



## The Ruling's Correspondence with its Legitimate Objective.

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### Abstract

The methods by which the purposes of the lawgiver are reached in its rulings are considered one of the most important topics in the science of Maqasid, and this is why many of those who have been concerned with this science have studied this research. Some contemporaries have argued that rotation is also a way of revealing the reasons for the rulings, as it is also a way of revealing the purposes of the rulings. This research came to elaborate on this issue, and also deals with the real relationship between the provisions of the Shari'ah and its purposes.

I have concluded that rotation is neither a method for uncovering the purposes of the rulings, nor a condition for their validity. The correct relationship between the ruling and its legitimate purpose is that the ruling remains legitimate as long as it fulfills the purpose of its legislation in general, that is, even if this purpose does not apply to the ruling in some persons, and if we are certain that the ruling no longer fulfills the purpose of its legislation in all persons, then its survival is devoid of the wisdom of the street in downloading the rulings.

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### The rotation of the ruling with its legitimate purpose

We praise, thank, and forgive Allah, and we seek refuge in Allah from the evil of ourselves and the bad deeds of our deeds; whoever is guided by Allah, there is no wayward, and whoever is misguided, there is no guide, and I testify that there is no god but Allah alone, without a partner, and I testify that Muhammad is His slave and His messenger .

After that, it is no longer hidden the importance that the scholars of the age have given to the purposes of the Shari'ah, because of its important role in the movement of legal Ijtihad, and the validity of Islamic law to meet the needs of society in various fields.

Imam al-Shatibi is considered the most prominent person who originalized this science and set the rules governing it, guided by the words of his predecessors from the scholars of the fundamentals. This is what should be followed, unlike some contemporary scholars who seek to cut the link between these two sciences.

One of the rules that has been mentioned by some researchers in the science of Maqasid is that just as a judgment revolves with its cause and effect, it also revolves with its legitimate purpose and effect. This research came to study this rule and the relationship between the ruling and its legitimate purpose in light of the words of the fundamentalists, because of its importance in guiding scholars in deriving rulings.

### **First: Reasons for choosing the topic**

- 1- Demonstrating the importance of the science of Maqasid in general.
- 2- This topic falls under the methods of revealing the purposes of the Shari'ah, which is one of the most important topics of this science.
- 3- This research reveals the most important differences between the causes of rulings and their legal purposes.
- 4- Contributing to the enrichment of topics related to the science of Maqasid, guided by the words of fundamentalists and specialists.

### **Second: Previous studies on the topic:**

I did not find anyone who addressed the path of rotation and its relationship with the purposes of the Shari'ah in a special research, but some addressed it within the paths of revealing the purposes of the Shari'ah, but in a very brief manner. This research is intended to elaborate on this issue, and also addresses the real relationship between the provisions of the Shari'ah and its purposes.

### **Third: Research Methodology**

In preparing this research, I relied on the inductive and analytical method, as I tracked the words of the fundamentalists and Maqasidists on the subject, and tried hard to analyze their opinions and discuss them in light of what has been decided by the scholars of this art.

### **Third: The research plan:**

Fundamentals scientists studied rotation in two places in their books on the subject of causation, when they described the conditions of causation, when they talked about the condition of uniformity and reversibility. And when revealing the paths of causation. Therefore, in this research, I will address rotation as a way to reveal the intentions of the street, and the requirement of rotation of the intent with its legislative judgment, then I will devote a special section to explaining the nature of the relationship between the legal judgment and its purpose for which it was enacted.

Therefore, the research includes three requirements:

Requirement one: Rotation as a way to reveal the intentions of the street.

Requirement two: The requirement to rotate the intent with its legislative judgment.

Requirement three: The nature of the relationship between the legal ruling and its purpose.

### **Requirement one : Rotation as a way to reveal the intentions of the street:**

Fundamentals scientists differ on the authenticity of rotation and its use as a method of uncovering the reasons for the law. However, what most of them agree on is that it is useful for the belief of causality.<sup>1</sup> The research on rotation as a path to the purposes of the sharia is based on this opinion of the majority.

