

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-Shari'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)

causes and outcomes (under the rubric of *al-ahkām al-waḍʿiyyah*, or rulings which specify causes, conditions and/or constraints on such obligations).

1. *The Five Essentials*

From his initial introductions to *al-Muwāfaqāt*,¹⁵⁵ al-Shāṭibī begins raising issues relating to the objectives of Islamic Law and relying on his analysis of such issues for support and clarification of his views as they relate to the fundamentals of jurisprudence. In the first introduction, which he devotes to the claim that the fundamentals of Islamic jurisprudence are definitive in nature and not just speculative,¹⁵⁶ he bases his most powerful arguments on the premise that the fundamentals of jurisprudence are founded on the universals of the Law, which can be nothing other than definitive. He states, “What I mean by ‘universals’ here are: the essentials, exigencies and embellishments.”¹⁵⁷

The definitive nature of these universals is beyond dispute. As al-Shāṭibī puts it, “The Muslim community – and, indeed, all religions – are in agreement that the Law was established to preserve the five essentials, namely, religion, human life, progeny, material wealth and the human faculty of reason. Moreover, knowledge of these universals is also considered essential by the Muslim community.”¹⁵⁸

From the introductions we move to ‘The Book of Evidence’ (Part 3 according to the book’s division in modern printings), where al-Shāṭibī lays the general foundation for examining legal evidence. In Question 8, for example, he states, “If, among the laws established in Madinah,¹⁵⁹ you find a universal principle, then think carefully on it and you will find that in relation to that which is still more general, it is a specific, or a complement to a universal principle. Evidence of this may be seen in the fact that the universals which the Shari‘ah has commanded us to preserve are five, namely: religion, human life, the faculty of human reason, progeny, and material wealth.”¹⁶⁰

What al-Shāṭibī means by this statement is that even if what are considered to be universal principles or general rules are found among the various forms of legislation which were instituted in

Madinah, they are, in reality, no more than branches of the more general and more important universals which, given their significance, were revealed in Makkah. Hence, the higher objectives of the Law and its principle foundations were secured in the Makkan Qur'an side by side with the fundamentals and principles of Islamic doctrine. Al-Shāṭibī then goes on to trace the five universals (or essentials) to their supporting evidence in the Makkan Qur'an.

As for the preservation of (the Islamic) religion and the correction and consolidation of faith in the Makkan Qur'an, it is a matter so familiar and clear to many that it requires no evidence or examples to be cited in its support. In fact, there has come to be a widespread, albeit mistaken, belief that this is all that the Makkan Qur'an consisted of. However, Imam al-Shāṭibī corrects this notion by presenting what the Makkan Qur'an contained by way of legal principles and universals.

In connection with the preservation of human life, for example, we read, "...and do not take any human being's life – [the life] which God has declared to be sacred" (Qur'an, 6:151), and "when the girl-child that was buried alive is made to ask for what crime she had been slain" (Qur'an, 81:8-9).

Preservation of human life includes the preservation of the faculty of reason, while the complement to the preservation of the faculty of reason may be seen in the Madinan prohibition of intoxicants and the establishment of a penalty for its violation. Hence, the preservation of the former is the foundation for the preservation of the latter. Similarly, the preservation of progeny was legislated in Makkah in the form of a prohibition against adultery and the command to refrain from all sexual misconduct, while the preservation of material wealth is ensured in the Makkan Qur'an by means of the prohibition against injustice, depriving orphans of their property, wastefulness, envy, giving short measure and weight, and corruption in the land. Commanding the doing of what is good and forbidding the doing of what is wrong – both of which are likewise necessary to preserve the aforementioned essentials – were explicitly enjoined in Makkah, as in the verse which reads, "O my dear son! Be constant in prayer, and enjoin the doing of what is right and forbid the doing

of what is wrong” (Qur’an, 31:17). Moreover, the jihad which was instituted in Madinah was nothing but an offshoot of the command to enjoin the doing of what is good and prohibit the doing of what is wrong.¹⁶¹

When Imam Abū Ishāq moves on to the topic of abrogation (*naskh*), he comes armed with his awareness of the objectives and universality of the Law. Hence, in his discussion of Question 1 pertaining to the theme of abrogation, he reminds his readers that “the universal principles are established first, and it was these which were revealed to the Prophet in the Qur’an in Makkah. Then, in Madinah, these were followed by other things which served to complete the principles whose foundation had been laid in Makkah.”¹⁶² This statement is not merely a repetition of al-Shāṭibī’s understanding of the relationship between Madinan and Makkan legislation, important as it is. Rather, he reiterates the idea here and presents it in greater detail in view of what he wishes to build thereon in connection with the topic of abrogation. Specifically, he states in Question 2,

