WAHHĀBĪ SALAFISM’S VIEW ON MAQĀŠID AL-SYARĪ’AH

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Abstrak

This paper deals with the view of Wahhābī-Salafism on maqāṣid al-syarī’ah (the objectives of Islamic law) and its impact on the legal structure of their mażhab. By tracing the literature of Islamic legal theories (usūl a-fiqh) written by Salafists Muslim scholars, it is argued that Salafists ignore the role of reason in interpreting religious texts. The truth is one and is located in revelation. Revelation is the first source of human knowledge and the indisputable complete final source in which human beings are torn between two extremes, command and prohibition. From this view, rationality and the development of human social sciences are deemed as bid’ah, irreconcilable and alien to pure Islamic thought, since they do not have an epistemic root in pre-modern Islamic tradition. Furthermore, Wahhābī salafists recognised the significance of syari’ah objectives in accordance with the principle of mašlaḥah. This view enables them to be regarded as promoting legal pragmatism in Islamic law.

Keywords: Wahhābī-Salafism, mašlaḥah, syari’ah objectives, school of Islamic law, legal pragmatism

Abstract


Kata kunci: Salafi-Wahabi, mašlaḥah, maqāṣid al-syarī’ah, mazhab, pragmatisme hukum
A. Introduction

The world shows the emergence of a theological-legal movement that is relatively controversial in a Islamic discourse. This controversy lies in the fact that this movement often blames the other groups which are deemed as deviant from the true sources of Islam, the Quran and Sunnah. This group have also periodically attacked Sufism, and maintained that it is a syirk—referring to the worship of someone other than God—which is strictly forbidden in Islam. They are also against the idea of holding celebrations of mawlid and consider Muslims who celebrate mawlid as musyriks and permit killing them by the name of Islam.

This extreme view does not emerge from a vacant room. There are some principles of knowledge and methodologies forming the basis of this framework of thought, which include theology and legal thought. In terms of theology, this group derives its teachings from Muhammad ibn ‘Abd al-Wahhab, which was inspired by neo-Hanbalite school of Ibn Taymiyyah (15th century), representing a traditional current that is distinguished by its literal reading of Islam and its rigorist and puritanical appearance. His simple and revolutionary doctrine includes return to original Islam in order to restore Islam’s Golden Age at the time of the Prophet and his companions. To retrieve the pious precursors of Islam, ‘Abd al-Wahhab proposed replacing the barbarous and “infidel” customs by full implementation of syar‘ah. In terms of legal thought, they have adopted the school of Ibn Ḥanbal.

Anchored in the past, designed based on the legacy of Ibn Ḥanbal and Ibn Taymiyyah, Wahhabi legal thought and jurisprudence in contemporary era is elaborated and presented in the fatwas and writings of the current official Saudi religious authorities: (1) The Board of Senior ‘Ulamā’ (Hay‘at Kibār al-‘Ulama’), and (2) The Permanent Committee for Scientific Research and Legal Opinion (al-Lajnah al-Da‘imah li al-Buḥuṣ al-‘Ilmiyyah wa al-IFTā’). In Saudi Arabia, both institutions together, under the leadership of the State Grand Muftī, constitute the highest official authority for syar‘ah interpretation and play a vital role in the conduct of daily life, perhaps more than in any other country in the Middle East. These institutions are often involved in social, political, legal and judicial matters and they have published thousands of fatwas since their inception in 1971.

According to Doorn-Harder,1 this Wahhabi-Salafism cuts any possibility of human interpretation in reinterpreting the traditional institutions of religious authority, but using only a limited part of the vast tradition of thought and practice of Islamic jurisprudence. Searching the empirically quantifiable values of Islam, Wahhabi-Salafism has become empty of spirituality and values such as human dignity, love or compassion. These values are the essence of Islam, and it is on which Islamic legal thought and jurisprudence is built. The question is whether or not Wahhabi-Salafism ignores the principle of maqāṣid al-syar‘ah? The purpose of this essay is to describe and analyze the view of Wahhabi-Salafism about maqāṣid al-syar‘ah, and its impact on the legal structure of their school of Islamic law (mużhab).

