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The Islamic Root of Sympathy based Morality:
A Case Study of Adam Smith, Darwin and their relation with the Teachings of the Prophet Muhammad (peace be upon him)

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ABSTRACT

What brings morality into existence found extensive interpretation since ancient times and one is more persuading than the other. However, following the enlightenment's empirical approach to which Darwin and Adam Smith turned their attention for every moral dilemma lies in the concept of Sympathy. Both the authors believe, though without logical proof but based on the observation that it is the innate consciousness of Sympathy towards fellow beings responsible for the judgment on morality. Adam smith combined the struggle and sentiments as the sole premise to judge an ethical approach in society. Darwin with his concept of the evolution struggled to explain that sympathy in human lineage evolved into social instincts that gave it a more general flavor, strict empiricism. The question this article formulates is that was the concept of morality based on sympathy was a new and Western concept? Therefore, at first this article will detail the concepts of sympathy understood by Adam Smith and Darwin. It will highlight the process and situation behind such approach contextualizing the role of evolution. In the second part this article will discuss this concept of sympathy based morality in the teachings of the Prophet of Islam (peace be upon him) where he not only understood the nature of human existence but also evolved a new Medinan society. Moreover, it shows the contrasts and similarities between Islamic and Western understanding of sympathy based morality. Hence, it opens a new window to look at intellectual heritage and their relations.

Keywords: *Morality, Sympathy, Darwin and evolution, Adam Smith, Prophet of Islam, Revelation.*

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Introduction

Is there any definition of morality? Or in particular, a scientific method to know what is the right thing to do? In both cases, the answer is no, not because there is any scarcity of definitions or methods but because they are abundant (Gerald Wallace, Arthur David McKinnon Walker, and Gerald Wallace, 1970). The origin of human morality claims to have taken into consideration mutual cooperation to survive for an objective goal. This led to the evolution of the selection of partners and the concept of a social group working on a similar task. With *Homo heidelbergensis* a group feeling of `we' overtook the individual's self-centered trait. Early humans developed the tribe and started to live with an objective goal for society. Such development saw the emergence of customs to define wrong and right (Tomasello, 2018). This explanation is very recent and the author Michael Tomasello states that ``*They touched on a sense of sympathy and fairness (inherited from early humans), which became moral norms'*(Tomasello 2018, p.75). The possible development of such a sense of sympathy has a different way forward, he says ``*In contrast to evolutionary approaches that base their arguments on reciprocity and the managing of one's reputation in the community, I emphasize that early human individuals understood that moral norms made them both judger and judged* (Tomasello 2018, p.75). However, it is surprising that such a recent understanding from a psychological perspective did not find anything new in the process of humanity. Ibne Khaldun a 14th-century scholar has described such process in a somewhat similar fashion, he says, ``*Human social organization is something necessary''*(Ibn Khaldūn 1967,p. 45) but that necessity finds its way through ``*the fact that God created and fashioned man in a form that can live and subsist only with the help of food. He guided man to a natural desire for food and instilled in him the power that enables him to obtain it* (Ibn Khaldūn 1967,p. 45). This natural desire forced humans to form groups:

> However, the power of the individual human being is not sufficient for him to obtain (the food) he needs, and does not provide him with as much food as he requires to live. Even if we assume an absolute minimum of food-that is, food enough for one day, (a little) wheat, for the instance-that amount of food, could be obtained only after much preparation such as grinding, kneading, and baking. Each of these three operations requires utensils and tools that can be provided only with the help of several crafts, such as the crafts of the blacksmith, the carpenter, and the potter….. Through cooperation, the needs of a number of persons, many times greater than their own (number), can be satisfied (Ibn Khaldūn 1967,p. 45).

There are other important factors also as Ibn Khaldun says,

> Likewise, each individual needs the help of his fellow beings for his defense, as well. When God fashioned the natures of all living beings and divided the various powers among them, many dumb animals were given more perfect powers than God gave to man (Ibn Khaldūn 1967,p. 45).

Which corroborates with another factor

> Aggressiveness is natural in living beings. Therefore, God gave each of them a special limb for defense against aggression (Ibn Khaldūn 1967,p. 45).

Combining these different natural traits of Human beings which, for Ibn Khaldun are given by God:

> It is absolutely necessary for man to have the co-operation of his fellow men… When, however, mutual co-operation exists, man obtains food for his nourishment and weapons for his defense. God's wise plan that man (kind) should subsist and the human species be preserved will be fulfilled. Consequently, social organization is necessary for the human species. Without it, the existence of human beings would be incomplete (Ibn Khaldūn 1967,p. 45).

Ibn Khaldun is inspired by the revelation and Tomasello narrated his opinion based on scientific assumptions. However, they both shows the similarity in the understanding of human society and, especially sympathy. When science believed that the universe was not created in time on scientific assumptions, it was a revelation that claimed for a created universe (Krauss, 2012). Similarly, the well-known arguments of no necessary connection between cause and effect supposed to be first proposed by David Hume (Nadler 1996) and Nicolaus of Autrecourt (Wolfson 1969) now have been well traced to al-Ghazali who defended this concept in detail in the 12th century, especially in his book *Tahafut al-falasifah* (Ghazzali and Marmura, 2000). Furthermore, the similarity between Copernican astronomy and the mathematics used to derive motions of planets and the overall effect of Islamic science made on European renaissance has already been established in finer details (Saliba, 2007). Why this detachment existed and what implication this deviation penetrated in the relation between reason and revelation? That is the major question to be answered by contemporary historians and philosophers.

However, this article proliferates our knowledge in this direction by tracing the route of morality theory based on sympathy. This theory based on morality is related to Adam Smith and Darwin. The objective is to begin a paradigm shift in understanding the role of revelation as a first reason. It prepares a methodology for scholars to bring some new futuristic ideas from revelation and should avoid the apologetic approach to prove the truth of revelation from science, as is the case with the Muslim community, though ill-treated (Taslaman, 2006). In what follows the moral theory based on sympathy will be discussed with respect to Adam Smith and Darwin. This discussion will be followed by the investigation of the Islamic roots of sympathy theory.

Sympathy: a judge of morality

The concept of the struggle for life, as Darwin calls it, is not only meant to kill for one's own selfishness but, said Darwin:

> I should premise that I use the term Struggle for Existence in a large and metaphorical sense, including dependence of one being on another, and including (which is more important) not only the life of the individual but success in leaving progeny (Darwin 1859, p.33).

In order to placate the concept of the struggle for existence, it must be elaborated on the basis of dependency not mere murder. Nevertheless, it seems not simple to keep above view constant, as Darwin at another place says:

> Nothing is easier than to admit in words the truth of the universal struggle for life,……Yet unless it is thoroughly engrained in the mind, I am convinced that the whole economy of nature, with every fact on distribution, rarity, abundance, extinction, and variation, will be dimly seen or quite misunderstood (Darwin 1859, p.33).

By infusing economic flavor to the natural process of ecology and how laws of nature ought to work, the whole concept was siphoned to objective production in nature through struggle and competition. In a strict sense,

> As the mistletoe is disseminated by birds, its existence depends on birds; and it may metaphorically be said to struggle with other fruit-bearing plants, in order to tempt birds to devour and thus disseminate its seeds rather than those of other plants. In these several senses, which pass into each other, I use for convenience sake the general term of struggle for existence (Darwin 1859, p.33).

This seemingly arcane concept, at first sight, might have been looked extraordinary but the literature has traced the inspiration behind it (Cockfield, Firth, and Laurent, 2007). The general view is that there is ample similarity between Adam Smith and Darwin that it is impossible to look for another way. In *Wealth of Nations* (Smith, 2007a) Smith argued that:

> The division of labor, from which so many advantages are derived, is not originally the effect of any human wisdom, which foresees and intends that general opulence to which it gives occasion. It is necessary, though the very slow and gradual consequence of a certain propensity in human nature which has in view no such extensive utility; the propensity to truck, barter, and exchange one thing for another (Smith 2007, p.15).

Division of the labor concept was held responsible for the increased production but this natural propensity, Smith argues, is not the result of human wisdom but ``*The difference between the most dissimilar characters, between a philosopher and a common street porter, for example, seems to arise not so much from nature as from habit, custom, and education''*(Smith, 2007, p.17). Smith linked that natural propensity with the process of human development, that is, how a man came to be, depends only on the kind of environment he has been through excluding the inherent proclivity towards other things. Smith, righty described such acquired skills as a profession in a specific field, which he already connected with *"But man has almost constant occasion for the help of his brethren, and it is in vain for him to expect it from their benevolence only. He will be more*

likely to prevail if he can interest their self-love in his favor, and show them that it is for their own advantage to do for him what he requires of them" (Smith, 2007, p.16). It is the persuasion of someone's self-love for something that can get for asker what the giver can get from asker. There is no scope of benevolence too, *"but man has almost constant occasion for the help of his brethren, and it is in vain for him to expect it from their benevolence only"* (Smith, 2007, p.16). But surprisingly, this seemingly cruel and chaotic process of development *"led by an invisible hand to promote an end which was no part of his intention"* (Smith, 2007) forms a coherent and orderly social system. Mysterious 'invisible hand' which is responsible for the formation, for Smith, who used it at three different places (Rothschild, 2018), narrates a somewhat obscure picture. Emma Rothschild has argued from one perspective that *"The success of the invisible hand depends on whether people choose to pursue their own interests by political influence, by the use of force, or in another way"* (Rothschild, 2018, p.321). On one hand Smith does not consider the disposition in man towards something as `natural' but on the other hand, he involved some invisible hand in a context that suits his concept of self-interest rather than cooperation. However, it seems puzzling that Smith considered the opposite of self-love or self-interest as benevolence, which is strictly opposite of contraries. It can be asked, why it was not deemed necessary to consider cooperation instead? Benevolence is embedded in sympathy, they are from each other, but cooperation can be for the sake of economic and political shared gain, and to call it into the same court of self-interest will not do justice to this full of wisdom propensity. Others have argued in a different manner (Kropotkin, 2006). For Darwin this oblivion towards sympathy was countered by the omnipresence struggle for the existence of species as per the economy of nature, as he puts, *"a struggle for existence inevitably follows from the high rate at which all organic beings tend to increase"* (Darwin, 1859, p.34). Ostensibly, there exist similarity with Adam Smith and Darwin in terms of struggle for survival, so much that Karl Marx had said in a letter that, *"It is remarkable how Darwin rediscovers, among the beasts and plants, the society of England with its division of labor, competition, opening up of new markets, 'inventions' and Malthusian 'struggle for existence"* (Marx, 1862). However, the known departure comes when Darwin turns the struggle for existence into a concept of natural selection which proposed evolution due to variations. Darwin said:

> Owing to this struggle for life, any variation, however slight and from whatever cause proceeding, if it be in any degree profitable to an individual of any species, in its infinitely complex relations to other organic beings and to external nature, will tend to the preservation of that individual, and will generally be inherited by its offspring. The offspring, also, will thus have a better chance of surviving, for, of the many individuals of any species which are periodically born, but a small number can survive. I have called this principle, by which each slight variation, if useful, is preserved, by the term of

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> Natural Selection, in order to mark its relation to man's power of selection (Darwin, 1859, p.33).

This evolution based on natural selection, as it seems, triggered a continuous chain of new existences affected by different factors but it has been argued that Darwin chiefly believed in 'discontinues evolution' (Osborn, 2018). Darwin connected this natural selection with man's power of selection and departed from maintaining no role of wisdom. As he again says:

> As man can produce and certainly has produced a great result by his methodical and unconscious means of selection, what may not nature effect? Man can act only on external and visible characters: nature cares nothing for appearances, except in so far as they may be useful to any being. She can act on every internal organ, on every shade of constitutional difference, on the whole machinery of life. Man selects only for his own good; Nature only for that of the being which she tends. Every selected character is fully exercised by her, and the being is placed under well-suited conditions of life (Darwin 1859,p. 88).

It is as if, the invisible hand of Smith found a way in natural selection that every small variation that creates wellbeing is considered by default by nature. One can ask, what is the proof of such an invisible cause on apparent natural progress? It seems to fulfill the requirement of saving the phenomena concept (Bogen and Woodward, 1988) whereby what is apparent is narrated without involving in the causal interpretation of the process. These small variations which came to be through changes in the environment and living condition will be adapted is an apparent reality that does not necessarily conclude self-working of evolution because its contraries are also ostensible. There are only options available for any species when it met with a changing environment, either it will sustain incorporating necessary skills or it will die, it is not something ex nihillo people were not aware of. It solely depends on the effort of species according to its working horizon and not mere some invisible hand selecting for it, as Darwin said for nature linking with human selection to choose one or another thing suitable for the fittest. Did Darwin mean that nature by default knows good and bad for every fittest of this universe? *"Although natural selection can act only through and for the good of each being"* (Darwin, 1859, p.43) it seems the case. Given such omnipotence of nature, it will surely be asked, why does nature choose one over the other? and on what basis? Then, from where nature got such omnipotence skill to secure the growth of fittest or species? How would one explain considering the above facts, unintentional inclusion of benevolence of nature towards species that she wants well for each? It is well known that passenger pigeon and Dodo bird that was abundant in the past at two different parts of the world have gone extinct. Should the benevolent nature be held responsible for the murder of these species? Or she was unable to maintain it's by default nature of benevolence? If the survival of fittest

depends on the 'good of each being', it apparently demands there should not be any extinction. The ambiguity lies in the connection between the struggle for existence and natural selection based on the wellbeing of each species, the reconciliation seems inextricable.

Contrary to this *"the advocates of natural selection in ethics assert that morality, social as it is, has been produced out of, and in virtue of, the struggle for existence"* (Irons, 1901, p.272). However, that is not the complete story until one answers, why such a struggle for life is true for Humans as they are not without wisdom? Thomas Henry defined it,

> There is another fallacy which appears to me to pervade the so-called 'ethics of evolution.' It is the notion that because, on the whole, animals and plants have advanced in the perfection of the organization by means of the struggle for existence and the consequent 'survival of the fittest'; therefore men in society, men as ethical beings, must look to the same process to help them towards perfection (Huxley, 1902, p.80).

Henry Fairfield Osborn has answered this puzzle to connect sympathy across the border:

> …through sympathy and reflection, those actions which conduce to the survival of society come to have the high sanction of conscience. The further development of intellect renders a further development of morality possible…………… the cruel process of natural selection is anticipated and obviated by more peaceful methods.' The development of intellect, moreover, leads to a still more significant development of morality, since it involves the gradual extension of sympathy beyond the tribe or nation…. The transformation is complete. The characteristic impulses of human nature are now directly at variance with the impulses which underlie the struggle for bare existence, and yet they are the product of this purely individualistic strife. The struggle for existence leads to the ' selection' of sympathy and intellect, and these turn the struggle of each against all into a struggle of each for all (Huxley, 1902, p.80).

