

[II]

A Presentation of the Theory

The principle place in which al-Shāṭibī presents the theory of *maqāṣid* is Part 3 of his five-part *al-Muwāfaqāt* (or Part 2 of the four parts in which the book is printed). What I will present in this section is, basically, a synopsis of this part of *al-Muwāfaqāt*. However, I have devoted another section to a review of the extensions of the objectives theory in the remaining parts of *al-Muwāfaqāt*, as well as in al-Shāṭibī's other published writings.

My goal in this synopsis is to highlight the theory's overall features more than it is to focus on the discussions of which the book consists and related details. In addition, I do my utmost to steer a middle course between the brevity required by a summary, and the clarity and detail required by an adequate explanation. The difficulty of such a mission will be easily discerned, but I hope to have proven myself equal to the task.

In this summary I have kept commentary and discussion to a minimum lest they disturb the flow of the presentation, since discussion and commentary on al-Shāṭibī's theory will have a place of their own. Let us then turn to the 'theory of objectives' in Part 3 of *al-Muwāfaqāt*, entitled "*Kitāb al-Maqāṣid*" (The Book of Higher Objectives.)

Occasion-Based Analysis of Islamic Law

(*Ta'īl al-Sharī'ah*)¹²⁴

Al-Shāṭibī introduces his detailed discussion of the theme of objectives with a preface which he describes as 'scholastic,' and in which he touches briefly upon the subject of analyzing Islamic Law and its rulings in terms of the occasions which gave rise to them. In this preface, al-Shāṭibī argues that "[divinely revealed] laws have all been established to preserve human beings' interests both in this life and the life to come." He notes that this is the view held by virtually all

of the Mu‘talizites, as well as most later jurists; in so doing, they disagree with al-Rāzī, “who claimed that neither God’s rulings nor God’s actions are subject to interpretation in terms of their occasions or causes.”

Al-Shāṭibī then goes on to maintain that an inductive reading of Islamic Law will lead to the indubitable conclusion that the Law was laid down for no other purpose than to serve human beings’ interests, and that this type of occasion-based interpretation is ongoing in regard to all details of the Law. In this context, al-Shāṭibī quotes a number of texts which contain occasion-based interpretations of the Law, including both general, inclusive interpretations and specific interpretations of some of its rulings. An example of the general type may be found in the words of God Almighty in the Qur’an, “And [thus, O Prophet,] We have sent thee as [an evidence of Our] Grace towards all the worlds” (Qur’an, 21:107), while the second type is illustrated by the words which follow the Qur’anic instructions on how to perform ritual ablutions: “God does not want to impose any hardship on you, but wants to make you pure, and to bestow upon you the full measure of His blessings, so that you might have cause to be grateful” (Qur’an, 5:6).

Al-Shāṭibī’s Categorization of the Higher Objectives

Al-Shāṭibī divides the higher objectives of the Law into two general categories: (1) higher objectives of the Lawgiver, and (2) objectives of those accountable before the Law, in other words, human objectives. He then subdivides the objectives of the Lawgiver into four types:

- Type 1: The Lawgiver’s higher objectives in establishing the Law
- Type 2: The Lawgiver’s higher objectives in establishing the Law for people’s understanding
- Type 3: The Lawgiver’s higher objectives in establishing the Law as a standard of conduct
- Type 4: The Lawgiver’s higher objectives in bringing human beings under the Law’s jurisdiction.

As for the second category, namely, human objectives, al-Shāṭibī does not subdivide them but, rather, simply discusses them in relation to specific questions and cases.

What follows is a brief overview of the two general categories of objectives in keeping with the aforementioned categorization and order. However, I will not adhere to al-Shāṭibī's manner of ordering the questions and ideas related thereto, my purpose being to offer the clearest possible presentation of al-Shāṭibī's theory of objectives.

CATEGORY I: THE HIGHER OBJECTIVES OF THE LAWGIVER

Type 1: The Lawgiver's Higher Objectives in Establishing the Law

Al-Shāṭibī entitles his discussion, "the Lawgiver's higher objectives in establishing the Law." However, when introducing his categorization of the objectives, he phrases it, "...the Lawgiver's higher objectives in establishing the Law first and foremost." This final phrase has special importance in clarifying what he means by this type and in distinguishing it from the other three. With this in mind, 'Abd Allāh al-Darrāz states, "In other words, this is the aim which occupies the place of first importance such that by comparison, all other objectives are simply added detail. Moreover, this first aim is summed up in the statement that the Law was established to serve human interests in both this life and the next..."¹²⁵

Al-Shāṭibī opens his explanation of this type, or these initial objectives of the Law, with the words, "The obligations entailed by the Law are intended for the purpose of fulfilling its objectives among human beings. Moreover, these objectives fall under one of three categories: essentials, exigencies, and embellishments." Al-Shāṭibī then proceeds to clarify what he means by each of these categories:

1. Essentials (*al-darūrāt*): These are things which are essential for the achievement of human beings' spiritual and material well-being. If these essentials are missing, the result will be imbalance and major corruption in both this world and the next. Moreover,

to the extent that they are lacking, there will be greater or lesser corruption and disturbance in people's lives.

2. Exigencies, or needs-related interests or objectives (*al-ḥājīyyāt*): These are the interests which, when fulfilled, contribute to relieving hardship and difficulty and creating ease in the lives of those accountable before the Law.
3. Embellishments (*al-taḥsīniyyāt*): These are interests which are of less importance than essentials and exigencies; however, they function to enhance and complete their fulfillment; embellishments include things such as commendable habits and customs, the observance of rules of etiquette and a high moral standard.
4. With regard to the essential objectives or interests, it will be observed from an inductive reading of the Law that they consist of the following five: religion, human life, progeny, material wealth and human reason.¹²⁶ Every religion prescribes means of preserving these five entities.

Moreover, Islamic Law undertakes to preserve essential interests, as well as others, in two complimentary ways. The first of these is by preserving their existence, that is, by legislating that which will bring them into being, then perpetuating and nurturing their existence. The second of these ways is by protecting them from annihilation, that is, by preventing that which would lead to their disappearance, destruction or neutralization, be it a presently existing reality or something which is anticipated. The preservation of religion, for example, is achieved on the side of existence through its fundamental doctrines, the primary forms of worship such as ritual prayer and zakah, etc., while its preservation on the side of non-existence is achieved through jihad, punishment for apostates, and the prohibition of innovations. Similarly, rulings having to do with customs and daily transactions contribute to preserving the remaining essentials on the side of existence, while rulings having to do with legal penalties contribute to their preservation on the side of non-existence.