B. Theoretical Background

1. Traditional Wahhabi-Salafism

The term “Wahhabi” is derived from the teachings of Muhammad ibn ‘Abd al-Wahhab, an eighteenth century religious zealot from the Arabian interior. This movement was inspired by neo-Hanbalite school of Ibn Taymiyyah (14th century), representing a traditional
current that is distinguished by its literal reading of Islam and its rigorist and puritanical appearance. Meanwhile, Salafism ("predecessors" or "first generations") is regarded as a Sunni Islamic movement that takes the pious ancestors as exemplary models (Salafi) of the patristic period of early Islam. A number of different terms are used on salafiyyah, including salafiyyists, neo-Wahhabis, Hanbalites or neo-Islamists. Here, I used the term "Wahhabi Salafism" or "Salafabism", a term coined by Khaled Abou El Fadl. Fadl argued that Salafism is a theological orientation and not a structured school of thought. Therefore, one finds a broad range of ideological variations and tendencies within each orientation.

The consistent characteristic of Salafabism, Fadl argued, is a supremacist Puritanism that compensates for feelings of defeatism, disempowerment, and alienation with a distinct sense of self-righteous arrogance vis-à-vis the nondescript "other"—whether the "other" is the ḥest, non-believers in general, or even Muslim women.

From a philosophical point of view, Wahhabi-Salafism is built on an epistemological foundation which mainly consists of three important principles: return to the Quran and Sunnah (al-rujūʿ ilā al-Qurʾān wa al-Sunnah); unity of God (tawḥīd); loyalty and denial (al-walāʾ wa al-barāʾ). These fundamental principles and values (al-qiyam al-asāsiyyah) for Salafists seem to be “final and binding”, and become a starting point for their activities at a practical level.

First, for Salafists the Quran and Sunnah are the only source valid for Islamic knowledge and activities. Fragmentation and political and economic instability experienced by Muslims are due to their ignorance and deviation from the right path of Islam. Therefore, the return to the Quran and Sunnah is the most important solution to deal with crisis confronting Muslim countries. It is carried out by way of understanding the practices of al-Salaf al-Ṣāliḥ (the pious generation). They called it "the method of Salaf" (manhaj al-salaf). These sources—the Quran and Sunnah—are sufficient to explain the problems of Muslim communities. The efforts to interpret religious texts by using reason will open the way for human interests, and distort the truth of Allah. This anti-intellectual approach can be seen while interpreting God’s names and attributes employing textualist method (wujuḥ isbāʿ asmāʾ Allāh ʿazza wa jalla isbāṭan ḥaqiqiyyan bi alfāzihā wa maʿānihā mā jāʾa minhā fī al-Qurʿān al-kaʿīm aw al-sunnah al-saḥīḥah). Muslims should accept this view according to its literal meaning, and therefore, they are not allowed to carry out taʾwil (allegorical interpretation). This approach also expands to the issue of Islamic law.

Besides, Sunnah becomes the second authoritative source of Islam. This source begins to be ignored in this contemporary era, with heretic practices (bidʿah) and superstitions (khurāfāt) mushrooming among some Muslims. Therefore, it is necessary to revive the Sunnah in order to return to the autenthic Islam. According to Wahhabi-Salafism, bidʿah emerges due to the adoption of local cultures by Islamic missionaries in their efforts to attract new converts. This blend of Islam and customs helped significantly the conversion process to Islam by making Islam accessible to wider audiences. This syncretism threatens the purity of Islamic teachings. In this context, culture is seen as the enemy for the autenthic Islam, and their purification of Muslim beliefs and practices represents the example of what Olivier Roy calls “deculturation.”
Second, the unity of God (tawhīd) is on the core of Salafist ideology. Tawhīd, which means “to acknowledge the oneness of God,” can be divided into three categories: ⁸ tawhīd al-rububiyyah (the unity of worship),⁹ tawhīd al-ullūhiyyah (unity of lordship),¹⁰ and tawhīd al-asma‘a wa al-ṣifāt (the unity of Allah’s names and attributes).¹¹ These three kinds of tawhīd become an axis for the Salafists mission and action at a practical level, as well as a framework to protect Islam from all things that can possibly pollute Islam, and to reject all reason-based interpretations.