Narration is engulfed in a purely evolutionary concept which later on includes wisdom that Smith has denied for Human struggle. However perplexing is the combination of struggle leading to sympathy, it does not seem to be in line with causal narratives. Once struggle begins with variations adopted, it should become more chaotic in every sense and its end as orderly society is a mere negation of struggle. This biological hypothesis, on the name of natural selection is in sharp contrast with other natural laws. In the beginning, the universe was in complete uniformity (Springel, Frenk, and White, 2006) and after dis-uniformity interrupted it became chaotic which is now known described as entropy. According to it an isolated system exposed to natural processes will end in increasing disorder or entropy of the system. Hence, the idea that the universe is expanding does not necessarily entail that there is, in the universe any systematic order to be recognized without a cause. In this whole

creation dilemma, only one planet earth has got the right amount of physical constants to survive and support life, which again was countered by the multiverse hypothesis though without proof (Weinberg, 1987; Hawkings and Mlodinow, 2010). Sussman and Wisdom's numerical simulation of the solar system for 100 million years shows that the evolution of the solar system along with Jovian planet's subsystem is chaotic (Sussman and Wisdom, 1988). The apparent problem which can be predicted with domesticated species is similar to noting down the positions of planets do not show order inherent in nature, which is as per quantum mechanics unpredictable (Trimmer, 1980). Darwin narrates altogether a different scheme whereby the whole bunch of fittest in every genus will be survived after initiation of chaos that is struggling. According to it, the world which is run by the weakest fittest (Human being) because *"The world's wealthiest individuals, those owning over $100,000 in assets, total only 8.6 percent of the global population but own 85.6 percent of global wealth"* (Global Inequality, 2018), must extinct in near future in scarcity of resources, but the population is increasing and the ratio of inequality also. As if, once any variation initiated a disease in the body will go on increasing by adopting favorable condition even if one take antidotes as a precaution. Hence, there must not be any cure too, to allow natural selection which takes any favorable condition into account.

It would be improper to suggest that Smith and Darwin look struggle in the sense narrated above but their inclusion of sympathy as a moral foundation must come as a surprise, as it is in sharp opposition, says Smith,

> How selfish soever man may be supposed, there are evidently some principles in his nature, which interest him in the fortune of others, and render their happiness necessary to him, though he derives nothing from it except the pleasure of seeing it. of this kind is pity or compassion, the emotion which we feel for the misery of others when we either see it or are made to conceive it in a very lively manner (Smith, 1790, p.11).

In addition to this smith further clarifies that

> Pity and compassion are words appropriated to signify our fellow-feeling with the sorrow of others. Sympathy, though its meaning was, perhaps, originally the same, may now, however, without much impropriety, be made use of to denote our fellow-feeling with any passion whatever (Smith, 1790, p.6).

The reason behind such passion towards fellow beings rest on:

> But whatever may be the cause of sympathy, or however it may be excited, nothing pleases us more than to observe in other men a fellow-feeling with all the emotions of our own breast; nor are we ever so much shocked as by the appearance of the contrary (Smith, 1790, p.9).

In another place, Smith argued that:

> In order to produce this concord, as nature teaches the spectators to assume the circumstances of the person principally concerned, so she teaches this last

in some measure to assume those of the spectators. As they are continually placing themselves in his situation, and thence conceiving emotions similar to what he feels; so he is as constantly placing himself in theirs, and thence conceiving some degree of that coolness about his own fortune, with which he is sensible that they will view it (Smith, 1790, p.17).

At some another round, by specifying it more exclusively:

Before we approve of the sentiments of any person as proper and suitable to their objects, we must not only be affected in the same manner as he is, but we must perceive this harmony and correspondence of sentiments between him and ourselves. Thus, though upon hearing of a misfortune that had befallen my friend, I should conceive precisely that degree of concern which he gives way to; yet till I am informed of the manner in which he behaves, till I perceive the harmony between his emotions and mine, I cannot be said to approve of the sentiments which influence his behavior. The approbation of propriety, therefore, requires, not only that we should entirely sympathize with the person who acts, but that we should perceive this perfect concord between his sentiments and our own (Smith, 1790, p.69-70)

In all such clarifications, Smith emphatically founded morality on sympathy, even without knowing the cause of it. By placing an impartial judge on behalf of self and fellow beings, the action will be judged as it will affect both in the same circumstances. In this way, the judgment will depend solely on sympathy rather than on reason, as Smith believes it, *"Nature has directed us to the greater part of these by original and immediate instincts"* (Smith, 1790, p.69). If not reason, than without providing the cause of sympathy and of this theory of morality, on what foundation Smith wants us to treat actions of fellow being in such a deep manner which enable one man to almost replace with all the required condition fulfilled of another man, to evolve for a while in another person's form?. Such deep definition of sympathy cannot be recognized anywhere in nature and especially in a political economy where Smith himself persists favoring self-interest. How can a person so involved in self-interest and competition be at the same time takes the burden to feel the sorrow of fellow beings?[1] This contrast, proponents will deal to explain in positive direction (Lamb, 1974) and opponents as they say, *"the Wealth of Nations is a stupendous palace erected upon the granite of self-interest"* (Stigler, 1971) will do in reverse but can this be reconciled on a fairground, without being biased to accept what is wrong? Postigo had tried to reconcile this contrast:

If we accept that Smith's framework of sympathy in TMS[2] was the foundation for what we understand as empathy today and, no doubt, influenced by his virtue ethics moral framework, then the reconciliation with his explanation of

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[1] Which as per smith is more near to sympathy than the feeling of joy
[2] It means the book, Theory of moral sentiments

self-interest in WN³ does not present a struggle. First, the road to virtue demands that we seek personal flourishing through virtuous character building. This excludes self-interest as a central guide. Instead, the guide can only be moderation as a regulator for our actions, including those that are exclusively in the direction of self-interest. *In order to reverse excesses in the direction of self-interest, the corrective mechanism is compassion, which captures Smith's notion of sympathy*. Second, self-interest becomes fundamental in economizing actions in order to unfold the machinery of creativity in the pursuit of one's goals which, according to Smith, include the sympathy and approbation of others. Accordingly, the motivating factor of all behavior is sympathy as compassion, for we are fundamentally creatures in need of community and acceptance. Self-interest only brings us to a modicum of self-respect from which we then feel worthy to seek the good opinion of others. If we take self-interest too far, then we will not achieve the minimal sense of dignity to be a part of civil society. It is for this reason that self-interest cannot be the regulator of our behavior. Only sympathy as a precursor notion of empathy can regulate our plans toward flourishing and membership in community (TMS 85–7). To put this metaphorically, sympathy serves as the door that allows individuals the entrance to collective experiences with others in different realms (moral, economic, political, and so on). And the knowledge that each individual gains from these collective experiences function as an increasingly accurate measure for regulating self-interest and perfecting our states of character (Postigo, 2014, p.145).

This reconciliation does not answer the problem of what motive led Smith to explain morality in such a philosophical manner by avoiding any standard or absolute reference point to judge actions. By not employing standard, Smith has opened in a court of morality actors being their own judge. The priest has stretched this idea to Darwin, who anyhow tried to convert the philosophical employment of sympathy into biological evolution on its own:

The following proposition seems to me in a high degree probable—namely, that any animal whatever, endowed with well-marked social instincts, would inevitably acquire a moral sense or conscience, as soon as its intellectual powers had become as well developed, or nearly as well developed, as in an."
Thus, in the human lineage, sympathy evolved into the social instincts, which Darwin considered to be especially strong among members of the same community of organisms (Priest, 2017,p.586).

Neither Smith nor Darwin seems to draw attention to the inspiration behind such contrasting views that transform struggle into sympathy. This arcane angle with the ever-proliferating deep status of sympathy avoiding reason and social-behavioral aspect was by evolution touched on humans provide a framework to devoid any *a*

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³ Book, Wealth of nations

priori idea in existence. In lieu of knowledge of *a priori* about sympathy, an all-time struggle of species will result in jealousy, competition, and anger. To simply bring sympathy out of evolution on assumptions unleashed the argument of evolution, as Darwin based his assumption on empirical experience which is only saving the phenomena. Morality is an issue which implicates both philosophical and practical approach to judge any action, in this regard, Smith and Darwin were unable to show where these concepts can be applied in a practical sense rather than narrating how something is supposed to happen, it is mere conjecture. Bold theories predict future and allow instances to check its validity. Due to such unrealistic proclivity towards sentiments, till now, Smith and Darwin are known with their concept of self-interest and struggle of species. Because it seems impossible to demonstrate at the same time, the existence of self-interest and sympathy or struggle for existence and sympathy, as has been narrated through several examples by both the authors.

It is argued, therefore, that sympathy alone cannot be the foundation of morality but one of the ways to form the society. If reason cannot be considered a judge, then sympathy which is not present all the time, also cannot be given status to judge any action. In the scarcity of both reason and evolutionary assumption of sympathy, is there any way to use sympathy in its proper way which can form a society with proper function?. Societies which bear strength, to not only change its own course but the course of neighboring societies different from each other?. Can such a deep concept of sympathy be practically demonstrated and acted upon by people? Was it the first time in history that sympathy was called for action in human development? Are Smith and Darwin pioneers of the theory of morality based on sympathy?. The next section will answer these startling questions in brief.

The evolution and formation of Medinians Muslim society

After 13 years of tough evolution of the new society of Muslim in Makkah, that minority along with Prophet Muhammad (peace be upon him) migrated to a small oasis *Yathrib* (Madina)(Al-Bukhari 1997, 3851). As they move, these new bearers of faith kept in mind ``*The Prophet* (peace be upon him) *said, "The (reward of) deeds depend on intentions, and every person will get the reward according to what he intends. So, whoever migrated for Allah and His Apostle, then his migration will be for Allah and His Apostle, and whoever migrated for worldly benefits or for marrying a woman, then his migration will be for what he migrated for'*(Al-Bukhari, 1997, 2529). Such teaching brings every believer into a mirror to question his own self, there is no other one to know, what he or she intends to move for. The actor becomes the judge of his own movement but that he is not alone in knowing his intention, a believer thinks of accountability in the presence of God. So whoever evolves from that variation in nature was in good standing to corroborate and adapt this circumstance. Why would anyone force himself to take that serious step after being Muslim? It was said to them by Lord ``*And to those who migrated in*

Allah's cause after being oppressed, We shall indeed give them a good place in the world, and indeed the reward of the Hereafter is extremely great; if only the people knew(Raza, 2010,16:41) . In addition to that, it was their pledge that ``*The Prophet (ﷺ) said "None of you will have faith till he loves me more than his father, his children and all mankind''*(Al-Bukhari, 1997,p.15). So, the evolution of this small society sprung on the basis of love which later on became so evident that it was converted as one of the ways to judge fellow believers. Migration to Madina created a huge loss and without a future clue what is going to happen, as evolution exercises its power. In simple words, it was a struggle from all the corners. They have left everything behind, their properties, relations, loved ones and then most importantly after embracing Islam their sin of *Jahiliya.* Those travelers were having a new Imaan and a leader of no compare, as they find him, so they became *Muhajir.*

On the other hand, after embracing Islam by the six people of tribe *Aws* and *Khazraz* at the place of *Aqabah*, Islam already entered in Madina. With the pledge at the hand of Prophet Muhammad (peace be upon him) Medinians were desperately waiting for him to emigrate Medina. At the second *Aqabah* around 70 people including three women converted to Islam and when Prophet Muhammad (peace be upon him) send Mus'ab of 'Abd ad-Dar (May Allah be pleased with him) to teach Islam in Medina, in eleven months there was a lot of conversion due to Mus'ab (May Allah be pleased with him). At one hand there are people waiting for the coming of Prophet Muhammad (peace be upon him) and there were people who emigrated on the call of him.

At this juncture it is necessary that the two societies inspired by the same reason should have a concrete foundation for cooperation, but what would be that foundation in terms of morality. As all of them came to be what they are for the sake of God and His Messenger, as it was revealed during 622-623AD that *"and accept whatever the Noble Messenger gives you, and refrain from whatever he forbids you, and fear Allah; indeed Allah's punishment is severe"* (Asad, 1980). So there is no way out to do things out of context. The ruling remains the revelation on every aspect of the action. To bring these two societies into a joint venture and built the feeling of belongingness, there is lot of places in the Quran where it talks about the Muslim Brotherhood during the first year of Migration, *"And the Muslim men and Muslim women are the friends of one another; enjoining right and forbidding wrong"* (Raza, 2010, 9:71) and it is said:

> And hold fast to the rope of Allah, all of you together, and do not be divided; and remember Allah's favor on you, that when there was enmity between you, He created affection between your hearts, so due to His grace you became like brothers to each other; and you were on the edge of a pit of fire *(hell)*, so He saved you from it; this is how Allah explains His verses to you, so that you may be guided (Raza, 2010, 3:103).

Prophet Muhammad (peace be upon him) has said:

> The parable of the believers in their affection, mercy, and compassion for each other is that of a body. When any limb aches, the whole body reacts with sleeplessness and fever (Al-Bukhari, 1997,5665).

Such unknown but persuading teachings led to the evolution of a society that embraced all the people with the difference in color, race, nationality, culture, and others. The point is that, unlike the Smith and Darwin, there was no natural struggle on the contrary believers were prone to help other believers, and there is a lot of evidence available for it. The most important turning point, from our point of view, is that in the initial days of the formation of Islamic society the concept of brotherhood surpassed the blood relation, even more deeply, as is reported in Hadeeth:

> The Messenger of Allah established the bond of brotherhood between (some of) the Quraish and (some of) the Ansar, and he established the bond of brotherhood between Sa'd bin Ar-Rabi' and 'Abdur-Rahman bin 'Awf. Sa'd said to him: 'I have wealth, which I will share equally between you and me. And I have two wives, so look and see which one you like better, and I will divorce her, and when her 'Iddah is over you can marry her.' He said: 'May Allah bless your family and your wealth for you. Show me -i.e., where the market is.' And he did not come back until he brought some ghee, and cottage cheese that he had leftover. He said: 'The Messenger of Allah saw traces of yellow perfume on me and he said: 'What is this for?' I said: 'I have married a woman from among the Ansar.' He said: 'Give a Walimah (wedding feast) even if it is with one sheep (An-Nasai, 2007,3388)

This concept of brotherhood should be taken as *variation* due to circumstances. That was done for the sake of securing the society to cope up with the tough conditions. Apart from that, this brotherhood was so deep that it included, Inheritance share in wealth even some were ready to give their wives which goes beyond the imagination. It was an economic and political solution to which Muslims met in the early stages of *Hijrah*. Due to this economic pact stability came in the society because everyone was taking care of every other. One should ponder over the political, economic and sociological insight of Prophet Muhammad (peace be upon him) that how he is evolving and forming this new society by providing necessary variations to cope up with new conditions of life. Once more his unmatched wisdom brings the society into the consciousness of neighbors:

> The Prophet (peace be upon him) said, "By Allah, he does not believe! By Allah, he does not believe! By Allah, he does not believe!" It was said, "Who is that, O Allah's Messenger (peace be upon him)?" He said, "That person whose neighbor does not feel safe from his evil."(Al-Bukhari, 1997, 6016)

As per Smith and Darwin, these words of wisdom as a rule to follow cannot form an orderly society which is based on struggle and even sympathy can judge the actions but where it can become one of the pillars of reason and revelation at once finds a place through Prophet Muhammad (peace be upon him). The evolution of this

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Muslim society whose previous sins have been forgiven now found a new kind of teachings from their lord and in this evolution a verse declares that:

> Indeed Allah does not change His favor upon any nation until they
> change their own condition (Raza, 2010,13:11).