The five aforementioned essential interests are viewed as the roots or foundations of all other interests. Hence, exigencies, or needs-based interests, are in the service of and complementary to the essen-

tials, just as embellishments are in the service of and complementary to, exigencies. Everything, then, revolves around the essential objectives or interests of the Law, reinforcing, completing and enhancing them.

This arrangement is the basis for some very important principles having to do with priorities, which facilitate the process of choosing which interest to give preference to over another when there is a conflict between them. According to one such principle, "Every complement or auxiliary, insofar as it is a complement, has a condition, namely, that its consideration not cancel out the foundational entity of which it serves as a complement."¹²⁷ This principle may be illustrated with reference to ritual prayer, which has certain conditions and complements such as ritual purity, facing the *qiblah*, etc. If it is impossible to fulfill one or more of these conditions, and if we nevertheless insist on their fulfillment in order for ritual prayer to be possible, then the foundation itself will be lost, and we will go without prayer. In such a situation, consideration for the complement has led to the nullification of its foundation, which is not acceptable. Therefore, in a case such as this, it is necessary to cling to the foundation, or root, even if this means forfeiting its complement or complements.

An example of the application of this principle to the realm of daily transactions is that of buying and selling, one condition for which is the absence of risk and uncertainty (*gharar*). It may be difficult or impossible to fulfill this condition in some commercial transactions, especially if we aim for a total elimination of uncertainty and risk. Hence, we are faced with a choice between nullifying such sales, which inevitably entail some degree of risk and uncertainty, and allowing them to proceed while minimizing risk and uncertainty to the greatest extent possible. Given the principle stated above, which is derived from an inductive reading of the evidence provided by the Law, the latter choice is most certainly the correct one. For the Lawgiver, Glory be to Him has caused the various interests to complement and serve one another. He has made less essential interests subordinate to the more essential ones, and less worthy of consideration. Hence, the interests served by the Law must not be

employed to cancel each other out, nor must less essential interests be allowed to cancel out more essential ones. On the contrary, they have been established in order to reinforce, fulfill and preserve each other.

It is on this basis that al-Shāṭibī formulates the fourth question relating to this type. After declaring that “the essential objectives are the foundation for exigencies and embellishments,” he fleshes out the meaning of this statement in the form of the following five rules:

1. The essentials are the foundation for exigencies and embellishments.
2. Disorder in relation to the essentials will lead to complete disorder in the latter two.¹²⁸
3. An imbalance in the realm of the exigencies and embellishments does not necessitate an imbalance in the essentials.
4. A complete imbalance in the realm of embellishments or exigencies may lead to a partial imbalance in the realm of essentials.
5. Exigencies and embellishments must be preserved for the sake of the essentials.

Al-Shāṭibī’s purpose in defining and arranging these rules is to arrive at the conclusion contained in Rule 5, which is based, in turn, on Rule 4, which states that in order to preserve the essentials, it is necessary (in general) to preserve the exigencies and embellishments as well. The reason for this is that, as al-Shāṭibī puts it, “Any nullification of that which is less fundamental entails a violation of that which is more fundamental and has the potential of leading to a disturbance therein. Hence, the less fundamental might be likened to a ‘sanctuary’ for that which is more fundamental, and ‘those who graze around the sanctuary are liable to step inside it.’ In other words whoever undermines that which is less fundamental runs the risk of undermining what is more fundamental as well. Hence, the complete nullification of those things which are viewed as luxuries or complements has the potential of nullifying the essentials to some extent as well...”¹²⁹

For the time being I will simply summarize the questions relating

to the Lawgiver's objectives of the first type. As for the remaining questions, some of them (Questions 5 and 8) will be dealt with in the section dealing with sources of benefit and harm, while others (such as Question 9) will be treated in the section entitled, "How the Lawgiver's objectives may be determined." I have thus postponed the treatment of these questions since I will be obliged to discuss them in the sections referred to here. However, the discussion devoted to them in these other places will contain detail, elucidation and commentary commensurate with their importance.

Type 2: The Lawgiver's Higher Objectives in Establishing the Law for People's Understanding

Of the five types of objectives listed by al-Shāṭibī, this one receives the briefest treatment; thus, it contains only five questions, which may in turn be condensed into two. Al-Shāṭibī introduces these two questions in the following phrases: (1) "This blessed Law is in the Arabic language..."¹³⁰ and (2) "this blessed Law [was revealed to an] unlettered [people]..."¹³¹

The connection between these two questions and *maqāṣid al-Shari'ah* is that a sound understanding of the Law and its objectives is only possible based on answers to these two questions (or, recognition of these two facts). The importance of the first lies in the fact that "the Qur'an was revealed in the Arabic tongue. Hence, whoever wishes to understand it must do so by means of the Arabic language. There is no other way in which to pursue such understanding." Secondly, the Law may be described as 'unlettered' because the people to whom it was revealed were unlettered, and as such, it has a greater capacity to take their interests into consideration. "In other words, the fact that the Law was revealed in a manner consistent with the condition of those to whom it was revealed renders it more capable of safeguarding the interests for the sake of which the All-Wise Lawgiver established it."¹³²

However, although these five questions contain principles which are valuable and necessary for understanding the Qur'an and the Sunnah and achieving their objectives, I do not consider this to be the most appropriate place to discuss them. In fact, I do not fully agree

with al-Shāṭibī's decision to treat them as part of the Lawgiver's objectives. Rather, I view them as bases for understanding the Lawgiver's objectives, and in fact, in his book *al-I'tiṣām*, he refers to them as "the tools by means of which the objectives may be understood."¹³³ For this reason, then, I have postponed their presentation and clarification to Chapter Three, Section Three, where I discuss the means by which the objectives are to be understood.

Type 3: The Lawgiver's Higher Objectives in Establishing the Law as a Standard of Conduct

Under this heading al-Shāṭibī discusses the objectives of the Lawgiver in what He requires of those answerable before the Law, as well as distinctions between what the Lawgiver does and does not intend in His requirements of human beings. The discussion of this type is distributed among twelve different questions, half the volume of which is taken up by Question 7. The topics discussed in the context of this type may be grouped under the following two topics: (1) Requiring that which is beyond human capacity, and (2) Requiring that which involves hardship. Requirements which fall under the first heading are agreed upon unanimously to be excluded from Islamic Law; consequently, al-Shāṭibī spends little time on them. Instead, his discussion focuses upon ambiguous cases, concerning which it is unclear whether they may be considered to be within human capacity.

With regard to legal requirements, al-Shāṭibī states, "If it appears at first that there is an intention to require that which falls beyond the realm of human capacity, this calls for an investigation of its antecedents, outcomes and associated conditions or circumstances." If, for example, the Lawgiver requires believers to love one another, then what is actually intended by the requirement is those prior causes which lead to love's emergence, as well as attendant and subsequent circumstances, conditions, or actions which reinforce and establish such love once it has come into existence. What is intended by the requirement is not the emergence of the love itself, since this is beyond human capacity to control. And the same goes for any similar requirement.