Third, al-walā’ wa al-barā’ (loyalty and denial) is one of the Salafist’s creeds and faith requirements, and it is also the firm tie (al-‘urwah al-wuṣqā).¹² Even, al-walā’ wa al-barā’ is one of the important media to join in Islamic movement and to follow the right path (manhaj al-haqq). The term al-walā’ means “to help, love, respect, appreciate, live together with people loved either outwardly or inwardly, while al-barā’ means “to avoid, set free, and oppose.”¹³ Based on this concept, Muslims have to show their full loyalty only to Allah, Islam and their Muslim brothers in all aspects; otherwise, they must avoid and oppose to non-Islamic deeds and sayings. This means that al-walā’ wa al-barā’ becomes an instrument to protect Muslims from negative religious innovation (bid‘ah), and to differentiate “true” Muslims from the others.

2. Maqāṣid al-Syari‘ah (the Objectives of Islamic law)

Maqāṣid al-Syari‘ah, refers to the “deeper meanings (ma‘ānî) and inner aspects of wisdoms (ḥikām) considered by the Lawgiver in all or most of the areas and circumstances of legislation (ahwāl al-tasyrī)”.¹⁴ Historically, the idea of maqāṣid started to find its raison d’être during the time of Juwaini (d. 478H), this doctrine made its first move from philosophy to a full-fledged method. The shift was caused by one main reasons, ʿusūl al-fiqh was about to loose its niche which is to produce legal rulings and narrow down the scope of disagreement among Muslim scholars. Further, ʿusūl al-fiqh was marred by the inclusion of some doctrines that had no legal bearing on the legislative process. This had prompted scholars like Juwaini to call for a definitive science, i.e: maqāṣid al-syari‘ah (the objectives of Islamic law) that could bridge juristic differences and becomes a frame of legislative reference for laymen.¹⁵

Undoubtedly, the writings prior to Syaṭībi’s Muwafaqāt such as those of Ibn Taymiyyah (d.728A.H/1343 A.D) and al-Izz ibn ‘Abd al-Salām (d. 660 H) constituted a clear departure from maqāṣid as a philosophy to maqāṣid as a method. By virtue of this shift, maqāṣid was not viewed as mere wisdoms featuring syari‘ah but their ends which are inductively formulated and rationally structured within a revelational frame of reference. The method of induction applied by al-Syāṭībi to survey the ends of syari‘ah goes beyond the conventional way of tracing the particular maqāṣid to formulate universal ones. The inductive method, as will be highlighted later, is a meticulous process that moves from simple enumeration to a totally different mode of legal reasoning that includes observation, classification, annulment, verification and confirmation.

Syari‘ah, defined as a system of ethics and values covering all aspects of life (e.g., personal, social, political, economic, and intellectual), has objectives. To understand the syari‘ah, one needs to comprehend its objectives, which allow flexibility, dynamism, and creativity in social policy. Al-Ghazālī said,

The objective of the syari‘ah is to promote the well-being of all
mankind, which lies in safeguarding their faith (din), their human self (nafs), their intellect ('aql), their posterity (nasl) and their wealth (mal). Whatever ensures the safeguard of these five serves public interest and is desirable.16

Based on this definition, it can be inferred that the syari'ah is predicated on benefiting the individual and the community, and the laws are designed to protect these benefits and facilitate the improvement and perfection of human life in this world. The syari'ah uppermost objectives rest within the concept of compassion and guidance, which seek to establish justice, eliminate prejudice, and alleviate hardship by promoting cooperation support within family and society at large. Maqasid al-syari'ah sometimes has the same meaning as maslahah, and both are frequently used interchangeably. Al-Ghazâli defines maslahah as follows: Maslahah is essentially an expression for the acquisition of benefit or the repulsion of injury or harm, but that is not what we mean by it, because acquisition of benefits and the repulsion of harm represent human goals, that is, the welfare of humans through the attainment of these goals. What we mean by maslahah, however, is the preservation of the syari'ah's objectives.17