Though, one can apparently acknowledge the motivation and a central point of contemplation for that Muslim society at the beginning of the Medinians evolution. They were warned about the consequences they may fall into if proper measures would not be taken. It is due to the fact that, in the Medina itself there were *Munafiq*, Jews and always a fear of attack from the pagans of Makkah. To extend the limit, there were Byzantine in the west and Persian in the east. The circumstances were tough and fertile; any laziness on behalf of the Muslim may lead to a catastrophe. In Darwinian terminology, that natural selection is based on good fortune, will not allow this evolving society to go beyond own territory. The verse explained that it is not the natural selection who is going to affect the position of a `willed' man, but the man's will itself. There is no other cause which can improve the condition until the very being wants to improve, but it may lead to good or bad, is not to be called into question by concentrating only on the actor, rather it was told to Muslim that, you try and Allah is there to change the situation. It is related in detailed that:

> The Prophet (peace be upon him) said, "Allah says: 'I am just as My slave
> thinks I am, (i.e. I am able to do for him what he thinks I can do for him) and
> I am with him if He remembers Me. If he remembers Me in himself, I too,
> remember him in Myself; and if he remembers Me in a group of people, I
> remember him in a group that is better than they; and if he comes one span
> nearer to Me, I go one cubit nearer to him; and if he comes one cubit nearer to
> Me, I go a distance of two outstretched arms nearer to him; and if he comes to
> Me walking, I go to him running (Al-Bukhari, 1997,7045).

Given such extraordinary presence of God in the life of Muslim, everybody was conscious that, any difficult condition can be changed not only mere by depending on the resources but by a deep feeling that everything is from the resources of the lord, if he wills, severe conditions of life can be changed. The presence of God in forming the society is evident that revelations are coming as per the situation. Those situations, in Darwinian terms for a species variation, were responded by God sometimes through revelation and sometimes through the Prophet himself. Due to this linked and `on the time' revelation, Muslims must have got abundance reason to feel the presence of God. And this presence along with the physical presence of Prophet Muhammad ﷺ was corroborating the reason to fine-tuned belief rather deep and follow the commands in a very strict manner.

This evolution of Muslim society has been narrated to apparently declare the kind of process and principle on which that evolution was taking place. It is in these conditions that every aspect of Human development becomes ostensible. It was

argued in the discussion of morality based on sympathy understood by Smith and Darwin in which they have only narrated these phenomena without proving it naturally because the mere description was already known to people which Ibn Khaldun has discussed. In addition to that, they have not discussed the cause behind the sympathy. It is at this juncture when it is already explained that Muslim believe Allah as the source of everything, the call was made to see their brethren on the terms described below:

> None amongst you believes (truly) until he loves for his brother" - or he said "for his neighbor" - "that which he loves for himself (Al-Hajjaj, 2007, Book1, Hadith 77)
> The Messenger of Allah [SAW] said: "By the One in Whose hand is the soul of Muhammad, none of you has believed until he loves for his brother what he loves for himself of goodness (An-Nasai, 2007,5017).

Without a doubt, there is a striking similarity between the statements of Smith in defining the role of sympathy except for the unbiased observer and the Hadeeth narrated above. As claimed earlier, Prophet Muhammad (peace be upon him) proposed this startling concept in front of people. Nevertheless, this proposal should be read in conjunction with the above narration considering the formation of a new society. Even if there were problems with Muslims, they ought to behave by willingly changing their old behaviors of enmity, which was evident between Meccan and Medinians tribe. Now, due to the order of the Prophet Muhammad (peace be upon him) they have to mold their nature accordingly for the sake of Lord. From the tradition, it is clear that it was not any simple matter to be ignored because it may lead to disbelief if ignored. This love for each other cannot become part of nature until sympathy takes the lead role in defining the actions. This love is more severe than sympathy otherwise to give one's wife to his brethren is no simple task. This mutual love led to the judgment of every action `by living the same condition' of his brethren concludes the matter in a peaceful way.

From the second perspective, a Muslim should love for his brethren what he loves for himself. This concept from the outset denies the possibility of any struggle for the sake of survival because it was told to the Muslims that:

> Food for one (person) suffices two, and food for two (persons) suffices four persons and food for four persons suffices eight persons(Muslim 2007, 2059)

The survival of the definition of Smith and Darwin depends on life sustenance. However, due to such love towards Muslim brethren, one has all the options to avoid any struggle because the basic requirement of food was also been shared. This is only an example to narrate overall dynamics the concept of brotherhood along with various sayings to keep the love for brethren brought into the society. It is not possible to explain all the dimensions of such concepts here.

Hence, as was claimed, Prophet Muhammad (peace be upon him) formed a society which Smith and Darwin came to know through `saving the phenomena concept'. Due to such a strong foundation that society flourished which fought with the two mightiest empires Roman and Persian with fewer resources. Though several factors contributed to the downfall of Muslim civilization in the later period, the loss of this brotherhood should be considered one of the more important ones. This perspective has ample consequences which started with the *Ummayyah* dynasty. However, neither Smith nor Darwin was first to call this notion of sympathy for moral judgments. The evolution of sympathy by nature is absent from Darwin which has been regarded by Muslims from God because it is not the sympathy of love the ultimate source of moral judgment but God. At last a full society has been built on such notions as part of nature which came into existence through variations in the nature of humans. It would be an interesting topic for research to stretch the link between this line through historical survey, as Smith knew the Muslim world.

Conclusion

The morality based on sympathy has been discussed with three different perspectives. First, the concept of sympathy has been explained from Adam Smith's work and how he understood the sympathy by reconciling his notion of struggle and sympathy at once. Then how this struggle was also considered by Darwin in his theory of evolution. Darwin argued that Sympathy was developed due to evolution after generations. But they were not able to narrate the cause of sympathy which is the central contradiction between their concepts of struggle and sympathy. Secondly, this concept of sympathy has been stretched back to the saying of Prophet Muhammad ﷺ with almost the same statements and explanations. Thirdly it is argued that Smith and Darwin only narrated phenomena on the name of sympathy but Prophet Muhammad (peace be upon him) has evolved a whole new Muslim society based on that concept while describing the cause. So sympathy became one of the ways to develop the notion of morality but its ultimate judgment remains with God because everyone felt the presence of God every time due to the situational revelations. An interesting study could be made to see how such same concept reached to Smith or it was an independent idea.

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Examining Conditions of Maṣāliḥ Mursalah fulfilling the Higher Objectives of Islamic Law (Maqāṣid al-Sharīʿah) in the Modern Age

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ABSTRACT

The Islamic world is going through a stagnancy period in developing its own philosophy in consideration with its valuable customs and past legacy. It is because the Western world is more advanced than the former in all spheres of life. Moreover, the Islamic world is always using western technology for seeking compatibility in matters related to social and financial requirements for the sake of its survival. Therefore, Islamic scholars of our time try their level best to come up with solutions in the matters that clash with the Islamic ideology or any unresolved Sharīʿah issue to mitigate the Sharīʿah requirements by using the ideology of survival hidden in the Islamic Jurisprudence tool of maṣāliḥ mursalah which is used under the extreme challenge of survival. Application of the tool of maṣāliḥ mursalah in the contemporary world is again subject to full filling its required conditions which are well elaborated by Imam Ghazali in his book Al-Mustasfa. The problem lies with the conditions of it whether they comply with the contemporary world where Muslims are no more in control and where the whole world is considered to be one under the concept of the global village. The article seeks to explore new horizons to make the tool of maṣāliḥ mursalah (used in Islamic Jurisprudence) more useful and workable by complying it with the objectives of Sharīʿah known as maqāṣid al-Sharīʿah. The work is an extension of the philosophical thought of the great scholar.
Keywords: *Sharīʿah, Maṣlaḥah Mursalah, Maqāṣid al-Sharīʿah, Islamic Finance.*

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1.   Introduction

The establishment of the Islamic bank is considered to be a hallmark when we talk about Islamic Finance. Truly, its impact has captured the attention of global financial institutions which shows its demand is not just from the Muslim Countries. Having said that, fewer people know that the idea of Islamic banking is based on the concept of *Sharīʿah* compliance. This is for the sake of mitigating the conventional banking system to a level that is acceptable in the line and thinking of Islamic *Sharīʿah* Law. This shows how *Sharīʿah* laws are flexible when it comes to needing and necessity. Keeping in mind the concept of *maṣlaḥah mursalah*, it gives a free hand to the jurists to engineer financial products compatible with *Sharīʿah* based financial laws to cope with the situations that are apparently gone out of hand. The study emphasizes the concept, condition, and application of *maṣlaḥah mursalah* whether it is encompassing the objectives of *Sharīʿah* or not. Sometimes it is sensed that a financial transaction designed for the sake of *Sharīʿah* compliance passes the *Sharīʿah* regulations but still its implications are not promising for the community, especially the Muslim community as a whole. Therefore, it is important to understand the perimeters of *Sharīʿah* upon which the philosophical building of Islamic Banking was introduced. The excuse availed by the *Sharīʿah* scholars not be able to introduce a financial system that is purely a product of Islamic based financial laws is due to the non-availability of the resources in the Islamic World due to the prevalence of the capitalist economic system instead. Is that excuse acceptable itself? It's amazing to see how both systems are complementing each other without compromising their philosophical boundaries.

2.   Definition of *Maqāṣid al-Sharīʿah*

One of the earlier scholars who came up with the idea of *maqāṣid al-Sharīʿah* was *Imām al-Juwainī*[1] who thought it to be parallel to the concept of public interest. No doubt in a broader concept of *maqāṣid al-Sharīʿah*, it is the main objective and goal of every jurist that he must attain when it comes to the solution of a unique problem never dealt with before.

However, one of his successors, *Imām Ghāzalī* elaborated *maqāṣid al-Sharīʿah*, which he placed entirely under what he called 'unrestricted interests" known as *maṣlaḥah mursalah.*[2] The idea is highly adored by the later jurists of Islam. This idea is more interlinked with the application side of the problem. *Al-Qarāfī* linked up *maqāṣid al-Sharīʿah* by a 'fundamental rule' that he stated as:

> *"Any purpose that is not valid unless it leads to the fulfillment of some good manfaʿah or the avoidance of some mischief (mafsadah)."*[3]

There is another dimension of *maqāṣid al-Sharīʿah* that is interlinked with the legislation side. Among them *Fakhruddin al-Rāzī, Al-ʿAamidī and Najmuddin al-Tufī* were more of this view by defining it in these words:

> "What fulfils the purpose of the legislator."[4]

2.1   Levels of *Maqāṣid al-Sharīʿah*

Traditionally, *maqāṣid* are divided into three basic levels which are named as necessities (*ḍarūriyyāt*), needs (*ḥājiyāt*), and luxuries (*taḥsīnīyāt*). Necessities, as per *Imām Ghāzalī*, who is the creator of the idea, further revolve around preserving *Sharīʿah* goals through the preservation of one's faith, soul, wealth, mind, and offspring. These necessities are essentials for stable human life itself. There is also a general agreement that the preservation of these necessities is the objective behind any revealed law and not just the Islamic law. Purposes at the level of needs and luxuries are considered not that compelling because of the reason that life carries out smoothly even in its absence but with some difficulties. Examples are marriage, trade, and means of transportation. Islam encourages and regulates these needs but having said that the lack of any of these needs is not a matter of life and death, especially on an individual basis. Especially at the level of luxuries, life is more cherishing and promising such as using perfume, stylish clothing, and beautiful homes. These are things that Islam encourages, but also asserts how they should take a lower priority in one's life. The levels in the hierarchy are overlapping and interrelated. In addition to the theory, each level should serve the level(s) below.[5] *Imām Shātibī* while discussing the concept of *ḍarūriyyāt* clearly stated that it shouldn't be considered in the areas of ʿ*ibādah*. He stated the idea that it should be only considered in the matter of *muʿāmalāt* (worldly matters).[6] Also, the general lack of one item from a certain level moves it to the level above. For example during the time of global economic crises, moves trade from a need level into a life necessity level and so on. That is why some jurists preferred to perceive necessities in terms of 'overlapping circles,' rather than a strict hierarchy. However, it is the level of necessity that makes the objectives of *Sharīʿah* questionable if its purpose is not served.

2.2   Principal objectives of *Sharīʿah*

There are five notable principal objectives of *Sharīʿah* that are discussed under the chapter of necessities (*ḍarūrah*), unanimously accepted by the *Sharīʿah* scholars:

- Preservation of *Din* (religion)
- Preservation of *Nafs* (life)
- Preservation of ʿ*Aql* (intellect)
- Preservation of *Nasl* (progeny)
- Preservation of *Māl* (property)

2.3 A Broader Aspect of *Maqāṣid al-Sharīʿah*

Maqāṣid al-Sharīʿah refers to the higher objectives of Islamic law. According to *Imām al-Juwainī*:

> *It refers to the goals and purposes of Sharīʿah either generally (maqāṣid al-ʿāmmah) or about its themes and subjects (maqāṣid al-khāṣah).*[7]

This definition is based on the theory of universality related to *maqāṣid al-Sharīʿah* by the eminent *Imām Shātibī*. According to his understanding, the purposes of *Sharīʿah* can be categorized into three types:

2.3.1   *Maqāṣid al-ʿāmmah* (objectives based on the general purposes) which are the objectives of *Sharīʿah* for the benefit of the people.

2.3.2   *Maqāṣid al-khāṣah* (objectives based on the specific purposes) which are the objectives of *Sharīʿah* in a specific dimension or aspect of life, such as intentions in commercial affairs, family life, or the criminal court.