In the case of ambiguous actions (i.e., those concerning which it is not known whether they are required, or whether they fall into the category of that which is beyond human capacity, in which case the requirement actually applies to conditions and/or actions which precede or follow the action in question), these are represented most prominently by inward qualities such as arrogance, envy, worldliness, cowardice, forbearance, patience, and courage. Al-Shāṭibī devotes an in-depth, detailed discussion to these matters in the context of presenting Questions 3 and 4. At the same time, however, and despite its great value, this discussion is peripheral to the subject of objectives; hence, as though he were aware of this fact, al-Shāṭibī states after having raised a difficulty relating to this theme, “This could be discussed at greater length; however, there is no need to do so here.”¹³⁴

As for the second topic, namely, requiring that which involves hardship, it is the most central theme relating to this type of objectives. For while the matter of requiring that which is beyond human capacity is clear and virtually agreed upon by all, the questions relating to hardship in what is required by the Law are fraught with obscurity, ambiguity and confusion.

It is thus a topic of the utmost importance; yet despite its difficulty, al-Shāṭibī demonstrates mastery in handling its challenges and clarifying related issues. After paving the way for his discussion by defining hardship and mentioning its various types and degrees, he sets forth the rulings and objectives of the Lawgiver as they relate to hardship. First he states, “The Lawgiver’s intention in the requirements He makes is not to impose hardship and suffering thereby.”¹³⁵ Evidence of this may be seen in the numerous texts which renounce hardship and which state explicitly that (what the Lawgiver intends for us is) ease and compassion in the Law’s rulings and objectives. This stance is also supported by the many allowances mentioned in connection with the Laws’ requirements. For if the Lawgiver had intended to impose hardship, He would not have instituted such allowances. Moreover, given all the evidence adduced here, this truth is the subject of unanimous agreement.

Then, in the beginning of his discussion of Question 7 – the

longest under this heading – al-Shāṭibī affirms that “The Lawgiver intends to require that which involves some degree of difficulty and hardship. However, it is generally not termed ‘hardship’ any more than we would term ‘hardship’ seeking to earn one’s means of subsistence by practicing a profession or a trade. After all, such an activity is both possible and widespread, and the difficulty which it entails is generally not sufficient to prevent people from working; on the contrary, prudent folk and those who practice professions consider someone who leaves off such a pursuit to be lazy and will condemn him for doing so. “The same, then,” states al-Shāṭibī, “applies in the realm of the requirements of the Law.”

Moreover, despite the fact that most actions required by the Law do entail some degree of hardship, and although the Lawgiver intends to impose this type of obligation, it would not be true to say that He intends to impose these obligations for the sake of the hardship they involve. There is no case in which the Lawgiver intends the hardship *per se*; rather, He intends “the benefits which accrue to human beings through the fulfillment of these obligations.”

Another principle which grows out of the foregoing is that “we should not seek out hardship in fulfilling what is required of us in view of the great reward which we hope to attain in this way. Rather, we should seek the action which carries a great reward ... insofar as it is a [virtuous] action.” Consequently, it is unacceptable to seek out hardship for itself, since it is contrary to the ease which the Lawgiver is known for a certainty to intend for us. Moreover, the more unusual and severe the hardship, the more unacceptable it is to seek it out, and the more contrary such a pursuit is to the Lawgiver’s intent, “for God has not established self-torment as a means of drawing near to Him or attaining to His presence.” This, of course, applies to situations in which the person concerned seeks out the hardship of his own accord. If, on the other hand, the hardship is simply concomitant to the action he is performing, then it is acceptable to enter into it, and the ruling on the hardship is the same as the ruling on the action, as, for example, in the case of the hardship entailed in jihad.

Given the fact that the context requires a focused discussion of the

Law's objective to alleviate hardship – except in connection with those actions in which hardship is unavoidable – al-Shāṭibī touches in one part of his discussion of Question 7 on the cause underlying the Law's keen concern to eliminate hardship. He concludes that the reason for this concern consists of two aspects: "The first aspect is the fear that people will develop an aversion to worship and the obligations imposed by the Law and, as a consequence, abandon the path, or that the hardships involved in fulfilling one's obligations before the Law will cause harm to the individual's body, mind, possessions or overall condition. As for the second aspect, it is the fear that when life's various tasks and duties – such as those involved in caring for one's wife and children, not to mention other obligations which arise along the way – compete for a person's time and attention, he will become neglectful [of his obligations toward his Maker]. In other words, one's involvement in certain tasks might become such a distraction from one's obligations toward God that one abandons them altogether. Or one might go to such extremes in seeking to do justice to both aspects of one's life that one eventually abandons both pursuits."

Hence, if the Lawgiver's objective is to alleviate the hardships and difficulties entailed by what He requires of us, then the objective underlying this objective, as it were, is to ensure that we persevere in doing good and maintain balance in fulfilling our duties and obligations without going to excess in one aspect of our lives and being neglectful in another. Al-Shāṭibī engages in a prolonged, orderly, clearly reasoned discussion of these causes, in the course of which he eliminates ambiguities and rebuts hypothetical objections by reliance upon definitive texts relevant to the topic at hand.

In Question 8, al-Shāṭibī moves on to a discussion of the ruling on another type of hardship, namely, the hardship involved in resisting one's own desires and whims. He states, "Resisting one's personal whims and desires is an arduous task, as it is difficult for the soul to part with them..." However, he then concludes that Islamic Law takes no account of this type of hardship, since, "in establishing the Law, the Lawgiver's higher objective was to deliver human beings from following their own desires in order that they might be servants

to Him alone. Hence, resisting one's desires and whims, arduous though it is, is not included among the types of hardship which are recognized in the realm of our legal obligations."

In his discussion of Question 11, al-Shāṭibī details the distinction between types of hardship which the Lawgiver intends to alleviate, and those which He intends neither to alleviate nor to bring about. The determining factor in this regard is described by al-Shāṭibī as follows:

...If the hardship being endured by the individual is so extreme that it undermines his or her spiritual integrity or material well-being, then the Law's objective is to eliminate it, other things being equal... If, however, the hardship being endured is not extreme but, rather, is comparable to that which attends other ordinary tasks of a similar nature, then, although it is not the Lawgiver's objective as such for such hardship to occur, neither is it His aim to eliminate it. After all, if it were the Lawgiver's intent to eliminate the hardship, it would not be possible to maintain presently existing religious obligations, since all tasks, be they ordinary or otherwise, require commensurate degrees of effort and accountability.