Further, al-Syâţîbî defines maslahah as a principle that concerns the subsistence of human life, the completion of one's livelihood, and the acquisition of what his/her emotional and intellectual qualities require of him/her in an absolute sense.18 In fact, he singles maslahah out as being the only overriding syari'ah objective broad enough to comprise all measures deemed beneficial to people, including administering justice and worship. He further classifies maslahah into three categories: daruriyyaţ (the essentials),19 hâjiyyaţ (the complementary),20 and ta'hsîniyyaţ (the embellishments).21

Such a classification implies how a maslahah-based methodology could be used to derive new rulings from the syari'ah, meet society’s changing needs, and solve contemporary problems related to socioeconomic endeavors. Thus, these principles can help establish guidelines for moral judgments and balancing the individual’s self-interests with social interests.22

The concept of maslahah and the doctrine of maqasid al-syari'ah are quite similar at the first glance. However, in a more detailed analysis, the two concepts are actually complement and interdependent between each other. Maqasid al-syari'ah doctrine is related with the protection of the human basic elements while maslahah is the level of protection of those elements. Figure 1 illustrates the relationship between the two concepts.

### C. Wahhâbî-Salafist’s view on Maqasid al-Syari’ah

1. **Tradition (naql) over reason (’aql)**

   The relationship between reason (’aql) and tradition (naql) has never stopped to occupy the mind of philosophers and theologians since Plato’s days. In Islam, the reaction to the challenge of reason has moved between two poles: (a) absolute rejection of reason as a source of knowledge of religious matters; (b) acceptance of reason as the
sole source of knowledge of religious matters. Ibn Taymiyyah brings forth forty-four arguments dealing with the relationship between reason and tradition in his voluminous work *Darʾ Taʿāruḍ al-ʿAql wa al-Naql*. His views can be summarised into following statement that reason is neither the basis of the existence of tradition nor the basis of the knowledge of its soundness. Furthermore, Ibn Taymiyyah sets forth a series of arguments against the rational arguments as follows: the rational arguments vary and are sometimes self-contradictory; they contain doubts; they are mixture of truth and falsehood; they do not coincide with usual linguistic use; and they are not always rational.

From the Ibn Taymiyyah’s view it can be argued that the truth is one and is located in revelation. Now, since revelation is true and is expressed through both traditional and rational arguments, it cannot be contradicted by true reason. In the case of contradiction of reason and revelation, either a tradition is weak or apocryphal or a rational argument is false, revelation is put on priority. Reason, according to him, has not independent status, and the basis of reason is revelation, and that hence there can be no disagreement between the two elements.

The same is also true for Wahhābi-Salafism. Methodologically, Wahhābi-Salafists reject the role of reason in interpreting religious texts. The truth is one and is located in revelation. Revelation is the first source of human knowledge and the indisputable complete final source in which human beings are torn between two extremes, command and prohibition. This attitude towards tradition (*turāth*) is solely concerned with the “imitation of the original, the preservation of the original requirements and prohibition of going against the original.” Tradition is exclusively seen as providing a sense of direction one should not deviate from. The past is seen to provide all the answers and constantly imposes itself upon the present. According to this view, textual sources precede and should not be understood through reality; rather, reality should be understood through the text, thereby ignoring whatever reality shaped the process of text formation.

In addition, epistemologically, Wahhābi-Salafists consider rationality and the development of human social sciences as *bidʿah*, an ungodly innovation, irreconcilable and alien to pure Islamic thought. They are also hostile towards any modern theories that do not have an epistemic root in pre-modern Islamic tradition, considering feminism, democracy, and human rights issues as entirely alien to Islam and *bidʿah* from the West polluting the minds of Muslims. Therefore, this view is seen as anti-rationalism, anti-intellectualism, and strict literalism, which is hostile to humanistic epistemology, and attempts to interpret the Divine law without any degree contextualization, thereby proclaiming “the diacritical and indeterminate hermeneutic of classical jurisprudential hermeneutic as corruptions of purity of Islamic faith and law.”