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<sup>1</sup>See: Al-Bahr Al-Muheet: 3/260, Explanation of Tanqih Al-Fusul: 397, Rawdat Al-Nazir: 2/226, Taysir Al-Tahrir: 4/49

1-Some contemporaries have argued that rotation is one of the ways in which the intentions of the street can be revealed, just as a ruling rotates with its cause and effect, so it rotates with its legitimate purpose or wisdom for which it was enacted, whether present or absent.<sup>2</sup>

This is exemplified by the rotation of the rule of facilitation in the presence of hardship, as the tracking of legal rulings shows us that the street tends to facilitate where there is a hardship that is usually unbearable. This is consistent in the licenses of worship, as well as in the licenses of transactions.<sup>3</sup>

However, it is argued that rotation can be relied upon in uncovering causation by the majority of fundamentalists, based on the fact that a ruling rotates with its cause, both in existence and absence, as a cause can only be a valid reason for any ruling if it exists with its ruling, and if it is absent, its ruling is absent. In contrast to the purpose represented by the wisdom of legislating the ruling, the fundamentalists have stipulated that the wisdom may exist with the absence of the ruling for which it was legislated. Wisdom may be absent with the presence of the judgment that was assigned to it.

Example one :The wisdom behind the prohibition of adultery is the mixing of lineages. If a man takes young boys and disperses them to a place where their fathers do not see them, until they become men, and their lineages are mixed at that time, then this man should be subject to the punishment for adultery because there is a wisdom behind the prohibition of adultery, but this is contrary to the consensus..<sup>4</sup>

Example two: God Almighty has prescribed shortening and breaking the fast during travel due to the hardship that the traveler experiences. Removing this hardship is the wisdom behind the legislation of these two rulings. These two rulings remain even for the affluent king for whom travel is not difficult. He has prescribed shortening the prayer and permitting breaking the fast in Ramadan for the reason of travel, despite the absence of the wisdom for which these two rulings were prescribed..<sup>5</sup>

2-Another contemporary tried to get rid of this problem in order to establish the rule “Just as the ruling revolves with its cause in existence and nonexistence, it revolves with its purpose in existence and nonexistence.” When he found that some rulings are not connected with their wisdom in existence and nonexistence, the ruling may exist without its wisdom. And the ruling may be absent with its wisdom, as was previously mentioned, he was guided to differentiate between purpose and wisdom, despite his statement that it is contrary to the opinion of many of the fundamentalists who consider the purpose of legislating the ruling to be the same as the wisdom of legislating it..<sup>6</sup>

He considered that the difference between wisdom and Maqasid lies in the fact that wisdom is an interest that is secondary to the ruling, while the partial Maqasid that goes along with the ruling is an

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<sup>2</sup>See: Methods of Revealing the Objectives: 161, Controls for Considering the Objectives: 135, Objectives of Sharia in Foundation and Activation: 195

<sup>3</sup> See: Methods of Discovering the Objectives of Sharia: 161, Objectives of Islamic Sharia, Foundation and Activation: 195

<sup>4</sup> See: Explanation of the Purification of Chapters: 407

<sup>5</sup> See: Nihayat al-Wusul: 8/3293, Tashneef al-Masame' bi-Jam' al-Jawami': 3/289

<sup>6</sup>See: Methods of Discovering the Objectives of Sharia: 161, Objectives of Islamic Sharia, Foundation and Activation: 195

See: Explanation of the Purification of Chapters: 407

See: Nihayat al-Wusul: 8/3293, Tashneef al-Masame' bi-Jam' al-Jawami': 3/289

See: Shifa' al-Ghaleel: 615

interest that is intended by the ruling in the main form, so the criticism directed at reasoning by wisdom and attributing the ruling to it does not need to apply to reasoning by Maqasid.<sup>7</sup>

And what he used as an example of his speech ;

A- The license to break the fast is due to illness or travel, and its wisdom is to lift the hardship, and the ruling may exist with its failure in the travel of the luxurious king. Unlike its purpose, which is the removal of harm, it is associated with the ruling in both its presence and absence. It is not permissible to break the fast for those who find hardship in fasting, unless the hardship exceeds the harm.

B- The imposition of the penalty on an adulterer is due to adultery, and its purpose, which the jurists mentioned, is to prevent the mixing of genealogies, and the ruling may not apply to someone who takes young boys and separates them from their parents, despite the mixing of their genealogies., unlike the purpose of this ruling, which is to deter adultery with all its moral and social evils, it is associated with the ruling, both present and absent.