Al-Shāṭibī then draws attention to an important point of relevance, namely, that the determination of which types of hardship do and do not merit alleviation is based on: (1) the tasks that require them, and (2) the degree of such tasks' urgency and importance. Thus, for example, we do not measure the hardship entailed by the two *rak'ahs* which one performs in the mid-morning prayer (which is voluntary) by the same standards by which we would measure the hardship entailed by the dawn prayer (which is one of the most emphatically stressed obligatory prayers of the day). Nor would we measure the hardship entailed by either of these prayers (which is minor) by the same standards which we would apply to the hardship required by the major pilgrimage to Makkah; nor would this hardship be compared to that entailed by jihad. For the hardship entailed by prayer and fasting might, by comparison with that required by the pilgrimage, seem to be nothing at all, while the hardships involved in

the pilgrimage might seem to be nothing compared with those involved in jihad. Hence, the appraisal of hardship is a relative matter which differs based on the nature of the action in question, how necessary it is, and the benefit it brings, as well as the situation and condition of the person performing the action. Based on all such considerations taken together, a decision may be made as to whether allowances should be granted or not.

In conclusion to his treatment of hardship and ease, al-Shāṭibī comes to Question 12, a manifestation of his peculiar genius and his unsurpassed grasp of Islamic Law and its content. He states here that legislation in Islam was revealed, originally, “on the path of greatest moderation, and that which steers a middle course between the two extremes¹³⁶ in unwavering measure...” It is in this form that we find most of the obligations required by the Law, such as the obligations relating to ritual prayer, fasting and zakah, as well as the prohibition of most of that which is forbidden, all of which represents a balance suited to the majority of human beings.

However, notes al-Shaṭībī, if the legislation in question has been laid down in order to counter some sort of distortion in human beings’ attitudes or actions, then it will be characterized by a ‘slant’ in the opposite direction to that of the distortion. Thus, for example, if people are tending in the direction of decadence, corruption and slavery to their whims and lusts, then the legislation will be slanted in the direction of forcible prevention and austerity in order to restore people to moderation. If, on the other hand, people are tending toward such excess and immoderation in their religion that they go to extremes in asceticism and the pursuit of afflictions for their own sake, then the legislation will be slanted in the direction of tolerance, alleviation, the provision of allowances, and encouraging people to enjoy life’s pleasures and blessings.

Al-Shāṭibī articulates this principle with consummate eloquence, saying,

If you contemplate Islamic Law as a whole, you will find that it tends in the direction of moderation. Hence, if you observe a tendency toward one or another extreme, this is because it is countering some present or

anticipated tendency toward the opposite extreme. The extreme of austerity – and, in general, anything that would fall within the realm of threat, intimidation and rebuke – is intended to confront those who are tending toward laxness and decadence in the religion. Conversely, the extreme of lenience or mitigation – and, generally, anything which falls under the rubric of encouragement, enticement and allowances – is intended to respond to those who tend in the direction of severity and inflexibility. In all other situations, however, you will find it to be palpably moderate. This is the foundation to which the Law always returns and the stronghold in which it takes refuge.

Type 4: The Lawgiver's Higher Objectives in Bringing Human Beings under the Law's Jurisdiction

Al-Shāṭibī's discussion of this theme is the longest of all those included under the heading 'the higher objectives of the Lawgiver.' In fact, it nearly equals in length the discussions of all three previous types together perhaps due to al-Shāṭibī's prolix digressions which, though they take him some distance from the topic at hand, do bear some connection to this type in particular. What I mean by digressions are, in particular, Questions 9 to 16. The most significant thing which connects the discussions of these eight questions to the theme of 'bringing human beings under the Law's jurisdiction' is the premise that nothing and no one falls outside the Law's jurisdiction. People of all classes and walks of life, events both commonplace and extraordinary, states inward and outward, must all be brought into subjection to the rulings of the Law.

In the beginning of his discussion of Question 9, al-Shāṭibī states, "In relation to human beings, Islamic Law is an all-inclusive universal. In other words, none of its rulings is addressed exclusively to some but not others, and no one whatsoever can escape coming within its jurisdiction." Then, as he opens his discussion of Question 12 he adds, "Just as the Law encompasses all human beings and applies to all of their varied states, it likewise encompasses the worlds of both the seen and the unseen with respect to every human being. Hence, we must submit to its authority everything which we experience, both inwardly and outwardly."

It might also be noted that although Questions 17, 18 and 19 are closely related to the theme of the Lawgiver's higher objectives in bringing human beings in subjection to the Law, they would nevertheless appear to be more intimately connected to others of the book's themes, and would have been more appropriately placed elsewhere. Question 17, for example, has to do with sources of benefit and harm and the manner in which we are to weigh them against each other, a theme the discussion of which I have postponed due to its numerous ramifications. As for Questions 18 and 19, they deal with the theme of *ta'lil al-Shari'ah*, or interpreting the Law in terms of the occasions which gave rise to it. This is a theme which al-Shāṭibī touches upon briefly in the introduction, as we saw earlier, and which I have promised to treat in detail later in this book.

These ten questions make up half the total number of questions included in the discussion of this type. It is the ten remaining questions, however, which go to the heart of the matter, and to these we now turn. As we have seen, al-Shāṭibī entitles this fourth category of objectives, 'bringing human beings under the Law's jurisdiction.' As he opens his discussion of Question 1, however, he changes the wording in order to clarify what he means more fully, referring to it as, "the rightful intent behind the establishment of the Law...", which invites us to compare this with the name he assigned to the first type, namely, 'the Lawgiver's intent in establishing the Law.' 'Abd Allāh has drawn attention to the similarity between these two phrases and the question it raises concerning the relationship and differences between Types 1 and 4. He states,

Type 1 refers to the establishment of a system which is capable of bringing happiness in both this world and the next to those who adhere to it, while Type 4 refers to the fact that the Lawgiver calls upon His servants to place themselves in subjection to this system, and not to their whims and desires.¹³⁷

The distinction between the two types becomes clear through an examination of the discussions of each. However, the words with which al-Shāṭibī opens each of them are, in and of themselves,

sufficient to make the difference clear. The words with which he opens his discussion of Type 1 were quoted earlier; as regards the remainder of his introduction to this type, it reads, "The rightful objective behind the establishment of the Law is to deliver human beings from subjection to their whims and desires in order that they might be servants of God by their own free choice just as they are, already, His servants by necessity." Then, after citing a number of texts which censure (subjection to one's) whims and caprices and those who live in such subjection, he continues, "All of this makes it clear that the Lawgiver's higher objective is to enable human beings to abandon their subservience to their desires and whims and to enter fully into adoring submission to their Master."