2. *Al-Tahṣīn wa al-Taqbiḥ al-ʿAqliyyān* (Determination of Actions as Good and Evil Based on Reason)

*Al-Tahṣīn wa al-taqbiḥ al-ʿaqliyyān* is one of the controversial important issues in a theological discourse in Islam. This is to answer the question whether or not reason knows good and bad in one’s deeds. In this issue, emerge three schools of thought dealing with this issue. First, Muʿtazilites argued that reason itself can depict good and bad to someone’s actions. The actions or deeds have either good or bad values which make someone be praised
or blamed. Second, the dominant position of Asy’ari’ism was a denial of the possibility of the attainment of moral truth by unaided reason and a pure and consistent voluntarism while Maturidism concurred on voluntarism while accepting that the unaided human intellect could indeed arrive at the knowledge of moral truths — specifically the Sunni Islamic major sins namely the evil of murder, theft, fornication, and intoxicants.

This issue of *al-tahsin wa al-taqbih al-‘aqliyyan* caused Muslim scholars to differ in the ascertainment of the *‘illah* (effective cause) in *usul al-fiqh*. The majority of jurists from the Asy’ari school of theology, for instance, defined *‘illah* as “determining the law” (*al-mu’arrif li al-ḥukm*). It differs from Mu’tazilites’ view that God’s acts are motivated by the consideration to promote people’s welfare and well-being.

As a consequence, actions and substances have attributes in themselves, which can be deemed either good or bad. Based on this view, jurists from the Mu’tazili school of theology defined *‘illah* as “determining the law” (*al-mu’arrif li al-ḥukm*). It differs from Mu’tazilites’ view that God’s acts are motivated by the consideration to promote people’s welfare and well-being.

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In addition, this issue makes the Muslim scholars differ in their view of the authority of *maslahah* mursalah in the formation of Islamic law. Those who rejected the authority of *maslahah* mursalah, such as Zahirī school of law. They based their arguments on denying the concept of *al-tahsin wa al-taqbih al-‘aqliyyan* and *ta’li al-ahkām*. Their argument is that if *al-tahsin wa al-taqbih al-‘aqliyyan* is allowed, it is no need to the sending of the prophets since human’s reason is regarded as being able to educate people and to know the law.

Furthermore, Ibn Ḥazm argued that God in no way does anything—neither with regard to establishing legal-moral judgements nor with regard to anything else—on account of an *‘illah*. If God or the Prophet stipulate explicitly that a certain ruling is because of reason *w*, or for the sake of *x*, or because *y* was the case, or on account of *z*, then we know that God has made these things reasons (*asbāb*) for those rulings precisely and only in those instances with regard to which they were stipulated as being the reasons for the rulings in question. In no way do these reasons occasion anything of the rulings in question in other than the instances explicitly mentioned in texts. Ibn Ḥazm cites as evidence against *ta’lī* in general Qur’ān 21: 23, which states: “He is not questioned for His acts, but they are questioned (for theirs).” Ibn Ḥazm interprets this verse as a clear prohibition of asking the question, “Why?” with respect to any God’s acts or laws, ruling out by necessity the ascription of any causes (*‘ilal*) or reasons (*asbāb*) to these latter.