Now that it has been established that the rulings of the Shari‘ah which were revealed in Makkah were, for the most part, universal in nature, the fundamental principles of the religion, it follows that the abrogation of these rulings should be a rare phenomenon,¹⁶³ since there is rarely an abrogation of a universal, even though theoretically speaking, it remains a possibility. Evidence for this may be found in a thorough inductive reading of the Shari‘ah, as well as by the fact that the Shari‘ah is based on the preservation of essentials, exigencies and embellishments, none of which has been abrogated in the least detail. On the contrary, what was revealed in Madinah served only to reinforce, consolidate and support them. This being the case, there is no proof of any universal ever having been abrogated, and whoever does a thorough reading of the books dealing with *al-nāsikh wa al-mansūkh*, that is, later rulings which served to abrogate earlier ones, will verify what I am saying. Rather, whatever abrogations occurred applied only to the partial, or specific rulings revealed in Makkah, and such rulings in Makkah were few.¹⁶⁴

When, following his discussion of the Qur'an, al-Shāṭibī comes to the topic of the Sunnah, he puts his 'objectives-based'¹⁶⁵ perspective to use in drawing connections among the various types of evidence found in the Shari'ah, including both the Qur'an and the Sunnah, as well as among the various areas of legislation in both their universals and their particulars. For just as he observes that the Madinan Qur'an in all its details was based upon the Makkan Qur'an with its universals, he likewise observes the fact that the Sunnah was based entirely upon the Qur'an, since both of them revolve around a single axis, namely, the objectives of Islamic Law as embodied in achieving human beings' interests on the triple levels of the essentials, exigencies and embellishments. Although I prefer to avoid lengthy quotations, I feel it necessary to quote the following extensive, but wonderful, passage, which provides details on the subject at hand which are absent even from the place one would have naturally expected to find them, namely, in 'The Book of Higher Objectives.' Al-Shāṭibī entitles the section concerned, "An Explication of the Various Facets of Interconnectedness and Complementarity Between the Qur'an and the Sunnah, and How the Qur'an is the Foundation of the Sunnah While the Sunnah is Subordinate Thereto and Based Thereon." In the course of enumerating these facets he states,

These include a view to what is evidenced by the Qur'an in general terms and which is found in the Sunnah in completeness, with additional explanation and clarification. The Holy Qur'an defines human interests in both this world and the next as a means of achieving such interests; similarly, it defines that which causes human beings harm and corruption as a means of preventing them. As we have seen, human interests are limited to the three aforementioned categories of essentials with their complements, exigencies with their complements, and embellishments with their complements. Besides these three, no others are mentioned in 'The Book of Higher Objectives.'

If we examine the Sunnah, we will find it to be simply a confirmation of these points. For the Qur'an includes them as principles for us to rely on, while the Sunnah includes them in the form of ramifications and

elucidations thereof, since you find nothing in the Sunnah which does not belong to one of these categories. The five essentials as rooted in the Qur'an are detailed in the Sunnah:

- The preservation of the religion takes place by three means: submission (islam), faith (*īmān*), and the doing of good (*iḥsān*). Their root is in the Qur'an, their elucidation is in the Sunnah, and they are completed through three things: (1) The invitation to it [the religion] through rewards and warnings, (2) Fighting through jihad against those who stubbornly resist it or seek to corrupt it, and (3) The correction of any defect in its foundation. The root of these things is found in the Qur'an and their perfect elucidation is found in the Sunnah.
- The preservation of human life is achieved in three ways, namely, by: (1) establishing its foundation through the legitimacy of procreation, (2) ensuring its survival after its having come into existence by providing food and drink (thereby ensuring its survival from within) and (3) providing clothing and shelter (thereby ensuring its survival from without).¹⁶⁶ The root of all these things is found in the Qur'an and is elucidated in the Sunnah. Moreover, it is completed through three things: (1) protecting them [one's progeny] from falling into that which is forbidden, such as sexual misconduct, by ensuring that they enter into valid matrimony and have at their disposal whatever related measures are needed, including divorce, *khul'**, *li'ān**, and the like, (2) Ensuring that they do not receive nourishment which is harmful or lethal, and (3) Guaranteeing the provision of everything without which the things mentioned above would not be possible, including animals for slaughter as sacrifices, hunting, the right to impose penalties for crimes as set forth in the Law and the law of retribution in the case of homicide, consideration for ultimate consequences, and the like.
- Preservation of progeny falls within this same category, its principles being found in the Qur'an, and their elucidation in the Sunnah.
- The preservation of wealth is based on consideration for the fact that it is included among possessions as a whole, and on causing it to grow lest it not suffice for one's needs. Its complement consists in preventing circumstances or conditions which would interfere with preservation of

wealth through forcible deterrence, legally prescribed punishments and guarantees, all of which are found in the Qur'an and the Sunnah.

- Preservation of the faculty of reason has to do with that which will not corrupt it, and is found in the Qur'an. Its complement consists in the legitimacy of a legally prescribed punishment or forcible deterrence. At the same time, there is no specific reference to it in the Qur'an; hence, there is no specific ruling on it in the Sunnah. Rather, this has been left to the independent interpretation of the Muslim community.
- Preservation of honor, if it is counted among the essentials, has its origin in the Qur'an and is further clarified in the Sunnah through the provisions pertaining to *li'ān** and *qadhf*.*

If you examine the exigencies, you will find that there is a consistent tendency to preserve the same order or one similar thereto; after all, the exigencies revolve around the essentials, as do the embellishments. The principles pertaining to Islamic Law in the Qur'an have been completed in both the Qur'an and the Sunnah, and nothing has been unaccounted for. This is clear from an inductive reading (of the Qur'an and the Sunnah), and will be easily perceived by anyone who is knowledgeable of them. It was likewise recognized by the pious ancestors, as evidenced by statements by some of them quoted earlier. For those who wish to know more, the focus of the exigencies is upon the provision of ease and respite, eliminating hardship, and kindness.