As is his custom in determining objectives, al-Shāṭibī marshals such cogent textual and rational evidence and refutes actual or hypothetical objections with such effectiveness that his conclusion is virtually incontestable. And in this manner he demonstrates that it is the Lawgiver's objective to deliver human beings from the tyranny of their worldly desires and bring them under the authority of the Law and its rulings. This, moreover, is not in conflict with what was determined in his discussion of Type 1 to the effect that it is the Lawgiver's higher objective to protect human beings' interests, since their best interests, though they may be achieved to some extent by their submitting to their own desires, can only be achieved fully through the rulings of the Law, and this can only occur by one's being liberated from worldly desires and whims and seeking to achieve one's true interests in accordance with the dictates of the Lawgiver. Al-Shāṭibī then goes on to say,

Once this has been determined, it becomes the basis for a number of rules. The first of these is that every action which is based on the mere fulfillment of one's own desires and without regard for what God has commanded, prohibited, or left open to human choice, is invalid without exception. The reason for this is that for every action, there must be a person, a force, a law or the like which moves one to action. Hence, if the intention to obey the Lawgiver plays no role in one's performance of a given action, then it is nothing but a response to one's desires and

lusts, and any action which meets this description is, without exception, unacceptable. By the same token, it may be said that every action which is a response to what God has commanded, prohibited, or left open to human choice is acceptable and right. If, on the other hand, an action represents a mixture of the two – in other words, if it is in part a response to a divine command and in part a response to one's own desires – then the ruling on it will vary accordingly, being based on whatever of the two motives is predominant and prior...

A second rule which al-Shāṭibī derives from the aforementioned reasoning is that “Living on the basis of one's desires and whims leads to that which is blameworthy even if it should take the form of that which is praiseworthy...” In other words, continuously satisfying one's own personal desires, even if one does so by performing deeds which are permissible and charitable, has the potential of stirring up selfish inclinations and causing one to grow accustomed to doing things for the sake of one's own self-satisfaction and without adhering to the limits set by the Law. When this occurs, one's desires may lead one to violate the Law's rulings and enter the realm of the prohibited.

This, then, is a summary of the first, and basic, question discussed under the heading of this type and its various subtopics. As for the five subsequent questions – that is, Questions 2 through 6 – they are extensions of the first and contain more detailed discussions of its themes. Al-Shāṭibī begins these by dividing legal objectives into two categories, namely, primary objectives (*maqāṣid aṣliyyah*), and secondary objectives (*maqāṣid taba'iyah*). Of the first category he states, “Primary objectives are those in regard to which there is no consideration for human enjoyment or inclinations; these are represented by the essentials which are recognized in every religion.” The essentials which are recognized in every religion are, as we have seen, religion, human life, the capacity for human reasoning, progeny, and material wealth and possessions. The reason al-Shāṭibī holds that there is no consideration for human enjoyment or inclinations in relation to these essentials is that human beings are under obligation to preserve them whether they want to or not. Indeed, if they do not,

they will be obliged to do so, and will be penalized both in this life and the next for allowing them to be squandered. Consequently, preservation of the essentials is not based on human desire, choice or inclination. This, then, is what it means for human enjoyment and inclinations not to be given any consideration in relation to the category of primary objectives.

Al-Shāṭibī continues, “As for the secondary objectives, they are those in relation to which consideration is given to human enjoyment and inclinations. In relation to secondary objectives, human beings are able to act in accordance with their natural inclination to satisfy their desires, experience enjoyment through licit activities, and meet their needs.” These secondary objectives find expression in the various forms of licit enjoyment, and even through seeking out pleasure and ease within the limits set forth by the Law.¹³⁸

It is clear that, in addition to what these secondary objectives entail by way of human enjoyment and gratification, they may be considered to be “in the service of, and complementary to, the primary objectives.” It may also be said that although, to begin with, the primary objectives are imposed upon human beings without regard for whether they accept them or reject them, they nevertheless lead to outcomes which entail enjoyment and benefits.

After explaining the interconnectedness and complementarity of the primary and secondary objectives, al-Shāṭibī states, “It may happen that something which holds out no enjoyment or pleasure for human beings on the level of primary objectives does provide these on the level of the Lawgiver’s secondary objectives. And conversely, something which holds out enjoyment and pleasure for human beings on the level of primary objectives may hold out nothing of the sort on the level of secondary objectives.” An example of what al-Shāṭibī is saying here is that when someone strives to preserve his life and that of his progeny – both of which are among the primary objectives in relation to which no consideration is given to human enjoyment or inclinations – he experiences various types of pleasure and enjoyment which may be viewed as among the Lawgiver’s secondary objectives.

In fact, even the various forms of worship – which, of all the obli-

gations required of us under the Law, are the furthest from considerations of human enjoyment or inclinations – serve to realize not only the primary aim for which they were established but, in addition, secondary benefits which fall within the category of human enjoyment and fulfillment, such as other people’s respect and confidence.

At the same time, all of the various enjoyments and pleasures which the Lawgiver has permitted are included within the preservation of the essentials, that is, the primary objectives. Thus al-Shāṭibī states, “Partaking of tasty cuisine, wearing fine clothing, riding swift steeds and wedding beautiful women may all guarantee the satisfaction of needs and maintenance of life. Yet as we have seen, the preservation of life, insofar as it is an essential, is something in relation to which no consideration is given to human enjoyment or inclinations.” Yet despite the fact that action in accordance with the primary objectives achieves secondary objectives or benefits, while acting in accordance with secondary objectives serves primary objectives, it is nevertheless preferable for action to be in accordance with the primary objectives and for their sake. There are several reasons for this preference, which may be summarized as follows:¹³⁹

1. Because this is more in keeping with what was stated at the beginning of the discussion of this type, namely, that the Lawgiver’s intention in revealing legislation is to wean human beings away from subservience to their desires and whims.
2. Because observance of the primary objectives is more conducive to sincere action and more likely to render one’s action a form of worship. In addition, it is less likely to be influenced by human desires which would prevent one’s action from being motivated solely by a spirit of submission and service to God.
3. Because basing one’s actions on the primary objectives causes them to become expressions of worship, be they the usual forms of worship or ordinary activities.
4. Because on closer examination, one will see that the primary objectives, being broader and more significant, automatically

include within themselves the fulfillment of secondary objectives as well.

5. Because action which is performed for the sake of primary objectives renders one's obedience greater, whereas the violation of these objectives causes one's disobedience to be greater. Moreover, out of this arises another principle, namely, that if one examines the major acts of obedience, one finds that they grow out of consideration for primary objectives and that, conversely, if one contemplates the major sins, one will find them to be violations of these objectives.¹⁴⁰
6. Because actions performed in pursuit of the primary objectives tend to be obligatory (given that the primary objectives involve the preservation of that which is essential in the religion), and performing actions which are obligatory is better than performing other types of actions.

