

AFKĀR *Research Journal of Islamic Studies*

Volume 3, Issue 2, Dec. 2019, PP: 63-67

E-ISSN 2616-8588 ; P- ISSN 2616-9223

www.afkar.com.pk; www.iri.aiou.edu.pk

***Maqasid al-Shari'a and Contemporary Reformist
Muslim Thought: An Examination***

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Publisher: New York: Palgrave Macmillan, 2014.

Pages: xiii + 270; **ISBN:** 978-1-137-32385-9

The theme of *Maqasid al-Shari'ah* derives maximum attention from the modern Islamic legal scholarship to redefine the philosophy of Islamic law as a basis for any sort of reform or *tajdid* project. Modern times have witnessed the renewed vigorous interest in this discourse from genii like ibn al-'Ashur to 'Allal al-Fasi, al-Buti to al-Qardawi, al-'Alwani to Hamid Hassan, 'Attiya to al-Raysuni, Kamali to Tariq Ramadan, etc. The important works, these stalwarts have produced, have been translated into English (and other European languages as well). The volume under review, edited by Adis Duderija (Senior lecturer in the Gender Studies Department at *University of Malaya*, Malaysia) is the collection of nine papers probing into Contemporary Muslim Reformist thought vis-à-vis various important theorists and paradigms, and hermeneutics of gender justice from *maqasidi* perspective. The work is an important addition to the list of such works investigating the contemporary reformist Muslim thought vis-à-vis *maqasid al-Shari'a*.

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The volume starts with an 'Introduction' (pp. 1-11) by the editor introducing 'Contemporary Muslim Reformist Thought and *Maqasid* cum *Maslaha* Approaches to Islamic Law', stating *maqasid al-Shari'ah* as a philosophical-legal cum hermeneutical tool for the purposes of the contemporary Muslim reformist project in relation to a number of specific philosophical, legal, ethical, social and political issues. He tries to identify the theory of *maslaha*—very brief and simplistic—from its pre-modern origins in relation with *maqasid al-Shari'a* specifying out the trend of Najm al-Din al-Tufi and its modern recipients.

Chapter 1, "Islamic Law Reform and *Maqasid al-Shari'a* in the Thought of Muhammad Hashim Kamali" (pp. 13-37) by Duderija investigates into the scheme of Kamali's (a contemporary Malaysian legal scholar) reform vis-à-vis *maqasid al-Shari'a* from his two often used concepts: *tajdid hadari* (civilizational renewal) and *siyasa al-shari'a* (*maqasid al-shari'a*-compliant method of governance). Discovering the two frequently used concepts in Kamali's works; *tajdid al-hadari*—Malaysian specific context; and *siyasa al-Shari'a*—*Shari'a* compliant governance and policy making as a tool of reform, an inherently open and contextual process independent of predetermined framework and methodology in Islamic law, the author enumerates the reasons for reform in Islamic law, emphasizing the reform to contemporize the *Shari'a*. Duderija argues that the immediate reform in issues like political leadership and methods of succession, support for constitutional government and democracy, fundamental constitutional rights and individual liberties; reclaiming the concept of jihad from extremists, authenticating non-muslim witnesses, patriarchal *fiqh* rulings attached to polygamy and divorce, women's rights and their participation in governmental affairs through a gradual and realistic approach and social reform to strike the middle ground between idealism and reality and traditional and modern social values. While conceptualizing the legal reform, he is epistemologically and methodologically drawing connections to pre-modern legal thought, albeit critically. The second part deals with Kamali's understanding of the *Shari'a* based on *maqasid* vis-à-vis realization of public welfare (*maslaha*) and deterrence of the evil, this world and hereafter; with the purport of achieving God consciousness and being a

better human being unlike the majoritarian pre-modern conception of the *Shari'a*.

The second chapter, "Yusuf al-Qaradawi's Purposive *Fiqh*: Promoting or Demoting the Future Role of 'ulama?" by David L. Johnston, tries to look into the various shifts in the legal theory of Yusuf al-Qaradawi with special reference to his late interest in *maqasidi* trend vis-à-vis his school of *wasatiyya* (moderation) and its subsequent result on the authority of the traditional 'ulama in addressing the issues of modern Muslim subjects in highly democratizes public spheres (p. 41). Presenting al-Qaradawi as a self-proclaimed leader of mainstream Sunni Islam on a sacred mission to lead it on the middle path/ *wasatiyya* (p. 39), Johnston proceeds to delve into the classical formation of the conceptualization of common good/ *maslaha* between ethical-voluntarism of *Asharites* and the ethical-objectivism of *Muatazalites* (pp. 42-46). He also highlights the influence of scholars like Ibn al-Qayyim on Qaradawi's interpretation of *siyasa al-Shari'ah* and theory of *maslaha* (pp.46-50), and his adoption of Shatibi's principles in *maqasidi fiqh* (pp.50-53). This is followed by a discussion on the reinvigoration of the new *Mutazila* (the New Deniers) who try to override reason against the texts in the name of *maslaha* (p.50). It is in between these two extremes that Johnston deliberates on Qaradawi's 'Middle School' (*al-madrassa al-wasatiyya*), and in the concluding part investigates Qaradawi's debt to Rashid Rida (pp. 53-57).