2.3.3 *Maqāṣid al-juzīyah* (objectives based on the partial purposes) which are the aims or wisdom of *Sharīʿah* behind a specific activity such as family responsibility to meet the goal of marriage and avoiding continuous harm to abstain from divorce.[8]

Maqāṣid al-Sharīʿah has pivotal role in the *aḥkām* laid by the Lawgiver. It is a scientific method to observe the underlying causes for which a certain law may be commenced. Not only this, it assures that the certain benefits expected or harms repelled from a given law must be fulfilled in its true letter and spirit. In the current modern age laying down, laws that are in full conformity to Islamic law is not an easy task at all. For a *mujtahid*, it is compulsory to have a good hold on *Sharīʿah* knowledge so that it may be possible for him to deduct new *aḥkām* in the light of the objectives of *Sharīʿah*.

Maqāṣid al-Sharīʿah comes out of to root words *maqṣad*, firstly *maqāṣid* which means objectives, and secondly *Sharīʿah* which refers to Islamic law. Thus, *maqāṣid al-Sharīʿah* takes good care of all the aspects of *Sharīʿah* that ensure wellbeing or at least meaningful survival of the human race. Hence *Sharīʿah* is a concept that welcomes its experts to have a balanced approach. From individual to society, harmony must prevail in every single aspect and circle of life. While nations are thriving for the advancements in all spheres of materialistic demands, it also faces challenges like poverty, hunger, illiteracy, diseases, immorality, religious violence, immorality, moral vices like injustice, operation and inequality, and many other unaddressed issues in human life. Human development models in which the latest model Millennium Development Goals (MDGs) has failed to cater to the problems of humanity. This failure will advocate that going through figures and collecting data for a certain problem isn't enough. It has failed to pass the ethical tests of a synthetic and inclusive approach that is well grounded in the essentials of the Islamic approach. This ethical test of a synthetic and inclusive approach is thoroughly debated under the heading of *maṣlaḥah*.

3.   Understanding the terminology of *Maṣlaḥah Mursalah*

Maṣāliḥ are deducted from the underlying cause or attributes of the *aḥkām*. According to *Imām Ghāzalī* the definition of it is as follows:

> *"In principle, it is an expression of procuring benefit or deferring harm. By this, we do not mean procuring benefit and deferring harm*

by the objectives of the creation and their interest in attaining their
objective. Relatively, what we mean (by this) is the benefits of
preserving the objectives of the Sharīʿah; which are the preservation of
religion, life, intellect, progeny, and wealth. So, all that which entails
in preserving these five essentials is known to be maṣlaḥah."[9]

The principle of *maṣlaḥah mursalah* helps in many ways to preserve the interests of the public through securing ease of life and repulsion of unavoidable situations faced by Muslim societies as a whole. Some of the important points related to its composition are as follows:

o   Fiqh in its entire composition is based on the best interests of society. What is desired is the benefit and evidence for that, and harm is forbidden, and there are many indications for that. This is a fixed origin agreed upon by *fuqahā'* (Muslim jurists). None of them claimed that the *Sharīʿah* brought anything that was not in the best interest of the people, nor did any of them say before that there is anything harmful in any law or ruling in the *Sharīʿah* that was legislated for Muslims. Although there is no disagreement on its basis, there may be an application to it.[10]

o   The *Sharīʿah* contains an explanation of almost all the thing that results from the welfare of people. This fact is proven through the concept of analogy. Hence, any injunction present in the text can be inferred and applied to a text by analogy, and the *mujtahid* cannot discover any welfare until and unless there is no testimony to it in the *Sharīʿah*. *Imām Shafī* was the author of this opinion. Therefore, he launched an all-out attack on all those who considered that no benefit had been approved through *istiḥsān* which is considered a secondary source of legislation of *Sharīʿah* from the legislator. According to *Imām Shafī*, the basis of his opinion is based upon the fact that Allah who is the Lawgiver can't neglect the welfare; rather, Allah Almighty did not leave the believer in vain. Any existence to a benefit must be delivered to society for a larger good. Allah says in the Qur'ān:

"Does man reckon he will be left to go on unimpeded?"[11]

Life is constantly evolving. So, the *maṣāliḥ* related to life is always changing every time. If these *maṣāliḥ* are not updated and adjusted to the interest of the people, they would be in collective trouble. Avoiding it in a way that does not violates the *Sharīʿah* goal which leads to the preservation of common interest and staying away from hardships.[12]

The main goal of descending *Sharīʿah* is to provide an environment for their belief that is more beneficial and less harmful. Allah said to his Messenger in Qur'an:

﴿وَجَٰهِدُوا۟ فِى ٱللَّهِ حَقَّ جِهَادِهِۦ ۚ هُوَ ٱجْتَبَىٰكُمْ وَمَا جَعَلَ عَلَيْكُمْ فِى ٱلدِّينِ مِنْ حَرَجٍ ۚ مِّلَّةَ أَبِيكُمْ إِبْرَٰهِيمَ ۚ هُوَ سَمَّىٰكُمُ ٱلْمُسْلِمِينَ﴾[13]

"And struggle for (seeking the pleasure of) Allah, a struggle that is
owed to Him. He has chosen you and did not impose any hardship on
you in the religion, the faith of your father Ibraheem."

- The scope of *maṣāliḥ* is wider than *qiyās* (deduction). Many historical events advocate the facts. Compilation of Qur'an from the fear of its losing, battle of Abu Bakr Siddique (May Allah be please with him) against those who violated the law and refused to pay *zakat*. All these examples and like are proof of the fact that *maslaḥah mursalah* are a legal source of law.[14]

- The *maslaḥah* is genuine in nature as opposed to an imaginary *maslaḥah* that is not worthy of it. Legislation-wise, there must be a reasonable possibility that the benefits may be transferred like abstaining harms it may entail otherwise. An imaginary/ delusional *maslaḥah* example is the devolution of the husband's right to divorce by authorizing it completely to the court.[15]

- The underlying cause has variable levels from lower, parallel to higher orders. A classic example is the prohibition of wine. The underlying cause at the lower level is intoxication. While at the underlying cause at the higher level is protecting one's intellect required to perform *Ibadah* especially.

  The two words *maslaḥah* and *manfaʿah* are synonyms for each other. Literally speaking, it means benefit or utility. It is defined as the seeking of benefits and repelling of *ḥarām*. In modern philosophy, this law is similar to the law of utility expounded. This law was initially discussed by Jeremy Benham, according to him it means securing the maximum human happiness.[16] Although the definition is close to the meaning of *manfaʿah* it lacks the meaning of *maslaḥah*. However, the technical meaning of *maslaḥah* is different, it is seeking benefits and repelling Haram as stated by the lawgiver. Hence there may be a clash between human desire and pleasure according to the Human reasoning and commandments of Islamic Law. The clash may be because of personal gains, wrong interpretations of *Sharīʿah* that looks like all right from its outer core, avoidance of the larger scoop of the *Sharīʿah*, and likewise other reasons that couldn't be ignored. This implies the fact that mare implementation of *Sharīʿah* won't be enough rather it should be meaningful in complying with the objectives of the *Sharīʿah*. Our history is evident to it as many times exception. This elaborated fact is evident in the definition of Imam Ghazali regarding *maqāṣid al-Sharīʿah*:

  > "What we mean by *maslaḥah*, however, is the preservation of the ends of the *shar*."[17]

  Preservation of the ends of *Shar'* here refers to the *maslaḥah mu'tabarah*. *Maṣāliḥ mu'tabarah* are considerable circumstances in the eye of *Sharīʿah* because they don't clash with the objectives and principles of Islamic law. A classic example is the underlying cause of the prohibition of wine is intoxication, this can be extended to other intoxicating items and the law can execute them as *ḥarām* items. So, by generalizing the underlying cause we can preserve the life which will preserve society as a whole. So, we can say that preservation of life is one of the *maṣāliḥ mu'tabarah*. On the other hand, if any sort of clash arises while preserving the end of *Sharīʿah* then

those *maṣāliḥ* will be considered as *maslaḥah* might. All of these *maṣāliḥ* are well identified and pinpointed to the extent there is less or eligible margin of error. The problem lies in identifying *ḥukam* in the newly recorded cases. This is catered in another type of *maslaḥah* whom *Sharīʿah* has not spoken out about and considered to be new cases confronted. These are known as *maslaḥah mursalah*. The word *irsāl* means to *let go*. This means that the solution for the issue being considered, the text has let go of it. Dr. Alauddin Al-Zafrani elaborates the terminology in a scholarly way saying:

"وأما المصلحة المسكوت عنها: فهي التي لم يرد في اعتبارها أو إطالها دليلٌ خاص من الكتاب أو السنة أو الإجماع أو القياس، لكنها لم تخل عن دليل عام كلي يدل عليها، فهي إذن لا تستند إلى دليل خاص معين، بل تستند إلى مقاصد الشريعة وعموماتها، وهذه تسمى بالمصلحة المرسلة. وإنما قيل لها مرسلة لإرسالها؛ أي: إطلاقها عن دليل خاص يقيد ذلك الوصف بالاعتبار أو بالإهدار ولهذا قبل أن نحكم على عمل بأنه حلال لأن فيه مصلحة، علينا أن نبحث عن نوع المصلحة؛ فإذا كانت ودائع البنوك وشهادات الاستثمار – مثلاً – تدخل تحت عقد القرض فكل زيادة على رأس المال هي من الربا النسيئة المحرم، فليس لأحد أن يقول بالحل لأن فيها مصلحة كما يدعي."18

As for the term *al-maṣlaḥah al-maskoot anha*: it is the case in which the Lawgiver didn't specify any evidence or proof from Quran, Sunnah, through consensus or analogy that may potentially specify its being right or wrong, but is abandoned, as general evidence that indicates it, then it is not based on a specific evidence, but rather it is based on the purposes and general characteristics of the law which is called *maslaḥah mursalah*. Rather, it was said to be *mursalah* due to its being sent; that is: specific evidence been tagged that restricted the description of its characteristic in consideration of either enforcing it or rejecting it. Therefore, before we judge a practice as halal because it is a *maslaḥah* to deem so, we have to search for the exact *maslaḥah*. If for example any transaction entered under the loan contract, proven to be an increase in the capital creates usury, then that is forbidden, so no one can say that it is *maslaḥah* because it has an amount of interest claimed.

 Hence, the application of *maslaḥah mursalah* comes into action, once the jurist fails to find the solution to the problem directly from the primary sources of *Sharīʿah*. It is because he can't create a direct link from the text. Thus the jurist can't find the rule for the desired case through literal interpretation nor can he extend the application from a certain rule through *qiyās*. The only way to find the solution is to look up all the evidence collectively provided in the legal texts related to a certain issue. A classic example of *maslaḥah mursalah* is the compilation of the Quran. Although the orderly series of surah was declared by Prophet (peace be upon him) it wasn't written into book form until in the late period of the reign of Abu Bakar Siddique *(*may Allah be pleased with him). The decision was taken with a larger canvas and greater interest in the preservation of *dīn*. Another example with a different perspective is the ruling of Umar (may Allah be pleased with him) against a murderer. Umar (may Allah be pleased with him) abrogated the rule of *qiṣāṣ*. He maintained his decision to kill all of those who planned to kill and not just one who killed the person.[19] This decision was again taken in the larger canvas of preservation of life. In Quran Allah says:

"In retaliation, there is life for you."[20]

However, this definition of *maṣlaḥah* is assimilated with other attributes that directly affect its application. Say for instance Imam Ghazali's stance about *maṣlaḥah mursalah* is required to fulfill any utter important need (*ḍarūrah*) to sustain the flow of life in accordance to its *maqāṣid* related to *Sharīʿah*. These essentials that guarantee the objectives of *Sharīʿah* are the preservation of life, *dīn*, wealth, mind and off springs. This means that the outcome of the application of *maṣlaḥah mursalah* will be dependent on these essentials. Imam Ibn e Taymiyyah on the other hand expanded the scope of these essentials and declared that preservation of *Sharīʿah* is not just limited to the former essentials. Dr. Gowhar Quadir Wani talks about it in these words:

> "Taqi al-Din Ibn Taymiyyah was probably the first scholar who turned away from confining the *maqāṣid* to a specific number. Extending the scope of *maqāṣid*, he added to the list such things as the fulfilment of contracts, preservation of the ties of kinship, honouring the rights of one's neighbour, in so far as the affairs of this world are concerned, and the love of God, sincerity, trustworthiness, and moral purity, in relationship to the hereafter"[21].

Finally, contemporary studies introduced new objectives of *Sharīʿah* that were induced directly from the texts, not from the work of jurisprudence literature in schools of Islamic law. Significantly, this approach allowed the intentions to overcome the shortcoming of historical *fatāwá* representing the values and supreme principles of the texts. So, detailed provisions will emerge from these general principles for a more deep and more thorough understanding.

Rashid Rida, a well-renowned scholar of Islam while surveying the Qur'anic text to identify the objectives of *Sharīʿah* came up with some variable points that were unintentionally left unnoticed by the former jurists. This includes reforming the pillars of faith and spreading awareness of Islam as a religion of pure nature, reason, knowledge, wisdom, evidence, freedom, independence, social, political and economic reform, and women's rights.

Another great scholar Al-Taher Bin Ashour suggested that the general objectives of Islamic law are the preservation of order, equality, freedom and facilitation and the preservation of purity (abundance). Here it should be noted that the purpose of the "freedom" proposed by Ibn Ashour and Many other contemporary scholars differs from the purpose of slavery. Here a contemporary sense differs from the past because nowadays Muslims are captive of the secular/ capitalistic order of the world, especially the economic world order. He debated that the main objective of *Sharīʿah* is to secure the fundamentals of the Social System in Islam. This comes with the concept of freedom. It has many concepts like freedom of speech, freedom of belief and

disbelief, and freedom to adopt a culture. He advocates that the background of freedom comes from the concept of free will (*mashiyah*). [22]

Yusef Al-Qaradawi in his Survey of the Noble Qur'an, concluded the following appealing purposes that Shari'ah suggested are preserving faith, human dignity and rights, inviting people to worship God, and purification of the soul, restoring moral values, building a righteous family, fair treatment of women, and building a strong Islamic nation, and the call to a cooperative world. However, al-Qaradawi states that it is only necessary to propose a theory for a universal purpose. It occurs after developing a level of experience with detailed texts. [23]

Taha Jabir Al-Alwani indicated that in the Qur'an, the supreme and prevailing purposes him are monotheism, the purification of the soul, and the development of civilization. [24]

This proves that although the objectives of *Sharīʿah* are unchangeable at the same time the compelling needs (*ḍarūrah*) keep on changing with effect to the time and condition that need to be addressed come forth that were either undressed or it's compelling need wasn't there. it is still hard to limit these essentials/objectives of *Sharīʿah* but one thing is for sure and that is the adaptable feature of *Sharīʿah* injunctions. It makes the religion more practical to be followed with perfection and style.