C. The prohibition on marrying the mother is due to breastfeeding, and the ruling mentioned by the jurists is partial, meaning that part of the infant's body was formed from the breastfeeding woman's milk. The ruling may fall short of this wisdom in the case of a child who has been transfused with a woman's blood, but it does not prohibit her, despite the partial fulfillment of the rule. However, the purpose of this ruling, which is to respect the maternal bond that develops between the breastfeeding woman and the child she has breastfed, is the purpose from which the ruling never deviates.

- The answer to the first example is that even if we consider that the purpose of the license to break the fast in Ramadan due to illness or travel is to remove harm, and not to remove hardship, this does not make the ruling rotate with its purpose, as the luxurious king has no harm in his travel, and yet he is licensed to break the fast.

- The answer to the second example is that the deterrence of adultery, with all its moral and social evils, is not suitable as a legal purpose for a special ruling. What are these moral or social evils that are related to adultery, so that we can see that the ruling goes back and forth with it.

-The answer to the third example is that it is not recognized that the lack of sanctity between the woman and the child to whom her blood was transferred during the two months of pregnancy was due to the lack of wisdom, but rather the lack of wisdom was due to the lack of wisdom. The scholars of the time have ruled that blood transfusion does not spread the inviolability, due to the influential difference between a woman's milk and her blood, as milk is a nourishing organism, unlike blood, which is merely a carrier of food.<sup>8</sup>

Moreover, the claim that "the purpose of the legislation of this provision is the association of motherhood that arises between breastfeeding and the child"... is not correct, because this meaning is realized in the boy adopted by a woman from his first upbringing, in which the association of motherhood is achieved more than the breastfeeding of the child. Does this make it his own?!

In summary, rotation I cannot be counted among the paths of discovering the objectives of Sharia, for the strong objections previously made to it, therefore not subjected to this topic from former Shatibi and Ibn Ashour, which made the audience of modern researchers in the destinations not perceive it as a method of disclosure.

#### **Requirement two : The requirement for the rotation of destination with its legislative provision:**

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<sup>7</sup> See: Fiqh al-Maqasid: 61, Ijtihad al-Maqasid from the Fundamental Concept to Practical Application: 79

<sup>8</sup> See : Research on Blood Transfusion and its Shari'a Rulings, Al-Hikmah Magazine, Issue 12, 1997, p. 128

We find the fundamentalists' discourse on this topic within one of the impediment of causation impediments, called the break, or the negation of the meaning. They differed on whether the failure of the ruling to reflect the wisdom of its legitimacy is considered causation impediments in the reason for this ruling that leads to the realization of this wisdom. Those who consider the break as impediment in the reason as if it requires the rotation of the purpose with its legislative judgment, and those who do not consider it to be impediment do the opposite.<sup>9</sup>

#### **Branch one: The truth of the break**

**Break:** The reasoned judgment lags behind the meaning of the rationale, i.e. the wisdom intended by the judgment.<sup>10</sup>

His image: If Al-Hanafi says in the matter of rebellious by travelling: travelling, he should be licensed to travel as a non- rebellious by travelling, and indicate the occasion of travel for this provision with all its hardship.

The objector says, "What I said is wisdom --- the hardship - is contradictory, it exists in the right of porters and owners of urban hardworking, yet it does not license them.

#### **Branch two: Disagreement in break as a reason impediment :**

Fundamentalists scientists disagreed in the reasoned failure of judgment to the wisdom intended by the legislation of this provision, is it invalid or not? They disagreed on two doctrines:

**Doctrine one :** that break is no longer reason impediment, went to this many.

They concluded that speech on the matter was imposed on wisdom, which was not self-disciplined, but on its controller. Then it is no secret that the amount of it is not disciplined, but different for different people, times and conditions. The street's persistent response to the clear phenomenon, in order to discourage people and undermine in judgments, refrains from explaining wisdom without controlling it and, if it is not a cause, there is no point in not wanting to refute it.<sup>11</sup>

Doctrine two: that the break is one of the causation impediments, quoted some of them not appointed.<sup>12</sup>

They reasoned that wisdom was regarded as a piece of governance legislation, and a reasoned description was considered to follow. The reversal of wisdom is on the rationale, because if a particular wisdom exists, and there is no judgment with it, it is known that that wisdom is inconceivable, so is the characterization of its dependence.<sup>13</sup>

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<sup>9</sup> Al-'Adud on Mukhtasar Ibn al-Hajib with the commentary of al-Taftazani: 3/348. See: Fusul al-Bada'i': 2/365

