

Jurists are also obliged to observe the principle of relief from hardship/harm (*rafʿ al-ḥaraj*) “sparing morally accountable persons hardship in relation to the Islamic Law’s requirements of them”⁴ by not issuing any fatwa whose implementation would impose undue hardship on the person concerned. Jurists and muftis must consider the question of whether a given application of a text will realize the desired aim or not and thus give due consideration to the anticipated consequences of issuing a lenient ruling.

Scholars must also investigate the commonly accepted customs of relevance to the application of a more lenient ruling. The word “customs” here means “the understandings that have become ingrained in people’s minds, and what has been deemed acceptable by sound minds and dispositions.”⁵ Lastly, when a scholar says he does not know something, such utterance should not be seen to detract from his standing in any way.

Chapter Two

Understanding *Maqāṣid al-Sharīʿah* Through Cultural Development

The juristic study of human civilization and development (*fiqh al-ʿumrān*) has long been neglected. It is essential that scholars return to the goals of the Islamic legal system and reread the precepts of Islam in light of these goals in order to improve Muslims’ juristic understanding of culture and civilization and restore their confidence in their religion. To increase civilizational awareness, we should always keep in mind that as human beings we have been assigned the dual tasks of worshipping God alone, and populating and developing the earth.

However, we are in crisis in these areas and our crisis is rooted in our failure to understand our religion and what true religiosity means. We also fail to discern the rights and obligations entailed by membership in a society. Awareness (*waʿy*) is a clear realization, both logical and intuitive, of what something requires for realization on the practical level.

God condemns nations [i.e. the ʿĀd and the Thamūd civilizations mentioned in the Qur’an] that made great strides in construction, utilization of resources, and production of tools and equipment while

insolently rejecting His commands. The degradation of the inner aspect of these people even led to their demise. Societal institutions have a responsibility to improve civilization through developing the integral human being and promoting the process of moral and material progress and renewal through ideological, behavioral, and material reform. Individuals must develop greater awareness as to their place in this world.

A method of analyzing societies and studying the causes of individual and collective transformation is one of the most effective means to promoting needed change and reform and resolving our social crises. Basing my approach on Ibn Khaldūn's concept of sociology, I seek to draw attention to the cause-and-effect relationships Ibn Khaldūn observed, and ask how these relationships can be transformed into practical mechanisms for overcoming the present degeneration in society and for coping with the uncertainties of the future. The purpose of a "jurisprudence of social development" is to re-establish the relationship between jurisprudence, as the motivating force behind action, and a societal understanding, that points the way to correct and appropriate action.

There are five salient features to this branch of jurisprudence: 1) that God has created human beings to worship and serve their Maker and to evolve and make the Earth prosperous; 2) that one of the most foundational aims of Islamic Law is to populate and cultivate the earth in a manner that strengthens and benefits humankind; 3) that certain requirements of this law are addressed not to individual Muslims, but to the Muslim community as a whole, for the purpose of benefiting the whole community without overburdening any one of its members; 4) that the Muslim community has been assigned the task of witnessing to the truth before the rest of the world by demonstrating good deeds in both words and action and by pursuing a path of moderation in all things; and 5) that pursuing the religious path of moderation entails a balance between earthly, material well-being and spiritual enhancement.

Ibn Khaldūn had said, "Civilization is the bane of [true] development."⁶ This happens when material development brings a society to a level of such affluence and luxury that it descends into moral decadence, societal disintegration, and the squandering of the nation's wealth among a single privileged class, which in turn brings about the downfall of the state.⁷ The jurisprudence of human development is part of a new approach to jurisprudence which Muslim societies need as they

progress in areas such as banking, medicine, politics, and other areas of human endeavor.

However, no matter how great a goal may be, it can never be successful if those assigned to carry it out lack a solid understanding of their task and commence their work without the proper know-how. Therefore, it is essential to revive the fundamental ideas of Islam among Muslims and then work to imbue these ideas more firmly in their minds. The Prophet filled this role when he sparked a great civilizing movement in Madinah which then spread throughout the world. This development has slowed in the Muslim world over the past few centuries. Hence, our purpose in laying the foundations of a jurisprudence of human development is to rekindle Muslims' awareness and, in so doing, give them the impetus they need to pursue social and cultural reform and change.

There are three major starting points for creating awareness of the jurisprudence of human development. First, deepen people's awareness of the aims of Islamic Law, linking legal rulings to these aims, and help Muslims to understand how to create an integrated picture of the religion as the path to happiness in this life and the next. In this vein, encourage heartfelt worship of God, clear thinking and sincere dedicated effort through reflection on the verses of the Qur'an. Focusing on the Divine in these verses should speak to people's hearts and draw them closer to their Maker.

Educate people on the objectives of Islamic Law when issuing legal rulings by mentioning the reasons for them and the wise purposes behind them. This includes applying the principle of facilitation (*al-taysīr*) in situations that involve hardship and urgent need. In addition, prohibitions should be introduced gradually, and people should be provided with permissible alternatives when a course of action has been forbidden, and especially considering ever-changing needs and circumstances. Furthermore, explain religious rulings in light of the five basic essentials, which Islam aims to preserve – religion, life, reason, progeny, and wealth.

Second, give more attention to the sciences, arts and humanities, and integrate them with the various fields of religious legal studies. Islam's contributions to science, art, and culture, are a timeless and precious heritage, which should not be forgotten and should be continued. As were our predecessors who lived during the time of religious awakening,

Muslims will be equipped with the tools required for constructive, Islamically sound human development.

Third, increase people's understanding of what it means to be a "witness" in the sense spoken of in God's declaration: "And thus have We willed you to be a community of the middle way, so that with your lives you might bear witness to the truth before all mankind, and that the Apostle might bear witness to it before you" (*Sūrah al-Baqarah*, 2:143). The witness must be well-acquainted with that to which he or she is bearing witness, and able to present others with persuasive evidence and arguments and should be able to convey his/her message clearly.

Chapter Three

Goals Awareness and the Crisis of Religious Extremism

Apart from faith, the greatest favors God can bestow on His servants are well-being and security. Preservation of security in a society is one of the most fundamental objectives of the Shari'ah. As such, it is one of the most important obligations of a Muslim ruler. Therefore, acts that destabilize society, violate its security, and terrorize Muslims and non-Muslims with whom Muslims have a non-aggression pact are crimes against humanity that clearly oppose the overall goal of the Shari'ah. Also of concern is that fanatics comb works on jurisprudence in search of statements by renowned scholars which they can use to justify their actions or legal rulings on specific situations which they claim as a pretext for their acts of hostility and aggression.

There are three types of juristic parochialism, which serve to destabilize countries and endanger people's security. These emerge through: 1) an atomistic view of religious legal texts that fail to take the Shari'ah's overall objectives into account and drawing faulty inferences from juristic textual evidence without factoring in the consequences and contingencies associated with such an inference and its practical application; 2) a failure to address important questions relating to the meaning and necessity of jihad; and 3) defective approaches to the issuance of legal rulings which lead, in turn, to defective application of such rulings.