These considerations in favor of acting in pursuit of the primary objectives, as important as they are, do not negate the legitimacy of acting in pursuit of secondary objectives, including the desire to pursue enjoyment, material comfort and the like. At the same time, however, one's pursuit of secondary objectives should be accompanied, if even secondarily, by the intent to fulfill the primary objectives. Moreover, if, by contrast, one's action is merely to fulfill one's own desires and satisfy one's whims, then it is of no value and merits no reward with God.

At this point – that is, in his discussion of Question 6 – al-Shāṭibī is drawn into a lengthy digression of great depth and precision in which he deals with matters pertaining to sincerity and 'idolatry' (*tashrīk*) in one's actions, both acts of worship and everyday habits. It is a helpful discussion in which he exhibits a powerful philosophical bent as well as stamina for high-level academic dialogue, particularly when he touches upon the difference between al-Ghazālī's view of sincerity, characterized as it is by Sufi austerity, and that of his disciple Ibn al-ʿArabī, who exhibits the painstaking precision of the jurist.

Although it would be impossible for me to summarize the entire question with all of its various ramifications,¹⁴¹ I can nevertheless at least present one of the most significant conclusions reached by al-Shāṭibī following a lengthy series of introductory discussions. After presenting subtle arguments on the basis of which he favors Ibn al-ʿArabī's view over al-Ghazālī's, he declares,

It is not impossible for personal motivations which are private to the individual¹⁴² to be present in the performance of acts of worship, although there can be no doubt that it is preferable for the intention to engage in worship to be kept separate from worldly motivations. Consequently, if the intention to seek some worldly interest takes predominance over the intention to engage in worship, the ruling on the action concerned will apply to whichever motivation is predominant, and the act of worship will be given no weight. If, on the other hand, the intention to engage in worship is predominant, the ruling will vary accordingly...

It now remains for us to discuss Questions 7 and 8. As for Question 7, al-Shāṭibī devotes it to a discussion of whether it is acceptable for one person to act as another's proxy or representative in any given act. The question of proxyhood (*niyābah*) goes to the heart of the theme of the Lawgiver's objective in bringing human beings under the Law's jurisdiction. In actions which fall in the category of transactions, such as concluding contracts, carrying out and dissolving contractual agreements, fulfilling financial obligations, etc., the Law permits one person to act as another's proxy "because the wise purpose for the sake of which the person is required to perform the action will still be fulfilled if someone else carries it out." Hence, the validity of one person's serving as another's proxy hinges on whether the wise purpose, or aim, of the action in question may be fulfilled in this way. So long as this purpose is fulfilled by the proxy's action, the proxyhood is valid, but if the fulfillment of said purpose is dependent on the action of the person originally held accountable for it, it will not be valid.

It is on this basis that al-Shāṭibī declares proxyhood in connection

with acts of worship to be invalid. He states, "In respect to these [i.e., acts of worship], no one may act on anyone else's behalf, and no one else will be of any benefit to the individual concerned." Moreover, he considers this principle to be definitive based on both textual and rational evidence. As for the textual evidence, it includes a good number of Qur'anic verses, such as God Almighty's declaration, "And no bearer of burdens shall be made to bear another's burden; and if one weighed down by his load calls upon [another] to help him carry it, nothing thereof may be carried [by that other], even if it be one's near of kin....and [know that] whoever grows in purity, attains to purity but for the good of his own self, and [that] with God is all journeys' end" (35:18).

As for al-Shāṭibī's rational evidence, it consists, firstly, of an appeal to the objectives of the Law. He states,

The aim behind the various acts of worship is to instill an attitude of reverence for God, the habit of turning to Him, humble subservience to Him, submission to His rule, and edification of the heart through remembrance of Him, in order that the servant might be present with God in both body and mind, constantly aware of Him, and that he might strive to please Him and to do whatever he can to draw near to Him. Proxyhood, however, is inimical to this aim and works against it...

Al-Shāṭibī then proceeds, as is his custom, to cite the possible objections to his position,¹⁴³ the most important of which are based on Prophetic hadiths which indicate the validity of proxyhood in relation to the pilgrimage to Makkah and fasting. Following a thorough discussion of the use of these hadiths as evidence in favor of proxyhood, al-Shāṭibī concludes by saying, "These hadiths, in addition to being few in number, stand in opposition to an established, definitive principle of Islamic Law. Moreover, it has been determined that any hadith which has been related by a single person and passed down by a single chain of narrators is not to be applied if it is opposed by a definitive principle; this rule was formulated by Mālik ibn Anas and Abū Ḥanīfah. This is the point of the matter, and this

is what is intended by it...”

In his discussion of Question 8, al-Shāṭibī clarifies another of the Lawgiver’s objectives in bringing human beings under the Law’s jurisdiction. He states, “One of the Lawgiver’s objectives in requiring certain actions of us is to encourage us to persevere in them. The evidence for this is clear. God praises those who are constant in prayer, for example. In addition, we have the Prophetic hadith which states, ‘Actions most precious to God are those which are performed with the greatest diligence and perseverance, insignificant though they may be,’ as well as other texts of similar import.” Moreover, in order to enable us to persevere in the actions which are pleasing to Him, “The requirements made of us under the Law have been established in moderation, hardship has been eliminated, and overstrictness has been prohibited,” a topic which was discussed earlier in the section dealing with hardship.

One last observation I would like to make on the questions relating to this category of objectives, which is the last of the objectives of the Lawgiver, is that, as will be seen in what follows, certain questions pertaining to the higher objectives of the Lawgiver¹⁴⁴ bear a resemblance to, and serve to pave the way for, those relating to the second category of objectives, namely, human objectives, or the objectives of those answerable before the Law.

CATEGORY 2: HUMAN OBJECTIVES

In his treatment of the objectives of the Law, al-Shāṭibī likewise touches upon the objectives of human beings, which is another manifestation of his profound understanding and mastery of the theme with which he is dealing. After all, if no attention is given to the objectives of those who are accountable before the Law, then the objectives of the Lawgiver will be no more than ink on paper, or an idea in scholars’ heads. Hence, there is a need to explicate the matter of human objectives and how they are related, both positively and negatively, to the objectives of the Lawgiver. And this is what our imam has done in his discussion of this second category of objectives.