Otherwise, al-Ṭūfī argued that *syari‘ah* was revealed to promote *maslahah*. This theory is derived from the Qur’ān, Ḥadīṣ and Ḣijāra’, which provide several arguments supporting the existence of *maslahah* in the *syari‘ah*. The first of these arguments is that all of God’s acts are motivated by particular considerations; God does not act without a reason for His action, because if He were to act without purpose, His action would amount to absurdity (*‘absa*) and God is beyond absurdity. The Qur’ān, as a source of law, bears witness to this by providing us with the reasons (*‘ilal*) for God’s actions. The second argument is that God has taken it upon himself to promote the welfare of His creatures and to work for their benefit. Such an obligation emphasizes the importance God has placed on the promotion of *maslahah*. The third argument is that the Lawgiver secures the welfare of man in
every situation according to what is appropriate to that particular situation. In Salafist’s point of view, someone’s deed and action have either bad or good values, as they have either beneficial or malicious effects. However, these good or bad actions cannot lead to rewards or punishment for those who commit them except if there are divine revelation-based instructions which include commands and prohibitions. Before revelation comes to people, which contains commands and prohibition, bad actions do not lead to punishment although this kind of action has negative and malicious impacts. Al-‘Uṣaymin supported this view arguing that since there is no room for reason in religious domains, then reason cannot have an authority to determine actions as good and evil, particularly in religious domains. Although al-‘Uṣaymin recognized that rules of syariʿah is based on reason, however, the reason that can be adopted must be ‘aql rusyd (mature reason). If contradiction occurs between reason and revelation (the Qur’an and Sunnah), revelation must be prioritized over reason since revelation is the basis for knowledge and practice.

From this it can be inferred that traditional Wahhābi Salafist’s view on al-ḥāsun wa al-taqbiḥ al-‘aqliyyān is the same as that of Asyʿarite school of Islamic theology despite the fact that Wahhābi salafist scholars refute the doctrine of this school of theology. 

3. Maqāṣid al-Syarīʿah (the objectives of Islamic law)

The theory of the universal objectives of the law functioned to prevent moral reasoning from becoming so engrossed in particular questions that it lost sight of general principles. In contrast to the deductive method of moral theology which proceeded on a text-by-text basis, this theory was derived inductively, by a study of revelation in its entirety. Thus, if one were to conduct an inductive study of the substantive rules of Islamic law, one would discover that it protects five universal categories of well-being (s. maslahah/pl. masāliḥ): (1) religion (al-dīn); (2) life (al-nafs); (3) capacity (al-ʿaql); (4) progeny (al-nasl); and (5) property (al-māl). Within each of these five universal categories, individual rules were further classified into primary (daruri), secondary (taḥṣīnī) and tertiary (tāzyīnī) rules based upon the importance of a particular rule as a means to achieve one of the law’s five universal ends.

Wahhābi salafist jurists recognized the significance of five objectives of the syarīʿah that are identified with maslahah (public welfare). The consideration of maslahah seems to have been accepted as a fundamental mechanism for attaining the five objectives of the Syarīʿah—the preservation of religion (dīn), life (nafs), reason (ʿaql), progeny (nāsl) and property (māl). Therefore, any act that promotes these five objectives is maslahah, while any activities that do not serve these ends may be considered ‘corruption’ (mafsadah). Significantly, identifying maslahah with the specific objectives of the syarīʿah is inconsistent with Ibn Taymiyyah’s view, which explicitly rejects defining the objectives of the syarīʿah in tangible criteria, as clearly indicated in his statement:

... Some people define public interest as the protection of life, property, progeny, reason and religion. This [perception] is inaccurate. Public interest is meant to promote benefits and prevent harm ... in both mundane as well as religious matters ... so he who confines public interest to these [five objectives] ... is mistaken.

Maslahah, as a principle intended to sever the public good rather than to fulfill individual desires, was supported by Ibn ʿAbd al-Wahhāb. He supported
the use of maslaḥah because the stated purpose of the Qur'ān is to be a help and guide to humankind rather than a burden. For example, he allowed for a delay in payment of the almsgiving (zakāh) in case of dire necessity. This support was based on Muhammad’s ruling allowing a delay in payment in cases in which the public welfare was at stake, such as a year of drought. However, Ibn ‘Abd al-Wahhāb was careful to note that maslaḥah was necessarily restricted to urgent situations and was to be used in a limited fashion. He rejected a broad usage of the principle as a general procedure for the accumulation of power or self-aggrandizement. For example, he rejected the use of maslaḥah by the first caliph, Abū Bakr, to justify unlawful spending of zakāh (alms) for the purpose of bribery. Ibn ‘Abd al-Wahhāb declared that Abū Bakr’s claim that such spending was “for the sake of the good of the people” (maslaḥat al-nās) was an “awesome lie”. Ibn ‘Abd al-Wahhāb also applied the principle of maslaḥah to jihād against unbelievers. When he discussed the treatment to be accorded to captives after jihād, he asserted, on the basis of maslaḥah and ijtihād, that the captives (limited to adult males) should be given the choice between death or submission to the Muslims via payment of a poll tax jizyah. The presentation of a choice was considered to be a matter of public interest with a dual purpose: first, to prevent greed, whether for blood or for property; and, second, to remind Muslims of their responsibility to be merciful to those who are willing to lay down their arms and submit to them. Although Ibn ‘Abd al-Wahhāb considered maslaḥah to be an important guiding principle in the interpretation of Islamic law, he was selective in his use of the principle particularly when the broader good of the community could be served.