According to Imam Ghazali *maṣlaḥah mursalah* must hold certain conditions fulfilled:

a) It must not conflict with the text. For example, one can't kill a human being through the desperation of hunger to fulfil his *ḍarūrat* (necessity) of eating is not an acknowledged act in the sight of *Sharīʿah*. Also, the preservation of life can't be secured by killing someone innocent.

b) It must uphold the general preposition of Law. Therefore, all the intoxicating goods are considered *ḥarām* in conformity with the law: all that intoxicates is *ḥarām*.

c) It must also consider the implication of the text. Any meaning coming out of the *maṣlaḥah* varies from the objectives of the guiding text and will not be accepted. Therefore, watching a woman for a long time with lustful eyes abrogates the meaning of *ḥadīth* that approves the first glimpse of a woman unintentionally.

d) It should lie in the range of *ḍarūrah* (necessity). Which means that the case must confirm one of the top five purposes of the *Sharīʿah*: preservation of *din*, life, wealth, integrity and generation.

e) It should be *qati* (definitive). That is, we must be sure about the consequences and results of it.

f) It should be general *kulli*. This means that it should be beneficial for the entire Ummah and the general public as well.

If these conditions are not fulfilled the *maṣlaḥah* will not be considered as *maṣlaḥah mursalah* rather it will fall into the category of *gharib* (strange), that is it will be seen as an improbable case which May be accepted or denied due to uncertain results.

The word *kulli* means general. Al-Ghazali however defines it as an act beneficial for the entire *ummah*. In this sense, the scope of the meaning is limited only to *ummah*. However general public interest is also one of its mandates. This means that definition of *kulli* states its nature in a bit restricted to a specified area. Just for the sake of understanding and food for thought, one may think the circumstances of the overall outcome of the events and realm of thought at the time of Islamic civilization; out of which Imam Ghazali may have thought out the definition of *kulli* to restrict its implications to the favour of *ummah*. It is again because of the fact that at that time *Ummah* was dominant in its diverse cultural values, *Sharīʿah* based economy was prevailing and strong Muslim army position in the world that was well managing the defence of ideology and boarders of the Muslim World. *maṣlaḥah* at that time was rightly understood by Imam Ghazali because he wanted *Ummah* to be in control of the current position. However, having said that, the meaning of *kulli* in the current scenario will be a bit different as the world is considered as a global village where every single civilization is interconnected with each other in terms of cultural influence, economic activities and security related concerns. Therefore, anything concerned to be as *kulli* would not just guarantee and safeguard of Muslims but will also assure acceptance internationally and prove to be beneficial for the humanity as a whole. For instance, Banking system of the world is interconnected so good that one can use it transferring the money from anywhere in the world.

Maṣlaḥah also meant that a single unsolvable issue will be entertained at a time. This principle is also compromised in the current scenario as the Muslim world is strictly following the west in almost all the spheres of life. Especially when the financial system is taken into account, it is compatible with the laws and conditions to the western school of though. This mean Muslim world is in line with the financial system that is based on the speculative economy due to the highly volatile paper currency. One can easily incur that Muslim world as it is using the paper money or any other facility equivalent to it in terms of its effect, confirms that the decision of using currency was just a mare decision to in line it with the rest of the world rather the dynamics of the whole financial system that is now managed with the financial tools that allows the authorities to manipulate the currency in accordance with the market forces. The monetary policy could be tightened by increase in the interest rate or vice versa. Hence it's a matter of time when this system is going to collapse as the bubble economy reaches to its full potential. It is beyond doubt that the financial system that is applicable right now in the world is to facilitate the capitalist mind set where the rich concedes to become richer and the poor seeks to be less prosperous due to the scarce available resources. Hence saying that adoption of the paper currency was a *maṣlaḥah* that never had to be let go; at least one can easily draw inference that it

doesn't fulfil the term and condition of *maṣlaḥah mursalah.* It means that *maṣlaḥah* is now more generalized than ever.

Now, taking the above discussion into consideration, at the current point of time nothing is same as past; circumstances vary in every single aspect of life and its mandates. By far, nothing is controlled by the Muslim world especially when it comes to the financial system and its governing laws. Our culture, economy and weak army can neither defend its ideology nor its borders as it is violated by the western forces every now and then. In today's world, Systems are imposed by the west on us. We live in a state where *balwa* is prevailed throughout in general. This means we are living in an environment that is totally compromised. None of the Islamic states could claim that it has established the *Sharīʿah* framework on the affairs of the state. In comparison to the past, presently certain other attributes may be missing in the derivation of *aḥkām* from the tool of *maṣlaḥah mursalah*:

i. ***Maṣlaḥah Mursalah* may not be only beneficial for the Muslim community**

We live in an era, where stagnation prevails in our thoughts. Due to the reliance on the western financial system, the decision power required to deal with a particular problem seems missing and that is considered as a new and unsolved case in Islamic theology. This weakness has shuddered the belief of the public on *mujtahidin* of true conscious. A very heavy price is paid by society as a whole. Even if the *fatwá* is given on the very basic, merits and mechanics that need to be followed; *ummah* is no more interested in right and wrong. By the current prevailing situation of disbelief, Muslim *ummah* is duty-bound to abide by the rules that are set by the west to run their financial systems. There is no single state in the Muslim world that is free to set its rules that are acceptable to the rest of the world where it can trade on its rules. This shows that Muslim countries are engaged in war for their survival. Hence *maṣlaḥah* may not be a helping tool for the time being and may only serve the Muslim *ummah* to survive until its glory is again restored. This shows that in this era only that *maṣlaḥah* will be acceptable which is beneficial for all. Take a look at the financial system of the world. It is uniform and all the laws are well followed and applicable in the rest of the world. So, any *maṣlaḥah* that is catering the benefits of the Muslim world and only covers the perspective of the Muslim theology will be tantamount to isolation. The Irony is that *ummah* is not even trying to innovate any system that is beneficial for the world community. This would be too much to ask; we are unable to device a single derivative that could be declared as a patent, marked as an original work. On the other hand, the west is more concerned to build or establish a system that is a more acceptable and valuable addition to world economics.

ii. **Avoidance of compromising the essentials of *maqāṣid al-Sharīʿah***

It is evident from the conditions of *maṣlaḥah mursalah* that we can only undertake derivatives of *Sharīʿah* like *isteḥsān, istislah* and others if it's not in conflict with the

objectives of *Sharīʿah*. If *maṣlaḥah* approves creating Islamic Banks just to facilitate some customers that are reluctant to adopt the conventional banking system; the idea may be questionable. Various Commercial banks all over the world hold Islamic Banking windows now. These Islamic banking windows work as subsidiaries of the parent conventional banks. The point of discussion is that their main goal isn't Islamization of the Banking system rather they work for the profit motive. This looks like a controlling environment that is misleading goals of *Sharīʿah* as the primary aim is to create an opportunity for those who are reluctant to use the banking system due to the discrepancies. Hence Islamization of the financial system is again compromised. Anyways, having said that, the question arises, is it the right way to think and is it according to the definition of *maṣlaḥah*? Are there some secular goals to be fulfilled by financial companies through their shrewd thinking? Muhammad Hudaib states the fact:

> "The growth of Islamic finance to become part of mainstream global finance is not driven purely by sacred intentions of fulfilling religious obligations but also a powerful political-economic weapon for control. Over the years, Islamic finance had to undergo transformation to become accepted as part of the global finance community and in the process, the traditional sacred intentions of fulfilling religious obligations and acting as part of the act of worship became perplexed with the secular goals of modernity. Will this trend continue in the foreseeable future or will it enter another phase bringing it back to its root?" [25]

In other words, Islamic Banks (IBs) won't make any difference in figures. Its usage is just like a tool for deriving profits from a system that's well managed by commercial banks. The principle of *maṣlaḥah* is again compromised as its benefit is not general *kulli*.

Moreover, deriving a *ḥukam* while maintaining all its merits, will guarantee that the causes and implications it is not under a controlled environment. This guarantee is also compromised as discussed earlier. Another example is related to the *fatāwá* that *fiqh* academies are busy issuing these days for solving questionable issues in view of *Sharīʿah* principles. Although *fiqh* academies all over the world are working out the process very efficiently some time it is difficult to justify that their work is compatible with the thoughts and circumstances of the *ummah*. This phenomenon is evident in the near past. *Fiqh* academies of ISNA, ISRA, Indian *Fiqh* Academies, and other academies of the west have given strange *fatāwá* on the mortgage, the permission of intoxication up to a certain limit, a compilation of Muslim minority laws that has its unique principles of conduct etc. All these urges clearly show the deviation from straight thinking. One thing is for sure *ummah* as a whole is not kept in the loop at all.

The issue is that mass migration of *Ummah* in the western countries has become a trap that has created interdependency and they are not able to establish a system that streamlines or at least justifies their cultural values.

iii. ***Mujtahidin* must have free will to do the job and they must not be duty bound**

Several examples can be quoted that clearly show how difficult is to be on the right side. An example of the Islamic financial system is evident. *Sharīʿah* advisory working in different Islamic banks is paid by them because they work as employees. This is a clear case of conflict of interest and against *maṣlaḥah* as well. This status of *Sharīʿah* advisors falling under the principle of Conflict of Interest will lead to poor performance due to various causes. On one side they watch the transactions closely to confirm their workability concerning *Sharīʿah* principles and on the other hand, they face immense pressure from the Banks they are paid from. This pressure comes in different ways on them which in the end force them to compromise in their work. They may forgo an illicit transaction for the larger benefit of their organization. A report by Al-Hassan al-Aidaros was submitted on this topic which was compiled through a questionnaire. This questionnaire was conducted on the views of *Sharīʿah* auditors of different Islamic Banks in the countries. In the conclusive argument of the report it reflects facts as follows:

> In order to enhance the need for *Sharīʿah* auditor independence, 95% of auditors welcomed the idea that a professional *Sharīʿah* auditing body is set up to create and streamline a common *Sharīʿah* auditing process within the Malaysian business context. Hence, to better ensure the *Sharīʿah* auditing process remains accountable to all stakeholders, the *Sharīʿah* professional affiliation would ensure the integrity and code of conduct of the *Sharīʿah* auditor to remain independent. For instance, over (77.5%) of them believed that auditors' role is to remain unbiased, and avoid committing family relationships in IBs and conflict of interest. More than half of auditors (52.5%) agreed that their high commitment to maintaining independent roles had a direct effect on the performance of ICB's operation.[26]

iv. **Capability and ability must be at par**

The jurists of the earlier period of the Islamic era, this phenomenon is missing badly. Although we are rich in the literature availability as compared to the past. We also may have good knowledge about the work done in the past but in the field of application, we are yet to prove our capabilities in this regard. Muslim scholars of the past were more concerned about the application of the *Sharīʿah* which made it undoubtedly a complete code of life. Take a look at the contemporary *fatāwá* given on the issue of cryptocurrency. Muslim Scholars seem to be divided on this issue related to its permissibility.

Moreover, life nowadays is more complex than before. The whole world is interdependent for carrying out the daily rules of businesses. Muslim world up till now is behaving as a market niche. We are system bound to follow the laid principles set by the west globally. The irony is that Muslim Scholars don't realize their responsibilities in the current scenario. They have confined their abilities only to defend Muslim ideology through their words befitting it to be called as *fatāwá*.

v.   **A result derived through the said tool must be acceptable by all other *mujtahidin* of true conscious**

In the glorious period of the *ummah*, there was a single boundary system approach. Our shared values were so strong that no one outside the Muslim world dare to challenge us. The core saviours of the ideology were the Muslim Scholars of that time. They had a check on every minute of development in society. They enjoyed their authority at the state level. This one-unit approach saved us from foreign invasion in all spheres of life. Now due to the non-availability of state backing, Muslim scholars are experiencing this hedge of miscommunication which is letting them down to avail a single approach. Hence *maṣlaḥah* can't be fulfilled if the unanimity of thought is missing.

vi. ***Maṣlaḥah Mursalah* must deal with a specific issue**

Maṣlaḥah mursalah always implies that there is some unresolved issue or a new unsolved case that needs to be catered to by the *Sharīʿah* lines. This means that any issue alien to the Islamic civilization shouldn't be an issue that is accepted as a whole, or we want to mitigate the issue, not on our terms. In the current scenario, this attribute is also compromised. If we analyse the developmental process of the Islamic Banking system, it is a total substitute for the conventional banking system accepted globally. In other words, the core idea has been taken from the conventional banking system. We never say that Islamic banking is *Sharīʿah* based banking rather naming it as *Sharīʿah* compliant banking. The fact is that the core idea is copied from an alien system in which all the prohibited elements are involved as per *Sharīʿah* law is concerned. By implementing a *Sharīʿah* compliant banking system we are talking about the change of a whole system which is at par conventional banking system. Hence *maṣlaḥah* principle is not just applied to a specific case only; it applies to confront a system that's collapsing our values in terms of culture and finance. If the true spirit of *maṣlaḥah* had been followed, then proper Islamic Banking with all the values related to Islamic Finance would have been inculcated. However, it's time to see through the real boundaries of *maṣlaḥah* that may be workable by the today conditions. If it's not possible for whatever may be the reason then all these *maṣāliḥ* that are introduced for the sake of attaining bigger must stand corrected. The *ḥadīth* of the prophet states this fact in a very straight way:

((حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ، حَدَّثَنَا أَبُو عَامِرٍ الْعَقَدِيُّ، حَدَّثَنَا كَثِيرُ بْنُ عَبْدِ اللَّهِ بْنِ عَمْرِو بْنِ عَوْفٍ الْمُزَنِيُّ، عَنْ أَبِيهِ، عَنْ جَدِّهِ، أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم
قَالَ " الصُّلْحُ جَائِزٌ بَيْنَ الْمُسْلِمِينَ إِلاَّ صُلْحًا حَرَّمَ حَلاَلاً أَوْ أَحَلَّ حَرَامًا وَالْمُسْلِمُونَ عَلَى شُرُوطِهِمْ إِلاَّ شَرْطًا حَرَّمَ حَلاَلاً أَوْ أَحَلَّ حَرَامًا " . قَالَ أَبُو عِيسَى هَذَا حَدِيثٌ
حَسَنٌ صَحِيحٌ))

Kathir bin 'Amr bin 'Awf Al-Muzani narrated from his father, from his grandfather, that the Messenger of Allah ﷺ said: "Reconciliation is allowed among the Muslims, except for reconciliation that makes the lawful unlawful, or the unlawful lawful. And the Muslims will be held to their conditions, except the conditions that make the lawful unlawful, or the unlawful lawful."[27]

vii. *Maṣlaḥah Mursalah* is applicable in times of necessities

It is an attribute applied to any case where necessity prevails for the time being. Once the necessity is fulfilled, the *ḥukm* will settle down to its original place. This attribute is again limiting the scope. It has been discussed earlier that the Islamic Banks are developed on the basis and ideology of *Sharīʿah* compliance. What does this exactly means? The answer is simple; we never had a banking system replacing the conventional system. Hence the *Sharīʿah* scholars of our time looked toward this western style of the banking system and discovered a whole new style of banking compatible with the *Sharīʿah* lines as well as the original system of banking. This implies that we are strengthening the western banking system because it conforms with the regulations and laws provided through it. Also that we have officially approved to give them (conventional banks) the authority to control whatever may be the benefits and harms that will arise from it; they can imply on us. The banking industry runs by the set standards. The Basel Accord serves the purpose and all the banks are regulated through their revised editions. These regulations mitigate risks, establish standards for the operations department, specify credit disbursement procedures for the credit department, liquidity limit of the banks and so on.