This section, which consists of twelve questions, likewise contains a number of digressions from the topic at hand, which can be seen particularly in Questions 6, 7 and 9. Be that as it may, Question 1 serves as a type of preface to the principles or rules which follow. By way of reminder and introduction, al-Shāṭibī affirms an intuitive religious truth, namely, that “actions are inseparable from intentions, and objectives are to be taken in consideration when judging behavior, whether in the realm of worship or mundane transactions and activities.” The actor’s intention in doing what he does determines whether it is valid or invalid, an act of worship or an act of hypocrisy, obligatory or voluntary; indeed, it determines whether it is an act of faith or an act of unbelief, such as the difference between prostrating to God or prostrating to some other entity. Al-Shāṭibī adds, “If an action is associated with its intention, then action-based rulings (*al-aḥkām al-taklīfiyyah*) will apply to it, whereas if it is stripped of its intention, nothing applies to it, as in the case of actions performed by those individuals who are asleep, unconscious and insane.”

Following this introduction, al-Shāṭibī proceeds to the heart of his topic in Questions 2 and 3. He states:

1. “The Lawgiver’s aim for human beings is for their intention in what they do to be in agreement with His intention in laying down legislation.” Since the Law, as we have seen, was established to serve human interests, then what is required of human beings is to conduct themselves in accordance with this aim. “As we have seen, the Lawgiver’s objective is to preserve the essentials and what follows from them by way of exigencies and embellishments, and this is precisely what human beings are held accountable for. Hence, it is only reasonable that they should intend to preserve these things, since actions are inseparable from intentions...” Moreover, given that human beings are God’s vicegerents on earth over themselves, their families, their wealth, and everything which has been placed at their disposal, “they are required to stand in the stead of the One who appointed them to fulfill this role, putting into effect His rulings and intentions.”

2. The reverse side of the same question may be stated as follows: “Whoever seeks, through the obligations imposed by the Law, to achieve objectives other than those for which the Law was laid down, has violated the Law, and the action of whoever violates the Law, insofar as it is a violation, is invalid.” Although it is required of human beings, generally speaking, to conform their intention in what they do to what the Lawgiver intended in legislating, most people may not know precisely what the Lawgiver’s intentions are in many of His rulings and requirements. Thus, how are they to ensure that their intention in every act they perform is in conformity with that of the Lawgiver?

The answer to this question may be found in Question 8, where al-Shāṭibī lays three choices before the individual: (1) He may aim in his action to achieve what he understands to be the Lawgiver’s intention therein, yet without neglecting the intention to worship and express reverence as well lest he be unmindful of God, and lest he omit those aspects of the divine intention of which he may be ignorant. (2) He may aim in his action to achieve whatever the Lawgiver’s intention in such action happens to be without further specification; this is more inclusive and more perfect than the first choice. (3) He may intend simply to obey God’s command and submit to His precepts, which is even more inclusive and perfect. In all three cases, however, the individual will be in conformity with the Lawgiver’s aim and not be in danger of violating it.

* * * * *

As for the remaining questions,¹⁴⁵ they consist of applied principles and applications of what has already been presented. Question 4 includes a listing of cases reflecting conformity or lack thereof between the individual and the Lawgiver and the ruling on each case. The following are the six cases listed:

Case 1:¹⁴⁶ The individual is in conformity with the Lawgiver in both intention and action, in which case there is no doubt as to the validity of the action.

Case 2: The individual is in violation of the Lawgiver in both intention and action, in which case there is no doubt as to the invalidity of the action.

Case 3: The individual is in conformity with the Lawgiver in action, but not in intention; however, he is not aware that what he has done is in conformity with the Lawgiver's intention. In such a case, the person is guilty toward God due to his ill intent, but not guilty toward other human beings due to his not having caused them harm or deprived them of benefit.

Case 4: It is similar to the former case; however, in this case the person realizes that his action is in conformity with the objectives of the Lawgiver, as a result of which his guilt toward God is even greater than in the former case since he is engaged in hypocrisy and is manipulating God's rulings for his own ends.

Case 5: The individual is in violation of the Lawgiver's objectives in action but not in intention; moreover, he is aware of the fact that his action is in violation of the Lawgiver's objectives. The person in such a situation generally has his own (positive) interpretation of what he has done and is banking on his good intentions. This case is exemplified by those who have originated innovations in the religion, (and concerning whom al-Shāṭibī concludes "that all innovations are blameworthy given the overall evidence to indicate this.")

Case 6: This is similar to Case 5 except that the person concerned does not realize that his action is in violation of the Lawgiver's objectives. There are two points of view on this type of case: (1) The first point of view focuses on the fact that the person's intention is in conformity with that of the Lawgiver, since "actions are inseparable from intentions," whereas his action's violation of the Lawgiver's objectives is not deliberate or something of which he is aware. (2) The second point of view focuses on the fact that the person's action is in violation of the Lawgiver's objectives; as a result, his intention does not achieve these objectives, since they are not fulfilled by mere intentions, but by intention and action together. Therefore, al-Shāṭibī states that, "this type of situation is rather unclear and is

problematic in the Shari‘ah.” After examining the issue at length, he indicates a preference for taking both points of view into consideration such that both the conformity of the person’s intention to the Lawgiver’s objectives and their violation through his action will have an impact on the ruling to be issued on the action and its consequences.¹⁴⁷

As for Question 5, it includes other, more detailed rules on the basis of which al-Shāṭibī defines the various aspects of conflict, or lack thereof, between what is beneficial or harmful to a given individual, and what is beneficial or harmful to others, bearing in mind the presence or absence of intention. This question might thus be referred to as the law of incompatibility and preference among people’s interests. In what follows al-Shāṭibī presents to us eight cases which represent the various types of conflict among people’s interests, after which he presents the various cases in greater detail, derives rules therefrom, and specifies their determining factors:

Achieving benefit for oneself or protecting oneself from harm, if it is permissible in a given situation, may take one of two forms. In the first form, it results in no harm to others, and in the second, it does result in harm to others. This second form – that is, that which results in harm to others – may likewise take one of two forms: (1) The person seeking to benefit himself or protect himself from harm intends to cause harm to someone else, as in the case of someone who lowers the prices of his merchandise in order to make a living with the intention of hurting others, and (2) Another person in the same situation does not intend to harm anyone. This latter situation, similarly, may take one of two forms: In the first, the harm inflicted is collective, as in cases involving the importation of commodities and sales made by city-dwellers to Bedouins, or as when someone refuses to sell his house or land even though others have been obliged to [seek to purchase the land in order to build] a mosque or the like. In the second, the harm inflicted is on the individual level. Such individual harm may likewise be one of two types: The first type is when harm is inflicted on an individual by his being prevented from seeking benefit or avoiding harm, as when some-

one acts to protect himself from some harm which he knows will thereby befall another, or when one person manages to buy food before someone else, knowing that if he obtains the food, someone else will be deprived thereof, and that if he is deprived of it, he himself will suffer harm. As for the second type,¹⁴⁸ it is when no harm comes to anyone as a result of such a situation. This type, moreover, might take one of three forms: (1) That which will lead to harm with an 'ordinary degree of certainty,'¹⁴⁹ such as digging a well behind one's back door in the dark such that whoever tries to come in is certain to fall into it. (2) That which would rarely lead to harm, such as digging a well in some location where no one would be likely to fall into it, eating foods which generally cause no one any harm, and the like. (3) That which frequently leads to harm, either: (a) most of the time, such as selling arms to those engaged in war, selling grapes to a wine manufacturer, selling something which could be used fraudulently to those prone to fraud, etc., or (b) often, but not most of the time, such as sales on credit.