According to his followers—Wahhābī Salafists, maslaḥah is a very important principle underlying the forming of Islamic law. For instance, in a case whether to administer additional punishment to an offender in a drinking or drug case on the ground that he is recidivist, despite having been punished previously with severe punishment (hadd), Saudi’s Hay’ah Kibār al-‘Ulama (the Board of Senior ‘Ulama), representing themselves as choosing between two views—whether such additional punishment can include death or not—according to the demand of current maslaḥah, gives qadī’s view advocating consideration of the harshest penalty because of the current climate as to crime. The qadī is to make the choice of penalty for each individual case.

Another example is Salafist’s use of fiqh principle “no harm and no causing of harm” (lā ḍarar wa lā ẓirār). The case is about landowner who built on adjoining land belonging to someone else. The trial court ruled that his building must be demolished, and the judgement was affirmed on appeal. But the Supreme Judicial Council declared that this result conflicted with the principle lā ḍarar wa lā ẓirār in that it would destroy the property of one who had done no wrong. The council suggested a different ruling, to which the trial court agreed, that the adjacent landowners be partners in building, one owing the land and the other the structure.

D. The Impact on the Legal Structure of Maḥāb

Although Wahhābī salafism is claimed as promoting strict literalism, anti rationalism and anti-intellectualism, but it recognizes the significance of five objectives of Islamic law (maqaṣid al-syarī‘ah). The determination of maqaṣid al-syarī‘ah in accordance with the legal principle of maslaḥah enables
contemporary Wahhābī legal pragmatism. It can be seen in some cases that were given their legal solution.

The first case is related with cutting the wombs of dead women to save the lives of their fetuses. Wahhābī salafist jurists in Saudi Arabia’s al-Lajnáh al-Dā’īmāh li al-Buḥūṣ al-‘Ilmiyyah wa al-Iftā’ allowed the womb to be cut to save the life of the newborn. They based their arguments on the legal principles of maṣlāḥah and necessity (dārūrah). They allowed for the physical violation of the Muslim body as dictated by public interest and necessity, as expressed in the legal principles: “necessities overrule prohibition” (al-dārūrāt tubīḥ al-maḥṣūrāt) and “choosing the lesser of two evils …” (irtīkāb adnā al-mafṣadatayn). For Wahhābī salafist jurists in Saudi’s al-Lajnáh al-Dā’īmāh, public interest overrides the interest of individuals; thus, some individual Muslims may lose their lives for the sake of protecting the greater good and to stop an enemy from invading Muslim lands. Moreover, jiḥād is an obligation (fard)—Muslims must protect themselves; since there may be Muslims in enemy territory, withholding attack to spare their lives would result in neglect of this syarī’ah duty.

Another good example of the application of dārūrah and maṣlāḥah is found in Ibn Bāz’s fatwā on drug abuse in which he praises those who fight drug traffickers, claiming that those who are killed during such a fight should be considered martyrs (syuḥādā’, sing. syahīd).