The point of the whole discussion is that definitions and attributes of *maṣlaḥah* have been compromised due to the current scenario. We are running the whole financial system on the principle of necessity. We even take the core attribute of necessity for granted. Necessity is no more driven by the word *ḍarūrah*. The best definition for the word necessity in the current scenario is "need of the day". This is the best Muslim scholar of our time managed to do. They have steadily replied to the western system that wills to eradicate the existence of other systems. We can also name this strategy as the "principle of last resort". This war of survival will carry on between the systems and at the end of the day, one will absorb the weaker. Islamic financial institutions must compete until they get the loins to share in the market and establish their position so well that they may dictate their term of conditions. Right now we are following the way of *rukhsah* instead of *azeemah*. It is important for the *Sharīʿah* scholars that they must not forgo a futuristic approach for some current benefits. Muhammad Hudaib commented on this situation in his way:

"The divergence in the interpretations of the *Sharīʿah*, which results in the so-called Arab and Malaysian models, is fast converging to further consolidate the power for Islamic financial institutions to compete with their conventional counterparts. *ijtihād* (juridico-ethical reasoning and argumentation) for legitimating innovation of financial products was made based on the unduly application of *maqāṣid al-Sharīʿah* (purposes of the law) which takes into account the degree of benefits for human interests (*maṣlaḥah*) as opposed to harm (*mafsadah*). Other adaptive mechanisms in legitimizing the modernization of Islamic finance and financial institutions include *ʿurf* (local custom) and *ḍarūrah* (necessity)[28]. Besides deregulation of the financial sector resulting from the policies of the new world order, the greater alliance between bankers, governments and *Sharīʿah* scholars facilitate the innovation of *Sharīʿah*-compliant products as opposed to *Sharīʿah* -based products (i.e. based on the sacred goal of Islamic finance). In short, over the years, the ardent sacred intentions were slowly suppressed, and secular goals promoted and the process intensified in the neo-colonial global economic and debt-peonage era."[29]

Other than that, Islamic finance confronts other serious challenges in its internal system as they lack human resources, governance issues in *Sharīʿah* Councils, the presence of some less qualified scholars for the composition of the *Sharīʿah* Council, Some members of the *Sharīʿah* councils are with no teaching experience and are less familiar with the research methodology for Islamic *Sharīʿah*, Most *Sharīʿah* councils do not have economic advisors whose main purpose is to clear the mechanism of a certain transaction for which *fatwa* is required by the *Sharīʿah* councils.

The Gresham Law advocates that fewer quality products will slowly diminish the high-quality products from the market. This phenomenon is also reflected here in Islamic financial markets as well due to the overwhelming participation of less qualified members of the *Sharīʿah* councils advisory. They are the one responsible for the increased spread of ambiguous products, which are more sort of traditional products marketed as Islamic products for instance:

Tawarruq through multiple sales and *Salam* contracts legalize and ignores the interest-based transaction by creating a new gateway with no changes in the total results, *Ena*-based products that carry traces of interest-based transaction, Risk trading products in which losses and profits are not hedged properly or for the sake of bank to earn huge profits with taking into account the nature of the transaction like swaps, securitization of debt and cash.[30]

The above case scenarios clearly show how much of challenges are faced by Islamic finance that poses serious questions of ethics, on the side of *Sharīʿah*

board memberships and they being responsible for the mess conceived by the wrong placement of products that surpass qualify the basic criteria of Islamic financial engineering and due to which Islamic finance is seen sceptically by its critics. Dr. Mahbid Ali al Jahri has also referred to this problem of ethical banking in the Islamic Banks which is still to be settled down in a way that the overall banking impression is tilted toward positivity by inculcating Islamic norms.[31]

Yet another sweeping statement is given by another scholar about the Islamic Banking system in these words:

> "With a meticulous analysis, it can be visible that the current practices of the Islamic banks are, in many cases, not in conformity with the *Sharīʿah* required standards. Many Muslim economists, for example, favour equity-based instruments and place greater social welfare responsibilities and religious commitments, to realize *maqāṣid al-Sharīʿah* for equitable distribution of wealth and promoting economic development and growth, whereas most thermic banking products range from *Bai' Bithaman 'Ajil* (BBA)[32], *Bai' al-Dayn*[33], Islamic credit card with *Bay' al-'Inah*[34] contract, *Tawarruq*, and many such other contracts."[35]

Having all said, it doesn't refer to the cancellation of the subject or disgrace to the efforts of the Islamic Scholars that have worked their level best to mitigate the issue and come up with the *Sharīʿah* based answers to the related issues, on the contrary, it is just an effort to see things in a way for sake of betterment. The above discussion is just based on the concept as said, there is always room for excellence or attributed as Sky is the limit. Any sort of negativity in this regard equates to enmity toward the services offered by the esteemed Islamic scholar which is an unacceptable and unavoidable offence.

4. **Summary**: The theory indicates that the problems solving mechanism adopted by the Islamic Scholars should not only be in conformity with the *Sharīʿah* principles by involving the tool of *maṣlaḥah mursalah* but also it should comply with the *maqāṣid al-Sharīʿah as well*. The combination of both ideological spheres will assure the fact that the solutions to the unresolved issues of Islamic Jurisprudence will also be beneficial for society as a whole. Its application and solution would also be beneficial for the rest of the world as well. This will assure that its application is based on an acceptable rationale and proper reasoning. Especially when we are talking about the financial issues that are related to western financial issues, it must be dealt with the idea of not just satisfying the *Sharīʿah* demand and condition, but it should be workable, ethically sound and beneficial for the society in its very nature. One should just not go for the derivation of financial

transactions by using *Sharīʿah* backed tools for the sake of profit maximization but there must prevail originality and fairness in the *Sharīʿah* backed solutions. This will help the society preserve its valuable customs and rich legacy of rightful Islamic *Sharīʿah* principles and related laws.

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[1] Dhia' ul-Dīn 'Abd al-Malik ibn Yūsuf al-Juwaynī al-Shafi'ī was a Persian Sunni Shafi'i jurist and mutakallim theologian. His name is commonly abbreviated as Al-Juwayni; he is also commonly referred to as Imam al Haramayn, meaning "leading master of the two holy cities", that is, Mecca and Medina. He was Born: February 17, 1028, Neyshabur, Iran and Died: August 20, 1085, Neyshabur, Iran. His Era of Middle Ages was the Islamic Golden Age.

[2] Al Ghazali, al Mustasfa min ilm al usul, Baghdad,1294 A.H, vol 1, p. 172

[3] Shihabuddin al-Qarafi, Shihāb al-Dīn Abu 'l-Abbās Aḥmad ibn Abi 'l-ʿAlāʾ Idrīs ibn ʿAbd al-Raḥmān ibn ʿAbd Allāh ibn Yallīn al-Ṣanhājī al-Ṣaīdī al-Bahfashīmī al-Būshī al-Bahnasī al-Miṣrī al-MālikīAl-Dhakheerah (Beirut: Dar al-Arab, 1994) vol. 5, p. 478

[4] Al Tufi, Najmuddin al-Tufi, Al-Tain Fi Sharh Al-Arbain (Beirut: al-Rayyan, 1419 H) p. 239.

[5] Ishak, Hj. Suliaman, The theory of priority of maslaha over the legitimacy of nass of the Qur'an and the Hadith: A Conceptual Discussion, Vol. 4, AL-BAYAN Journal of Al-Quran & al-Hadith, *ISSN:1394*-3723, (page : 79-88)

[6] AI-Shatibi, Abū Isḥāq Ibrāhīm ibn Mūsā al-Shāṭibī, Kitab al-i'tisam, Dar Al Kutub Al Ilmiyah, volume#2, p.375-379.

[7] Al Juwayni, Abdul al-Malik Ibn Abdullah Al-Juwayni, Al-Burhan fi usul al-fiqh (annotated by Abdul-Azim al-Deeb) (Qatar: Wazarat al-Shu'un al-Diniyyah, 1400 AH),p. 183.

[8] Imam, Al-Shatibi, Al-Muwafaqat (the Reconciliation of fundamentals of Islamic Law), General publishing limited, Uk, Vol. 1,page 7.

[9] Abū Hameed Al-Ghazāli, Mustasfa p. 275

10 Abdulmalik Oricha Ali, Maslaha Al Mursalah; the concept, sources, history and benefits as a source of Islamic Law, INCEIF (Intern. Centre for Edu. in Islamic Finance) , 2013, p. 7

[11] Verse 75:36

[12] Maslahah as an Islamic Source and its Application in Financial Transactions, The Validity Of Maslahah As Islamic Source, Quest Journals Journal of Research in Humanities and Social Science, Volume#2, Issue 5 (2014) pp: 66-71, ISSN(Online) : 2321-9467, page#3,

[13] Verse 22:78.

[14] Zuhailiy, Wahbah. Al-Wajiz fi Usl Al-Fiqh. Damascus: Dar Al-Fikr, 2006, p. 92

[15] Laldin, Mohammad Akram. Islamic Law: An Introduction, Kuala Lumpur International Islamic University of Malaysia (2006)

[16] Bodenheimer, Jurisprudence: the philosophy and method of the law, p 84

[17] Al Ghazali, al Mustasfamin ilm al usul, Baghdad,1294 A.H, vol 1, Page 286.

[18] د. علاء شعبان الزعفراني ، الأحكام الفقهية لسوق رأس المال، ج:2، ص: 324، الناشر: دار الصفوة بالقاهرة، الطبعة الأولى 1436هـ – 2015 .

[19] Ibn 'Umar said: A boy was assassinated. 'Umar said, "If all the people of San'a took part in the assassination I would kill them all."Al-Mughira bin Hakim said that his father said, "Four persons killed a boy, and 'Umar said (as above)." Abu Bakr, Ibn Az-Zubair, 'Ali and Suwaid bin Muqarrin gave the judgement of Al-Qisas (equality in punishment) in cases of slapping. And 'Umar carried out Al-Qisas for a strike with a stick. And 'Ali carried out Al-Qisas for three lashes with a whip. And Shuraih carried out for one last and for scratching. Sahih al-Bukhari 6896, Chapter 21: If a group killed or injured one man, will all have to give Diya or be punished with Al-Qisas?, Book 87: Blood Money (Ad-Diyat)

[20] Verse : 2:179

[21] Gowhar Quadir Wani, Beyond the Five Essentials: A Study of Ibn Taymiyyah's Extension of Maqāsid al-Sharī'ah, India International Islamic Academic Conference 8-9 October, 2016, India Islamic Cultural Centre New Delhi, India

[22] Mohammad al-Tahir Ibn Ashur, Usul Al-Nizam Al-Ijtima┬i Fil Islam, ed. Mohamed El-Tahir Mesawi (Amman: Dar al-Nafais, 2001) p.256, 268

[23] Yusuf al-Qaradawi, Kayf Nata`amal Ma`a Al-Quran Al-`Azeem? 1st ed. (Cairo: Dar al-Shorouk, 1999).

[24] Taha Jabir al-Alwani, Maqasid Al-Shariah, 1 ed. (Beirut: IIIT and Dar al-Hadi, 2001), p.25.

[25] Muhammad Hudaib & Roszaini Haniffa, Islamic finance: from sacred intentions to secular goals?, Bradford University School of Management, Bradford, UK, October 2010

[26] Al-Hasan Al-Aidaros, The Need of Independent Shariah Members in Islamic Cooperative Banks: An Empirical Study of Professional Accountants in Malaysia, internation review of Management and business research, volume 4, March 2015.

[27] امام، الترمذي، في الأحكام باب ما ذكر عن رسول الله صلى الله عليه وسلم في الصلح، رقم 1352

[28] Darurah allows a mitigation whereby a Muslim can commit an unlawful action, or omit an obligation or delay it. This mitigation is consistent with the objectives of shariah which aim to preserve basic human necessities namely religion, life, intellect, lineage and wealth.

[29] Muhammad Hudaib & Roszaini Haniffa, Islamic finance: from sacred intentions to secular goals?, Bradford University School of Management, Bradford, UK, October 2010

30 Arthur J. Rolnick and Warren Weber, Gresham's law or Gresham's fallacy?, Quarterly Review, 1986, vol. 10, issue Win, P. 17-24

[31] Dr. Mabid Ali Al-Jarhi, Reviving the Ethics of Islamic Finance, Munich Personal RePEc Archive (MPRA), Paper No. 66732, posted 18 September 2015 00:41 UTC

[32] Bai Bithaman Ajil is a "deferred payment sale", which works like a *murabahah* contract, but with payment generally made on a deferred basis. In some countries *Bai Bithaman Ajil* is also known as Bay' al Muajjal

[33] Bai al dayn is essentially a contract of the sale of debt. Being a contract of sale, there must be all the elements or pillars of a sales contract such as legitimacy of contracting parties, and offer and acceptance. Between the contracting parties there must be a subject matter of sale, a price, and delivery of the asset. The asset in this case, however, is a financial asset or a debt.