Al-Shāṭibī concludes this section by touching upon the topic of *ḥiyal*, or legal artifices, the intention behind which is generally to nullify legal rulings, transform them into other rulings, or to evade their consequences. Al-Shāṭibī deals with this topic in the final three questions. In Question 10 he prefaces his discussion of legal artifices by defining them. In Question 11, he states that "legal artifices in religion, according to the aforementioned definition, are illegitimate for the most part."¹⁵⁰ He then cites numerous Qur'anic verses and hadiths the overall import of which is that legal artifices are invalid and prohibited, adding that "This is the view of the majority of the Companions and their successors."

As for the second question, it goes to the heart of the matter in that it draws a connection between legal artifices and the rulings thereon and the objectives of the Lawgiver. As al-Shāṭibī puts it, "Actions performed in accordance with the Law are not intended for their own sake, put for the sake of other objectives. These objectives constitute the meanings of such actions and the interests for the sake of which they are required by the Law. Hence, whoever performs such actions with some other intent¹⁵¹ is not conducting himself in

a legitimate manner.”

On this basis we say that the higher objective behind the legal requirement of zakah, for example, is to overcome the vice of niggardliness and greed, to help the unfortunate and to rescue souls who are in danger of annihilation. Hence, if toward the end of the year, someone gives his money away as a means of avoiding having to pay zakah on it, and if, during the following year, or before this, he takes it back, this action serves to reinforce and perpetuate niggardliness and greed, and is thus the very antithesis of helping the unfortunate. It goes without saying that the form taken by this person’s gift of money is not what is upheld by the Law, since a gift is intended to be a form of aid and charity to the person to whom it is given and a means of expanding his resources, be he wealthy or poor, as well as a means of winning his good will and affection. The gift described above, by contrast, is the very converse of this. If it were given with the legitimate intent of rendering to the recipient the true ownership of the money given, this would be consistent with the interest of aiding [the needy], expanding their means and eliminating the vice of greed and stinginess. As such, it would not be a ruse by means of which to avoid paying zakah. Note, then, that a legitimate intention will not undermine the objectives of the Law, whereas an illegitimate intention will undermine them.

The Book’s Conclusion: How May The Lawgiver’s Intents Be Known?

Al-Shāṭibī concludes his discussion with the words: “However, there is a need for a conclusion which serves to clarify this discussion of objectives still further and which defines precisely what is intended by it, God willing. For someone might say: The questions which have been addressed in this discussion are based on the knowledge of what the Lawgiver intends. But how is one to distinguish what the Lawgiver intends from what He does not?”

Before delineating the bases for determining the Lawgiver’s intentions, al-Shāṭibī categorizes people – according to their stance on the

subject of the Lawgiver's objectives and the manner in which they may be determined – into the following three groups:¹⁵²

1. Those who hold that the only way to know the Lawgiver's objectives is through an explicit declaration by the Lawgiver Himself; this group is known as the Zahirites, or the Literalists.
2. Those who maintain the very opposite position, and which may be divided into two:
 - a) Those who do not recognize the apparent sense of any text whatsoever but, rather, consider that texts' objectives are always something other than what appears on the surface. Of this position al-Shāṭibī states, "This is the opinion held by all those who intend to nullify the Law, namely, the Batinites..."
 - b) Those who go to such extremes in analogical deduction that they give it more importance than the texts themselves. Of this group, al-Shāṭibī names no particular individual or school.
3. Those who hold that one should combine a consideration for the texts and their apparent meanings with a consideration for their (inward) meanings and the occasions which gave rise to them. This, says, al-Shāṭibī, is "the approach taken by most knowledgeable scholars. Hence, it is this approach which serves as the criterion by which the Lawgiver's objectives may be known."

Based on this general principle, al-Shāṭibī identifies the four bases for determining the Lawgiver's objectives. They are:

1. Primary, explicit commands and prohibitions.
2. Consideration of the bases for commands and prohibitions.
3. Consideration of secondary objectives (which are in the service of the primary objectives).
4. Silence on the part of the Lawgiver in situations which would appear to call for declaration and legislation.

The subject of how the Lawgiver's objectives may be determined calls for a clearer, fuller presentation than what is provided in this

summary. However, such a presentation requires that one gather material which lies scattered among al-Shāṭibī's various writings, including the various parts of al-Muwāfaqāt and *al-I'tisām*, which is of no less importance than this concluding section. Hence, in view of what such a discussion requires by way of thoroughness and detail, I have thought it best to postpone it to a later section devoted specially to this topic, namely, the section of Chapter Three entitled, "By what means may the Lawgiver's objectives be known?"

[III]

Dimensions of the Theory

Al-Shāṭibī's theory of objectives is not found exclusively in the section of *al-Muwāfaqāt* devoted to this theme, namely, 'The Book of Higher Objectives' of which I have just presented a synopsis. Rather, it finds its way into the majority of al-Shāṭibī's writings.¹⁵³ This being the case, 'The Book of Higher Objectives' is not sufficient in and of itself for a complete elucidation of the theory of objectives, its various dimensions, and its effects.

In all that al-Shāṭibī writes, one finds that 'the objectives' are his companion, present in his words, exercising their sway over his views and rendering them more profound and discerning, while his views, in turn, render his theory clearer and more comprehensible. In fact, anyone who studies al-Shāṭibī will conclude that he wrote about nothing but *maqāṣid al-Sharī'ah* and their outcomes.

The purpose of this section – which is, in reality, a complement to the one which preceded it – is to show the extensions of the theory of objectives in al-Shāṭibī's writings. Hence, we are still engaged in the presentation of the theory, and in what follows I will deal in some detail with the imprints left by 'objectives' in three particular realms, namely: (1) the five essentials (elsewhere than in 'The Book of Higher Objectives'),¹⁵⁴ (2) questions relating to actions classified as *mubāh*, or permissible (under the rubric of *al-aḥkām al-taklīfiyyah*, that is, rulings which define legal obligations), and (3)