There is no doubt that fighting alcoholism and drug abuse is considered among the high ranks of jiḥād. It is the obligation of every member of society to take part in this task, since [dangerous] drugs threaten the welfare of the entire society. Thus, he who is killed while fulfilling his mission is a syahīd. Also, those who assist in uncovering drug-traffickers will be rewarded (maḍ‘ījūr) for serving the public good.43

Ibn Bāz’s characterization of the death of ‘fighters against drug-trafficking’ as a form of martyrdom is based on analogy. A quick glimpse at the contents of this fatwā indicates that there is no effective cause, i.e., ‘public interest’ provides sufficient grounds for the analogy to battle field martyrs. In other words, the Wahhābīs extend the application of qiyās and rely more on the general principles of the syarī’ah, such as maṣlāḥah, than on ‘illah.

Another case includes the use of Internet. Wahhābī salafist jurists in al-Lajnáh al-Dā’īmāh endorsed this based on principle of maṣlāḥah. The Internet posed a legal challenge in terms of the ‘harm versus benefit’ dichotomy. They realized that the Internet can serve as a powerful tool to disseminate information for social, religious and educational purposes. Syaikh Āl al-Syaikh, one of the grand muftis, issued the following fatwā:

In my opinion, the Internet is both a blessing and a curse at one and the same time. It is a blessing as long as it used for doing God’s will, commanding good and forbidding wrong. However, it is liable to be evil when it aggravates God … I call upon the believers among women who use the Internet to use it to follow the rules of God and to spread them … We have to disseminate the message of God, as promised by the Prophet in the ḥadīth in al-Bukhārī: ‘God will spread this Islam until it reaches every house and under every tree.’ I call upon our leaders, starting with King Fahd, Crown Prince ‘Abd Allāh and the Chief Chairman of the Islamic Dissemination Council
E. Conclusion

From the above discussion, it can be concluded as follows: first, in relation to reason and revelation, Wahhābī-Salafists reject the role of reason in interpreting religious texts, since the truth is only located in revelation, the first source of human knowledge and the indisputable complete final source in which human beings are torn between two extremes, command and prohibition. As a result, reality should be understood through the text, thereby ignoring whatever reality shaped the process of text formation.

Second, in terms with al-tahşīn wa al-taqbhî al-‘aqliyyan (determination of actions as good and evil based on reason), Wahhābī-Salafists argued that someone’s deed and action have either bad or good values, as they have either beneficial or malicious effects. However, these good or bad actions cannot lead to rewards or punishment for those who commit them except if there are divine revelation-based instructions which include commands and prohibitions.

Third, Wahhābī salafi-jurists recognized the significance of maqāṣid al-syari‘ah which are identified with maṣlaḥah: religion (dīn), life (nāfs), reason (‘aql), progeny (nasl) and property (māl). The consideration of maṣlaḥah seems to have been accepted as a fundamental mechanism for attaining the five objectives of the Syari‘ah—the preservation of religion, life, property, progeny and reason. Finally, the determination of maqāṣid al-syari‘ah in accordance with the legal principle of maṣlaḥah enables contemporary Wahhābī legal pragmatism. This gives an impact to the structure of the Salafist’s maḥzab.

Endnotes:

5 Ibid., p. 58.
9 Ṭawḥīd al-ruḥūbīyyah means “to acknowledge the oneness of God in all His deeds” like the belief that God is the Lord who creates the universe, feeds His creatures, and so on.
10 Ṭawḥīd al-ulūhīyyah, which is also called as ṭawḥīd al-‘ibādah or ṭawḥīd al-talab wa al-qasd, means “to acknowledge the oneness of God in all deeds of His servants.” It means that all people worship have to be dedicated only to God alone.
11 Ṭawḥīd al-asma‘ wa al-ṣifār means “to acknowledge the oneness of God in His names and attributes available in the Quran and Sunnah.”

26 The ‘illah is an element of *qiyaṣ* (analogical extrapolation). The ‘illah may be explained as the reason for which a particular law is believed to have been established by the Lawgiver. It is thus essential to know the ‘illah in order to understand the law itself and to determine the scope and applicability of the law. The ‘illah is important to Muslim jurists and to Muslim society because Muslims want to conform to their religion and religious law as circumstances and realities in society change.


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38 Ibid., p. 23.

39 Ibid.


42 Ibid.


44 Cited in ibid., p. 353.