<sup>10</sup> See: Al-Ihkam: 3/231, Fusul al-Bada'i': 2/365, Sharh al-Kawkab al-Munir: 4/64, Fawaatih al-Rahmut: 2/332, Some have said that the meaning of the break is: dropping a description of the descriptions of the compound cause, and removing it from consideration, then negating the other part of the cause. See: Al-Mahsul: 5/259, Nihayat al-Sul: 343, Tashneef al-Masame': 3/338

<sup>11</sup> see: Al-Ahkam by Al-Amidi: 3/230, Sharh Al-Kawkab Al-Munir: 4/64, Fawaatih Al-Rahmut: 2/332

<sup>12</sup> See: Al-Ahkam by Al-Amidi: 3/230, Sharh Mukhtasar Al-Rawda: 3/510

<sup>13</sup> See: Al-Ahkam: 3/230, Sharh Mukhtasar Al-Rawda: 3/510, Sharh Al-Kawkab Al-Munir: 4/64, Fawaatih Al-Rahmut: 2/332

On this evidence, he replied that while wisdom was the intention of the legislature of the judgment, but in a controlled manner, and the imposition of wisdom in the form of cassation was abstract from its controller, it refrained from being intentional.<sup>14</sup>

### **Branch three : Weighting:**

It appears that what the proponents of the first school of thought have gone to is the most likely in the issue, as their evidence is free from any objection, unlike the evidence of those who oppose them. The example of the sinner of travel, which the scholars of the principles of jurisprudence cite regarding the breaking of the fast, is evidence of that, as there is no disagreement that traveling is the reason for the license to travel, and that the owners of difficult crafts in the city do not have a concession. This is evidence that the lack of the ruling of concession from the wisdom of hardship had no effect in invalidating the reason, nor in invalidating the ruling.

Based on the above, it is not a condition that the ruling revolves around the purpose of its legislation, as the wisdom of the legislation of the ruling may be achieved, and then this ruling does not exist with it. .

### **Requirement three: The nature of the relationship between the legal ruling and its objective:**

Usul scholars have discussed this topic in the appropriate sections in view of its convergence to the intended purpose of legislating the ruling. Despite the importance of the topic, many contemporary scholars who have written on the objectives have not addressed it.

The importance of this issue lies in confirming the correctness of what is said by the scholars of objectives that the purpose of legislating rulings is to achieve the interests of the people. If the ruling is no longer able to achieve the wisdom for which it was legislated, then it must be changed. Does this on its launch, or is it subject to controls?

Usul scholars have stated that the intended purpose of legislating the ruling based on the appropriate description is either that it be obtained: certainly, or presumptively, or that obtaining and not obtaining are equal, or that not obtaining is more likely than obtaining, or that its occurrence is definitely negated in some cases. The sections are five:

**Section one : The certainty of the intended ruling:** An example of this is the sale, which was legislated to result in the ownership that permits the seller to dispose of the price and the buyer to dispose of the goods, and it is certainly achieved as a result of it, because when a valid sale is made, ownership is inevitably achieved as a result of it.

**Section two : the purpose of the judgment is to believe:** for example: "The penalty resulting from the murder of aggression shall proceed, the legitimacy of penalty shall lead to the exhaustion of trespassing, because it is often reasonable that if he knows that if he is killed, he shall cease to kill, but some, knowing the penalty , may be killed. so the intended certainty of the legislation of the ruling is not achieved.

**Section three : Obtaining the intended ruling in doubt:** It is rare for an example of it to be achieved in the Shariah, but rather in the way of approximation, such as the legislation of the punishment for drinking alcohol to protect the mind, since the result of the legislation of the punishment to that is doubtful, as we find many who abstain from it resisting the many who come forward to it, because the nature calls for drinking it.

**The fourth section: Obtaining the intended ruling in doubt:** An example of it: Marriage to a woman in despair, since marriage was legislated for the purpose of procreation and reproduction. And the procreation of a woman in despair, although it is possible rationally, is usually remote, so leading to it is likely.

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<sup>14</sup> See: Al-Adhud on Mukhtasar Ibn Al-Hajib with the commentary of Al-Taftazani: 3/348

These are the sections of what is appropriate in view of the result of the ruling assigned to it to the intended purpose of its legislation. The first two sections are agreed upon as a reason by those who say that reasoning is appropriate.