[34] Bay' al-'Inah: It is a sale and buy-back agreement, is a type of Islamic finance that is a banking activity that is congruent with Shariah, which are the principles of Islamic law

[35] Dr, Noor Muhammad Usmani, Applications of *Maqasid al-Shariah* and Maslahah in the Islamic Banking Practices: An Analysis, Conference Paper, October 2010 DOI: 10.13140/RG.2.1.3578.0644, Page # 12

Determining the Constituents of the Sunnah of Prophet Muhammad (peace be upon him) in the Light of the Qur'ān: An Appraisal

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ABSTRACT

The term Sunnah has been used both for Allah Himself and his messengers in the Qur'ān. The way Allah dealt with people where the messengers (rasuls) were sent is called Sunnatullāh by the Qur'ān. Likewise, the same term is used in the Qur'ān for Prophet Muhammad (peace be upon him) as in following the trodden path (Sunnah) of his forefather Prophet Abraham, Alaihissalam. It implies that the word Sunnah cannot be applied to things related to theoretical knowledge like faith, etc. Its ambit remains the practices and actions linked to practical things only. In the case of the Qur'ān, we find that there is complete agreement among all Muslims on what constitutes the book of Allah, based on ijma (unanimity, thorough understanding, consensus) and tawatur (uninterrupted continuity, without any gap). There seems to be no unanimity on what constitutes the Sunnah of Prophet Muhammad (peace be upon him). There are, therefore, several approaches towards Sunnah adopted by Muslims. This paper is based on Qualitative Methodology to determine the criterion of what constitutes the Sunnah of the Prophet Muhammad (peace be upon him) and which practices include the precincts of the Sunnah of the Prophet Muhammad (peace be upon him).
Keywords: *Al-Hikmah, Hereafter, Practices, Tazkiya*

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1.1 Introduction

Prophet Muhammad (peace be upon him) was given the task as the Messenger of Allah to convey His religion – the religion of Islam – to his companions and the whole of humanity. He thoroughly ensured that he fulfilled this onerous responsibility. It was the same religion that was revealed to Prophet Ibrahim.[1]

ثُمَّ أَوْحَينا إِلَيكَ أَنِ اتَّبِع مِلَّةَ إِبراهيمَ حَنيفًا ۖ وَما كانَ مِنَ المُشرِكينَ

"Then We revealed to you: 'Follow the religion of Ibrahim', and he wasn't among the polytheists."

The last sermon of the Holy Prophet (peace be upon him) was delivered in Arafat near Makkah on the Ninth day of Dhul-Hijjah, 10 AH. (623AD). Being the last sermon, in mentioning the crux of Islam's teachings, he also said that he is leaving behind two things – The Qur'ān and his Sunnah. Whoever would follow these two will never go astray.[2] Also, near his imminent death, the Prophet (peace be upon him) reportedly said that he repeated the same fact.[3]

تركت فيكم أمرين لن تضلوا ما مسكتم بهما كتاب الله وسنة نبيه

"I have left behind two things; you will never go astray as long as you hold fast onto them, i.e., the Qur'ān and the Sunnah".

1.2 Literature Review

A quantitative study by Sadika Kebbi[4] analyses the misinterpreted or orally transmitted Sunnah of Prophet Muhammad (peace be upon him) on ordinary Muslims' daily life. The survey was done on women in Tripoli, Lebanon. The writer noticed how promoting some kinds of hadiths and Sunnah as a Modus Operandi shapes the Muslims' religious practices and everyday lives in Tripoli.

We see a gap in the definition of the Sunnah of Prophet Muhammad (peace be upon him) and his Hadith. Both terms are used interchangeably, whereas the two are distinctly different, with different established domains. The article further juxtaposes Hadith, Sunnah, and the Seerah as a theory.

The writer mentions the Muslim scholar Jamal el Banna, who claims that Sunnah is Prophet Muhammad's (peace be upon him) deeds and not his sayings. The writer, however, concludes by pointing out that Sunnah remains a recipient of emotions by its proponents, consequently empowering sectarianism over the fine, nature-based face of Islam. We see a clear gap here in establishing what, in essence, is the Sunnah of Prophet Muhammad (peace be upon him) based on.

In an article jointly by Abidah Sulaiman, Ezad Azraai Jamsari, Mohd Azmir Mohd Nizah[5], the writers have rightly stressed the Sunnah of Prophet Muhammad (peace be upon him) as the source of Muslim guidance without which Muslims would not know how to pray, fast, or perform the rituals of pilgrimage.

The Sunnah is placed along the lines of the Prophet's (peace be upon him) sayings and actions. They mention the approach of the earlier people who put Sunnah as

everything which comes from the Prophet (peace be upon him), with the exemption of the Qur'an, in terms of his sayings, deeds, and tacit approval. The muhaddithun regard Hadith and Sunnah as synonymous.

The article also comments on the approach of Western scholars who claim Sunnah has no position in Western scholarship. They maintain that the Qur'an is sufficient to guide human life. The article stresses the epistemology of the Sunnah as the source of Islam in the view of Muslims, but there is a gap where the basis for Sunnah to be established is not apparent. This creates objections (by the West) and the Qur'ānists.

The article by Nur Islami Mohd Fahmi Teng, Nashrah Adilah Ismail, Nazrul Hadi Ismail, and Thuraya Ahmad[6] on the eating practices based on Sunnah is based on Prophet Muhammad (peace be upon him) being sent as a messenger to guide in all spheres of life, which includes our diet too. The way the Prophet (peace be upon him) took care of his diet by eating also comes within the ambit of following his Sunnah. The article mentions that because of this diet, the Prophet was never diagnosed with any disease throughout his lifetime. The article establishes eating practices as eating smaller quantities, eating slowly while upright, etc., as Sunnah of the Prophet (peace be upon him). It does not dilate on why adopting these diet practices constitutes Sunnah. A gap crops up in establishing the validity of these practices linked with Sunnah.

An article tries to cope with multicultural values in its Society and tries to reconcile it with the morality Qur'ān dictates for such an arrangement. The title reads "Multicultural Values in The Noble Qur'ān and The Prophet Muhammad's (S) Sunnah (the Prophet's tradition)[7], but we see within the article that there is mention of the Qur'ān with the Hadith, which implies the two terms Hadith and Sunnah have been used interchangeably. This is the prevalent narrative amongst most Muslims. In contrast, Hadith and Sunnah are quite different in that the former has got to do with verbal things and the latter practices. There seems to be a gap in defining two essential terms in Islam – Hadith and the Sunnah.

An interesting development that should be encouraged is utilizing virtual reality technology in learning through Educational Games that contain Islamic religious education.[8] The noble endeavor presents through the media to the young generation the Sunnah of Prophet Muhammad (peace be upon him) and enlists activities considered the Sunnah.

This paper tries to cope with the gap filling by establishing a clinical approach toward what constitutes the Sunnah of the Holy Prophet Muhammad (peace be upon him).

1.3 The approach of Prophet Muhammad (peace be upon him)

Prophet Muhammad (peace be upon him) had a brilliant and balanced approach to redefining the customs and lifestyles of the Arab Quraish. They constituted the lineage of Bani Ismail. Following the Sunnah (established practices) of the Abrahamic faith,

the traditions of pre-Islamic days (jahiliyyah), which were not at odds with Islam's core message of monotheism, were retained. Those who remained linked with the Abrahamic faith were sustained. Those customs which became disfigured and lost their original essence were restored to their original shape and incorporated into the folds of Islam. Those customs which were downright misleading and misguided with respect to the teachings of Allah were rejected. This remains the fundamental guiding light for an Islam-based civilization for each time and era.[9]

1.4 Definition of Sunnah

The definition of Sunnah in Arabic is a 'well tread upon path' - something to do with actions. Sunnah intrinsically applies to the practical affairs of life.

The term Sunnah has been used both for Allah Himself and his messengers in the Qur'ān. The way Allah dealt with people where the messengers (rasuls) were sent is called Sunnatullāh by the Qur'ān. And it is used in its literal sense where Allah follows the same path with each messenger sent to their people.[10]

<div dir="rtl">

سُنَّةَ مَن قَد أَرسَلنا قَبَلَكَ مِن رُسُلِناۦوَلا تَجِدُ لِسُنَّتِنا تَحويلًا

</div>

> *"This was Our tradition with Our Messengers who lived before you, and you will find no change in Our tradition."*

Likewise, the same term is used for Prophet Muhammad (peace be upon him) as in following the trodden path (Sunnah) of his forefather Prophet Abraham, Alaihissalam. It implies that the word Sunnah cannot be applied to things related to theoretical knowledge like faith, etc. Its ambit remains the practices and actions linked to practical things only.

1.5 How do Muslims Perceive the Sunnah of Prophet Muhammad (peace be upon him)

In the case of the Qur'an, we find that there is complete agreement among all Muslims on what constitutes the book of Allah, based on ijma (unanimity, total agreement, consensus) and tawatur (uninterrupted continuity, without any gap). There seems to be no unanimity on what constitutes the Sunnah of the Prophet (peace be upon him). There are at least three approaches towards Sunnah adopted by Muslims. One approach is popular among Muslims; a tiny minority accepts the other, and a third approach is less known even though it is academically sound. Each approach has its arguments that are presented from within the Qur'ān and are countered from within the Qur'ān. The difference lies in reference to the context in understanding the verses. The third view places the Sunnah with the Qur'ān. Like the Qur'ān, the Sunnah remains an entirely authentic and independent pillar source of Islamic understanding. Like the Qur'ān, the Sunnah meets the conditions of unanimity (ijma') and uninterrupted continuity (tawatur) in transmitting it quite the same way as the Qur'an does.

The only difference is that while ijma' and tawatur in the case of the Qur'an were

achieved verbally, in the case of Sunnah, it was done practically. All companions followed the Prophet (peace be upon him) in how he prayed (ijma'), for example. Their generation didn't leave this world without adequately communicating the Sunnah practices to the next generation. This process continued uninterrupted (tawatur). These religious practices formed a part of the Din, which the Almighty required His last messenger to adopt from his ancestor Ibrahim's, Alaihissalam, religion. As mentioned above, the reference to the context in understanding the context of Sunnah shall remain decisive in deciphering the essence of Sunnah.

What then constitutes Sunnah? These must come under the purview of religious practices. What are those religious practices? If we look at ourselves in the mirror, we see we possess a physical body. We eat all day long throughout our lives, embody morality, and know what is right from wrong. These aspects of our whole encompass the spheres of our lives in matters of[11]

- Worship,
- Social Interaction,
- Edibles,
- Customs and Etiquette

Therefore, owing to ijma and tawatur, the practices under Sunnah remain universal in their implementation and practice. Whichever part of the world one travels to, if the person comes across a Muslim or Muslim community, the person will observe the same practices among Muslims in matters of religion. Regardless of the sect, caste, color, or creed, all Muslims follow Sunnah as, like the Qur'ān, it is also thoroughly entrenched and an integral part of our lives.

Therefore, Sunnah is defined as the practices or actions the Prophet (peace be upon him) did in matters of religion and passed it on to his Companions (the Sahabas).

1.6 Critical Analysis

Qur'ān and Sunnah have (had to) reach us with all clarity as part of Allah's Last Testament and aspirations. The definition of Sunnah, as described in that these are the practices in matters of religion and passed it on to the Sahaba (may Allah be pleased with them all), seems plausible and prudent. Qur'ān declares itself a Reminder (Tazkirah).[12]

<div dir="rtl">إِنَّا نَحنُ نَزَّلْنَا الذِّكرَ وَإِنَّا لَهُ لَحافِظونَ</div>

"Indeed, We have sent down the Reminder, and indeed We will preserve it."

The question arises; 'Reminder' of what? It is the reminder of the Hereafter. Qur'ān's domain remains the 'Reminder of the Hereafter'. From wherever we pick up the Qur'ān for pondering, it will be seen presenting its case of the Hereafter.[13]

<div dir="rtl">وَإِذ أَخَذَ رَبُّكَ مِن بَني آدَمَ مِن ظُهورِهِم ذُرِّيَّتَهُم وَأَشهَدَهُم عَلىٰ أَنفُسِهِم أَلَستُ بِرَبِّكُم﮲قالوا بَلىٰ ۛ شَهِدنا ۛ أَن تَقولوا يَومَ القِيامَةِ إِنّا كُنّا عَن هٰذا غافِلينَ</div>

"When your Lord took from the Children of Adam, from their loins, their
descendants and made them bear witness over themselves, [He said to them,]

43

'Am I not your Lord?' They said, 'Yes indeed! We bear witness.' [This,] lest
you should say on the Day of Resurrection, 'Indeed we were unaware of
this,'"

Indeed, after presenting the case of resurrection and meeting the Lord, it plainly but
effectively puts the onus on us to pay heed to this reminder or not:[14]

كَلَّا ۚ بَل لا يَخافونَ الآخِرَةَ كَلَّا إِنَّهُ تَذكِرَةٌ فَمَن شاءَ ذَكَرَهُ

"No, indeed! Rather they do not fear the Hereafter. No indeed! It is indeed a
reminder. So let anyone who wishes would remember it."

Also, it would remain most pertinent to mention the Qur'ān verse of Surah Qamar,
mentioned four times in the same Surah, after the plight of the believers and wilful
non-believers of the four messengers.[15]

وَلَقَد يَسَّرنَا القُرآنَ لِلذِّكرِ فَهَل مِن مُدَّكِرٍ

"Certainly, we have made the Qur'an simple for the sake of Reminder. So, is
there anyone who will be Reminded?"

The next question that comes to mind is what criterion, or criteria, has Allah laid for
one's salvation (or damnation) in the Hereafter? Philosophers, intellectuals, dreamers,
sages, pundits, and Dalai Lamas have ventured into this domain for centuries, in fact,
thousands of years, into this domain to find out the purpose of human existence.
Allah, the Creator, Sustainer, and Provider of all mankind, has spoken and
commented on this elusive answer.

Allah's Infinite mercy manifests itself that He has spoken to us. We do not have to go
to the top of the mountains or the depths of the oceans or the jungles or caves or adopt
monasticism and shun the worldly bounties to achieve this nirvana or communion
with Allah. Allah has sent each of us His personal 'email'. When the email is accessed,
downloaded, saved, opened, and reflected upon, it clearly states the criterion (not
criteria) of salvation in the Hereafter. The criterion remains our 'Purification (and
Development)' called Tazkiya.[16]

وَنَفسٍ وَما سَوّاها فَأَلهَمَها فُجورَها وَتَقواها قَد أَفلَحَ مَن زَكّاها وَقَد خابَ مَن دَسّاها

"By the soul and Him who fashioned it and inspired it with [discernment
between] its virtues and vices: one who purifies it is felicitous, and one who
betrays it fails."

Also, it is very clinical to mention Qur'ān's verse from Surah Jumma below.[17] The
importance of this verse can be envisaged from the fact that it has been mentioned
four times in the Qur'ān in (2:129) (2:159) (3:164) and (62:2) mentioned here:

هُوَ الَّذي بَعَثَ فِي الأُمِّيِّينَ رَسولًا مِنهُم يَتلو عَلَيهِم آياتِهِ وَيُزَكّيهِم وَيُعَلِّمُهُمُ الكِتابَ وَالحِكمَةَ وَإِن كانوا مِن قَبلُ لَفي ضَلالٍ مُبينٍ

"It is He who sent to the unlettered [people]an apostle from among
themselves, to recite to them His signs, to purify them, and to teach them the
Book and wisdom, and earlier they had indeed been in manifest error."