The third chapter, "Doha—The Centre of Reformist Islam? Considering *Radical Reform* in the Qatar Context: Tariq Ramadan and the Research Centre for Islamic Legislation and Ethics (CILE)" by David Warren, takes a consideration of *CILE*—an institution meant to attempt to offer new methodology of applied ethics in Islam, under the directorship of Tariq Ramadan, in a particular context of Doha, Qatar. It tries to delve into the question of location of *CILE* in Qatar and its sponsorship by *Qatar Foundation* vis-à-vis the reformist Islamic project with relation to Qatari state and social sensitivity (p. 77). *CILE* succeeds the legacy of the first religious institution (*ma'had dini*) established in 1961, under the tutelage of Yusuf al-Qaradawi with much stress on the learning of foreign languages, math and science (pp. 77-78). The chapter moves on to assess Ramadan's *Radical Reform*—the blueprint of his reformist project, wherein he departs

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from the 'adaptation reform' proposed by scholars like al-'Alwani, al-Qaradawi and al-Raysuni towards a more radical "transformation reform" (pp. 79-80). The attempt is to look for the possible answers to the *darurat* and *hajat* sprouting from new contexts, with renewed emphasis and instrumentalisation of the concept *maslaha* and *maqasid al-Shari'a* (p. 80).

The next chapter, "*Maqasid al-Shari'a* in Contemporary Shi'i (twelver shi'ism) jurisprudence" by Liyakat Takim, argues the absence of *maqasidi* discourse in contemporary Shi'i jurisprudence. Looking deeply into contemporary reform in Shi'i legal discourse and debates about the validity of *maslaha* and *maqasid al-Shari'a* in Shi'i legal theory, Takim tries to locate the reform in contemporary Shi'i jurisprudential thought from the perspective of Iranian revolution, wherein he repeatedly quotes Khumayni, Mohagheg Damad, Ayatollah Sanei. He invokes scholars like Mohammad Fadhlallah, Muhsin Kadiwar, Mojtahid Shabistari to maintain that there is a need to rearticulate a jurisprudence to address the contemporary concerns and problems (p. 107).

The fifth chapter, "*Maqasid al-Shari'a? Secularism, Islamic Reform, and Ethics in Modern Turkey*" by Aydogan Kars investigates into the different approaches within Turkish scholarship about the conceptualization of *maqasid al-Shari'a* in modern Turkish context. Kars argues that 'the Turkish literature on the *maqasid al-Shari'a* appears relatively recent, abstract, academic, and, more significantly, anti-reformist' (p. 127). He develops his assessment on the backdrop of the reforms of late Ottoman Empire which divorced ethics from law (p.128), which later defined the *maqasid al-Shari'a* discourse in modern Turkey.

Categorizing the trends in the *maqasid al-Shari'a* discourse in modern Turkey, the author enumerates them into four distinct categories: (i) the traditionalists or the renewalists; those who define *Shari'a* as 'ethical-cum-legal flexible worldview that is capable of renewing itself with its authentic tools, one of which is the *maqasid al-Shari'a*' (p. 131). Secondly, the contemporary academicians who produce 'highly specialized academic knowledge for the readers well versed in classical *fiqh* aligning themselves with the classical *maqasid al-Shari'a* framework (p. 131). The third category is the revisionists, the academicians who try to arrive at some

systematically comprehensive interpretative model of Islamic normative sources, while integrating the hermeneutics of classical Islamic legal theory with the post-enlightenment Western hermeneutics. The fourth group is defined as the secularists, whom the author finds most difficult to define, who regard *Shari'a* in exclusively legal or ethical terms. For them Islam is in perfect harmony with different conceptualizations of secularism therein. The sixth chapter, “*Maslaha* and Rashid al-Ghannushi’s Reformist Project”, by Karim Sadek is a critical assessment of Ghannushi’s employment of *maslaha* in his sociopolitical reform project beyond the Tunisian specific context to face modernity optimistically through the Islamic spectacle. The author looks critically into Ghannushi’s theoretical model of Islamic state from the perspective of democracy, human rights and pluralism vis-à-vis his reliance on *maqasid al-Shari'a* based framework of an Islamic state to address the issues of modern state craft and human rights positively.

In the chapter seven, “On Reading Shatibi in Rabat and Tunis”, Ebrahim Moosa engages with the contemporary critical reading of Shatibi in West Africa by Muhammad ‘Abid al-Jabiri (d. 2010)—a philosopher-historian, Taha ‘Abd al-Rehman—a Moroccan philosopher, and Abu Ya’rab al-Marzuqi—a French trained Tunisian philosopher. In the last two chapters, Adis Duderija, the editor attempts the employment of his claimed “non-patriarchal Qur’anic hermeneutics” (p. 193) and *maqasid al-Shari'a* to arrive at the “novel gender-symmetrical Muslim family law”. In the last chapter, the author questions the concepts of patriarchy and slavery from the viewpoint of *maqasid al Shari'a* and Qur’anic values and worldview.

The book features an introduction and a brief outline of the chapters at the onset and a useful bibliography in the end. Although the book is crafted on the lines of progressive understanding of *maqasid al-Shari'a*, still, it can be equally handy for the academicians and students of Islamic studies and allied social science branches. The book is a good contribution to the contemporary discourse on *maqasid al-Shari'a* and issues related to Muslim communities. The book, in sum, covers the diverse themes related to contemporary Muslim reformist thought and problems faced by Muslims in contemporary world.