach, it is time for Muslims to move beyond mere nostalgia for past glories or entrenchment in legalistic *fiqh* debates disconnected from socio-political realities. The real challenge today lies in presenting Islam as a moral force capable of offering direction in constructing a more just, equitable, and dignified human civilization. In this grand endeavor, *maqāṣid al-sharīʿah* are the heart, and a Muslim civilizational ethic is the lifeblood.

Beyond offering a corrective to the over-legalization of Islamic discourse, this research suggests that *maqāṣid* may provide the moral architecture for reimagining Islam's public role in an increasingly complex world. Future research could extend this inquiry through comparative case studies in other Muslim-majority contexts, or empirical analysis of policy outcomes linked to *maqāṣid*-oriented governance models. Interdisciplinary exploration, especially at the intersection of Islamic ethics, public policy, and civilizational studies—also offers rich potential for further development.

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