As for the third and fourth sections, some of the scholars of the principles of jurisprudence said: It is not permissible to justify them; because the third is doubtful to obtain, and the fourth is likely, and the standard in rulings is conjecture. The majority of scholars have held that the reasoning behind them is valid, because the possibility of achieving the intended meaning of the law of the ruling is sufficient for the validity of the reasoning, as long as this intended meaning is achieved in the type of description, not in each of its parts. As evidenced by the fact that shortening the prayer and breaking the fast in Ramadan is permissible due to the reason of travel, because it is a cause of hardship. This reason has been considered even for a luxurious king who is most likely not to be affected by hardship.

**Section Five: The intended meaning of the ruling is not achieved with certainty:** An example of this is the lineage being attributed to a man from the East in marriage to a woman from Morocco, knowing that they have definitely not met. Marriage was legislated to preserve lineages by attributing each child to his legal father. However, in this case, we know with certainty that if this Moroccan wife gives birth to a child, he will not be from her husband from the East who has not met her for certain. For this reason, the majority of scholars have held that the reasoning behind this description is not valid, so they did not attribute the child to this man, because there is no consideration for the suspicion when there is no reason, i.e. there is no consideration for the assumption of the existence of wisdom when there is knowledge and certainty of its absence. The Sharia usually takes into account the intended rulings, so when the intended ruling is completely lost, it is not permissible to add the ruling to it.

The Hanafis considered this reasoning, so they attributed the child to the husband in view of the apparent reason, which is the marriage contract.<sup>15</sup>

the most likely disagreement between the majority and the Hanafis in linking the ruling to its cause in the event that the intended meaning of the ruling is definitely missing is that what the majority has gone to is the closest to the truth, and it is with it that the branches of the rulings are organized. The ruling remains legitimate as long as it achieves the intended meaning of its legislation in the type of description assigned to it, even if this intention is missing in some persons, since linking the rulings to specific persons contradicts the nature of the legislation. However, if we are certain that the ruling no longer achieves the purpose of its legislation in all persons, then its remaining is considered devoid of the wisdom of the Lawgiver in implementing the rulings.

The gist of the speech from all that has been presented in this requirement is that the standard to which claims of the necessity of changing the rulings due to the missing or changing of the purposes of their legislation should be presented is that the appropriate description of the ruling, if it achieves the intended meaning of the legislation of the ruling definitely or conjecture, then there is no doubt in considering it because of the obligation to act on the conjecture. And if it achieves the intended meaning of its legislation in doubt or illusion, then the most likely is to consider it also, because the scholars agree that a luxurious king is permitted to travel, even if we think that there is no hardship for most kings in most cases. If the description no longer achieves the intended purpose of the legislation of the rule assigned to it absolutely and definitely, then changing the rule is what the rules of legislation require, as they came to achieve the interests of the people.

And some of the previous cases in which this principle was not taken into account, and the rulings did not change for some people or some cases despite not achieving the purpose of their legislation, the reason

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<sup>15</sup> See: Al-Ahkam by Al-Amidi: 3/231

for this principle was that this principle was opposed by another principle and an important principle of the rulings of legislation, which is the necessity of controlling the rulings and not disturbing them.<sup>16</sup>

### **Conclusion:**

Many contemporary researchers have taken care to clarify the relationship between the rulings of the Sharia and its objectives, so this research came to address a number of issues related to this topic. I studied through it:

**First:** The condition of the rotation of the objective with its legislative ruling, i.e. its consistency and reflection with it, which is required by the words of the fundamentalists in the defect of breaking that the ruling may differ from the wisdom of its legislation.

**Second:** Considering the rotation as a path to discover the objectives of the Sharia, and I concluded that it is not a correct path in that.

**Third:** The correct relationship between the ruling and its legal purpose, and I concluded that the ruling remains legitimate as long as it achieves the purpose of its legislation in general, that is, even if this purpose is absent from the ruling in some people, so if we are certain that the ruling no longer achieves the purpose of its legislation in all people, then its remaining is considered devoid of the wisdom of the Lawgiver in implementing the rulings.

In conclusion, I thank God, by whose grace good deeds are accomplished, I thank Him for enabling me to prepare this research and publish it in the manner I was aspiring to, so whatever is correct in it is from God alone, and whatever is wrong in it is from myself and Satan, and our final supplication is that praise be to God, Lord of the Worlds.

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<sup>16</sup> See: Rafea Al Hajib: 4/178, Collection of Compendiums (with Attar's Commentary): 2/320, Muslim Al-Thubut (with the Openings of Rahmout ): 2/324



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