Based on the above discussion, we see that the singular purpose of mankind is to

achieve Tazkiya (Purification) in life to achieve Allah's Eternal Kingdom of Paradise.[18]

<div dir="rtl">وَمَن يَأْتِهِ مُؤمِنًا قَد عَمِلَ الصّالِحاتِ فَأُولِئكَ لَهُمُ الدَّرَجاتُ العُلىٰ</div>

<div dir="rtl">جَنّاتُ عَدنٍ تَجري مِن تَحتِهَا الأَنهارُ خالِدينَ فيها ۚ وَذٰلِكَ جَزاءُ مَن تَزَكّىٰ</div>

> *"But whoever comes to Him with faith, and he has done righteous deeds, for such shall be the highest ranks. The Gardens of Eden, with streams running in them, to abide in them [forever], and that is the reward of him who keeps pure."*

Allah has spoken to mankind through His Qur'ān and Sunnah (through His prophets), enabling them to achieve this purpose of life – purification. If we now look at the Sunnah, since we have established that the Qur'ān's verbal injunctions are to achieve purification, we can clearly see that the practices juxtaposed with Qur'ānic teachings are in sync in achieving this cherished target.

If we apply the three aspects that define our existence as a moral human being or a homo sapien– a wise man- we observe that clipping our nails is Sunnah, as Allah does not want us to have a beastly appearance. Trimming our mustache is Sunnah, as Allah does not want us to carry an arrogant demeanor. When asked about edibles, Allah says in the Qur'ān to eat pure (tayyibaat) things; hence the Sunnah of the Prophet (peace be upon him) shows us the way.[19]

<div dir="rtl">اليَومَ أُحِلَّ لَكُمُ الطَّيِّباتُ ۖ</div>

> *"On this day, all pure things are lawful for you (as food)."*

We bid farewell to the deceased by purifying the body with water and shrouding it in two pieces of unstitched white sheets amongst prayer (dua) to Allah to cleanse the soul of sins (to purify the soul) before burial. This whole act constitutes the Sunnah of the Prophet (peace be upon him). Likewise, the two Eid prayers - Eid al-Fitr & Eid al-Adha are celebrated by glorifying the name of Allah six additional times in the Eid prayer.

The Qur'ān Verse mentioned above (62:2) 20 speaks of our Tazkiya through Al-Kitab and Al-Hikmah. Al-Hikmah is the act of wisdom that Allah claims He has bestowed each soul with and mentions in the Qur'ān as a reminder in Surah Bani Israel Verse 23-39. Verse 23 mentions worshipping One Allah, and after 'reminding' us of ten moral acts, which may also be akin to the Torah's 'ten commandments, ' Allah rounds it off in Verse 39 as[20]

<div dir="rtl">ذٰلِكَ مِمّا أَوحىٰ إِلَيكَ رَبُّكَ مِنَ الحِكمَةِ ۗ وَلا تَجعَل مَعَ اللَّهِ إِلٰهًا آخَرَ فَتُلقىٰ في جَهَنَّمَ مَلومًا مَدحورًا</div>

> *"These are among [precepts] that your Lord has revealed to you of wisdom. Do not set up another Allah besides Allah, or you will be cast into hell, blameworthy, banished."*

Offering Eid prayers is Sunnah of the Prophet (peace be upon him). While we worship One Allah[21] and glorify Him in the Eid prayers, this constitutes part of 'wisdom' (Al-

Hikmah) which enables us to achieve Tazkiya (Qur'ān 62:2).[22] Here, too, we see Sunnah of the Prophet (peace be upon him) leads us to the purpose of our existence.

It is the Sunnah of the Prophet (peace be upon him) and established that one takes a bath after sexual intercourse, menstruation cycles, and sexual discharge. These acts lead us to our purification. Similarly, we wash our mouths, hands, and teeth. Using the twig of the tree used for cleansing teeth (miswak) does not constitute Sunnah. It is not the 'usage of the twig of a tree' which is Sunnah, but rather the act of cleansing one's teeth. This is, in today's world, managed through toothbrushes and toothpaste. The purpose here is cleanliness, not the instrument used. Likewise, using soap instead of soil to cleanse our hands. The purpose is to achieve cleanliness (purification).

In matters of marriage, the institution of marriage comes under the Sunnah of the prophets. This means the prophets safeguarded their modesty through the institution of marriage and avoided every possibility of adultery. Allah declares adultery an evil and shameful deed, an impurity.[23]

<div dir="rtl">وَلا تَقرَبُوا الزِّناٰۛ إِنَّهُ كانَ فاحِشَةً وَساءَ سَبيلًا</div>

"Do not approach fornication. It is indeed an indecency and an evil way."

Adultery remains an evil and impure act, and marriage is declared the pure way of establishing sexual relations with one's spouse. It is declared lawful by Allah.

The institution of Zakat which comes under the Sunnah of Abraham, Alaihissalam, and is followed by Prophet Muhammad (peace be upon him); too is established to purify us through our wealth.[24]

<div dir="rtl">خُذ مِن أَموالِهِم صَدَقَةً تُطَهِّرُهُم وَتُزَكّيهِم بِها وَصَلِّ عَلَيهِمۖ إِنَّ صَلاتَكَ سَكَنٌ لَهُمۗ وَاللَّهُ سَميعٌ عَليمٌ</div>

"Take charity from their possessions to cleanse them and purify them and bless them. Indeed, your blessing is a comfort to them, and Allah is all-hearing, all-knowing."

The word Zakat means to purify. It has been used for the purification of wealth because it purifies the soul, it purifies wealth, and it purifies feelings. The Sunnah established it is for the purification of our wealth.

Being Allah-conscious (Taqwa) also leads us towards Purification – Tazkiya. Allah-consciousness means knowing one's limits with respect to Allah's expectations of us. In other words, the word Taqwa used in the Qur'ān means the person should remain cognizant of their precincts, which keeps the person purified in the eyes of Allah.

<div dir="rtl">إِنَّما تُنذِرُ الَّذينَ يَخشَونَ رَبَّهُم بِالغَيبِ وَأَقامُوا الصَّلاةَ ۚ وَمَن تَزَكّىٰ فَإِنَّما يَتَزَكّىٰ لِنَفسِهِ ۚ وَإِلَى اللَّهِ المَصيرُ</div>

"…You can only warn those who fear their Lord secretly and maintain the prayer. Whoever purifies his self, purifies only for his own sake, and to Allah is the return."

Also, the same significant relationship between fearing Allah as in Taqwa and Purification (Tazkiya) in the Qur'ān.[25]

<div dir="rtl">وَسَيُجَنَّبُهَا الأَتقَى الَّذي يُؤتي مالَهُ يَتَزَكّىٰ</div>

> *"The Allah wary shall be spared it - he who gives his wealth to purify himself."*

The Sunnah of the Prophet (peace be upon him) emerges very evident and self-explanatory in its manifestation and implementation. All actions and practices that constitute Sunnah have to pertain to our purification in matters of our Taqwa and in matters of adhering to Halal matters.

It implies, therefore, using planes, trains and automobiles have no contradiction with what constitutes Sunnah. The attire we wear has no bearing with Sunnah. Both the Qur'ān and Sunnah stresses on modesty in our dressing and gaze in gender interaction.[26]

قُل لِلمُؤمِنينَ يَغُضّوا مِن أَبصارِهِم وَيَحفَظوا فُروجَهُم ۚ ذٰلِكَ أَزكىٰ لَهُم ۗ إِنَّ اللَّهَ خَبيرٌ بِما يَصنَعونَ

وَقُل لِلمُؤمِناتِ يَغضُضنَ مِن أَبصارِهِنَّ وَيَحفَظنَ فُروجَهُنَّ وَلا يُبدينَ زينَتَهُنَّ إِلّا ما ظَهَرَ مِنها ۖ وَليَضرِبنَ بِخُمُرِهِنَّ عَلىٰ جُيوبِهِنَّ

> *"Tell the faithful men to cast down their looks and to guard their private parts. That is purer for them. Allah is indeed aware of what they do. And tell the faithful women to cast down their looks and to guard their private parts, and not to display their charms, except for what is outward, and let them draw their scarfs over their bosoms."*

There is neither an Islamic dress code nor one based on Sunnah. All dresses of the world remain permissible based on the above natural injunctions. The Prophet (peace be upon him) has a very apt saying which is synonymous with the Qur'ān injunction as above:

> *Ibn Abbas reported: The Messenger of Allah, peace, and blessings be upon him, said, "Verily, every religion has a character, and the character of Islam is modesty".*[27]

As the person of Muhammad bin Abdullah (peace be upon him, pre-messenger hood) born and bred in Makkah, his attire remained the same when he became Muhammad, the Messenger of Allah (peace be upon him). The stress remained on modesty and purification of dress and body. If a Muslim attire a dress attributed to the Prophet (peace be upon him), it can only be in his affinity towards the Prophet (peace be upon him) and not as a Sunnah. In the same way, one may want to use a miswak instead of a toothbrush, travel horseback instead of an automobile, or use a sword in combat instead of a G3 Machine gun.

It remains the biggest challenge of these times within the Muslims to decipher what constitutes the Sunnah of the Prophet (peace be upon him) and what does not constitute Sunnah. Comprehending and accepting the verdict of the Qur'ān and Sunnah with its reference to the context is the real challenge of the current times we are living in. The Muslims, first, must look inwards before venturing outwards to other communities for their proposed salvation.

As mentioned at the very onset, the religious obligation as the Prophet and Messenger

of Allah for Muhammad (peace be upon him) was to convey the religion of Allah without any blemish to the Quraish of Makkah and the surrounding tribes, including the Jews and Christians. This responsibility was so onerous Allah says in the Qur'ān while addressing the Quraish in Chapter 69, Surah Haqqa, that had the Prophet misquoted Allah speaking in His name, He would sever his jugular vein.[28]

<div dir="rtl">وَلَو تَقَوَّلَ عَلَينا بَعضَ الأَقاويل لَأَخَذنا مِنهُ بِاليَمينِ ثُمَّ لَقَطَعنا مِنهُ الوَتينَ</div>

> *"Had he faked any sayings in Our name, we would have surely seized him*
> *by the right hand, and none of you could have held Us off him."*

This verse, apart from telling the addressees the seriousness of the message, also communicates how Allah owns His message! This implies, then, that the message of Allah is clarion, clear cut, without ambiguity, and each Arabic word in the Qur'ān carries only one meaning and not shades and nuances of different meanings as envisaged and propagated by some Scholars in their exegesis.[29]

<div dir="rtl">الر ۚ تِلكَ آياتُ الكِتابِ المُبينِ</div>

> *"Alif, Lām, Rā. These are the signs of the Manifest Book."*

It needs to be appreciated from Allah's point of view that His message to His servants is fully delivered and transferred before the Prophet's (peace be upon him) passing away. This remains the verbal instructions in the form of the Qur'ān and the practices (actions) in the form of the Prophet's Sunnah (based on Abraham's Sunnah – the age-old practices of the prophets).

Let us look at the Hadith and try juxtaposing its status with the Qur'ān and Sunnah. The first aspect is to define Hadith. What constitutes a hadith? It is a claim that the Prophet (peace be upon him) did or said something which was seen by one or more than one companion and reported further till it eventually reached a Muhaddith (collector of Hadith) who arranged it in a book form. The famous six books on hadith (apart from many others) are called Al-Sihah al-Sittah.

It needs to be seen and appreciated dispassionately that the books of hadith mostly appeared in the second and third-century Hijrah. The famous compilers of hadith like Imam Bukhari era were 187H to 247 H. Likewise, Imam Muslim's era was 194H to 252H. Similarly, Imam Tirmidhi died in 279H. Imam Nasai was born in 214H and died in 303H. Imam ibn Majah died in 273H, and Imam Duad died in 275H. Imam Ahmed bin Hanbal lived from 164H to 241H. Imam Malik was born in 90H and passed away in 172H. His book Al Muwatta Imam Malik is considered the first book on Hadith. Imam Bukhari is known to have selected some seven thousand ahadith for his book out of a total of seventy thousand he collected.

1.7 Conclusion

Prophet Muhammad (peace be upon him) was a respected personality even before his messenger hood. He was declared trustworthy and truthful (Ameen & Sadiq, respectively) when he was Muhammad bin Abdullah. On being bestowed the

messenger hood, his companions noticed his actions, sayings even tacit approvals and mentioned it further to others.

The pragmatic approach lies in deciphering what the Prophet (peace be upon him) did in matters of his messenger hood – Divinely directed by Allah and what he did as an ordinary person.[30]

قُل إِنَّما أَنا بَشَرٌ مِثلُكُم يوحىٰ إِلَيَّ أَنَّما إِلٰهُكُم إِلٰهٌ واحِدٌ فَاستَقيموا إِلَيهِ وَاستَغفِروهُ ۗ وَوَيلٌ لِلمُشرِكينَ

"Say, 'I am just a human being like you. It has been revealed to me that
your Allah is the One Allah. So be steadfast toward Him and plead to
Him for forgiveness.' And woe to the polytheists".

This distinction would (should) determine what constitutes Sunnah and what does not. The domain of Sunnah must be linked with our Tazkiya (Purification). Prophet Muhammad (peace be upon him) practiced and extended actions that make us 'Tayyab' (pure). If everything that Prophet (peace be upon him) did is considered a part of Islamic guidance to be followed, then many practical problems will also arise. Many Muslims won't travel on cars, trains, and planes because the prophet traveled on the backs of camels, horses, and donkeys. Many followers of the prophet, in that case, would insist that they would go for the cure he practiced and would ignore the progress made in modern medical science; Muslim soldiers might insist that instead of guns, tanks, and planes, they would prefer to use swords, etc. for Jihad and so on. The followers of this approach feel convinced that these and similar verses give an excellent reason to believers to conclude that to please Allah, a Muslim must follow and emulate the Messenger of Allah in all aspects of his life in the manner he prayed, the way he dressed, the way he ate, traveled, spoke, slept, etc.

Allah invites us to become seekers of the truth. This scribe has authored a book in Urdu, literally translated into English as the "Traveler in the Quest for Truth (an Autobiography)". I have tried to establish that the Author (myself) is a common man who remains embarked on a journey of seeking the Truth. Since the Author as a common man, can maintain this glorious journey, each soul on earth, irrespective of caste, color, creed, or religion, can and should become a traveler in the quest for truth.[31] The principles to remain on this glorious journey are universal. One must develop to rise above prejudice, re-evaluate childhood concepts at a rational level, shun all forms of the arrogance of being superior based on one's religion, etc., and remain aware of social pressures like Prophet Abraham remained aware and resilient.

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