- Concern for [preservation of the] religion appears in those places which affirm the legitimacy of allowances. In relation to ritual purity, for example, this is illustrated by the permissibility of such things as waterless ablutions (*al-tayammum*) and consideration of an individual to be ritually pure in a legal sense when it proves impossible physically to remove a given impurity; in relation to ritual prayer, the legitimacy of allowances is illustrated by the permissibility of shortening prayers to two *rak'ahs*, exempting an individual from accountability if he or she is unconscious or in a state of *jam'**, or praying while seated or lying on one's side [if one is unable to stand or sit up, respectively]. In relation to fasting, such

allowances include the permissibility of breaking one's fast while on a journey or due to illness, and so on for all the various forms of Islamic worship. Hence, the Qur'an clearly stipulates certain allowances such as waterless ablutions, the shortening of prayer and breaking of one's fast in specific circumstances. When it does not, however, those Qur'anic passages which call for the elimination of hardship provide a sufficient foundation for the permissibility of such allowances. It is the job of the person qualified to engage in independent reasoning to apply the rule and to arrive at the appropriate allowances in accordance therewith; and the Sunnah is the primary exemplar in this regard.

- Also in connection with the preservation of human life, it is provided for in specific places, including those which stipulate the permissibility of allowances, such as the permissibility of eating an animal which has died naturally [as opposed to having been slaughtered in the Islamically prescribed manner] for someone who is in dire need of food and has no other nourishment available, the permissibility of providing consolation and assistance with one's zakah and other funds,¹⁶⁷ and the permissibility of hunting even if one is unable to shed the animal's blood¹⁶⁸ or slaughter it in the legally prescribed manner.
- In relation to procreation, [examples of allowances include] the permissibility of a marriage contract without the setting of a dowry, permitting some ambiguities in the contract for the sake of avoiding disputes as occurs in some sale agreements, allowing a divorce to come into effect by the utterance of the words, 'You are divorced' only three times, the allowance of divorce in the first place, *khul'*, and the like.
- With regard to material wealth as well, such allowances are illustrated by the permissibility of sales which entail a minor degree of uncertainty and risk given the inevitability of such in most cases, the permissibility of *salam*, or payment in advance, *bay' al-ʿarāyā* (bartering), *shuf'ah* (loans, preemption), *qirād*,* (or 'sleeping partnership,') *musāqāh* (crop sharing), and the like, as well as the permissibility of deliberate, moderate enjoyment of life's licit pleasures.
- In connection with the preservation of the faculty of reason, allowances include the exemption from accountability for someone who is forced [to

partake of intoxicants] against his will or one who does so out of dire need as, for example, in situations in which one fears for his life due to hunger, thirst, illness and the like.

All such allowances are in accordance with the principle of ‘elimination of hardship’ (*rafʿ al-ḥaraj*), since most of them are based on independent interpretations. The Sunnah has made clear what examples we are to emulate based on the interpretation of general statements found in the Qur’an, none of which would be violated by the Sunnah.

The category of ‘embellishments’ receives the same treatment as that of ‘exigencies,’ since all of them have their origin in the Qur’an. Hence after being presented in the Qur’an in either general or specific terms, they are clarified and explained more fully in the Sunnah.

The aim of all I have written here is to make my readers aware of these matters, after which the discerning among them will be guided from this to an understanding of that which has been alluded to but not mentioned explicitly. And all success is due to God alone.¹⁶⁹

In his discussion of commands and prohibitions, al-Shāṭibī relies a great deal, as is his custom, on the notion of objectives, using them as the criterion on the basis of which he argues for his views. Similarly, he relies on the division of legal rulings into the recognized categories of essentials, exigencies and embellishments to support his view that the commands and prohibitions contained in Islamic Law are not all of a single order or of equal importance. He states that, “Commands pertaining to essentials are not to be considered equal to those that pertain to exigencies or embellishments. Nor are those entities which serve to complete the essentials on the same level as the essentials themselves. On the contrary, there is a recognized disproportion between them, and in fact, even matters which pertain to the essentials are not all of equal weight.”¹⁷⁰ He then illustrates this principle by citing the recognized practice of placing greater importance on the preservation of the religion than on the preservation of human life, and of placing higher priority on preserving human life than on preserving the faculty of human reason.

As a consequence, both individual believers in their daily lives and

scholars qualified to engage in *ijtihād* need to demonstrate an awareness of this order and gradation in the commands of the Law and its prohibitions, since only in this way can they give each thing its due and place priority on that which merits it. If we neglect this perspective – which has been sanctioned by the Lawgiver – we are bound to fall into serious errors and suffer no little hardship, not to mention our having violated the Lawgiver’s guidance by disregarding the order of preference which He himself has established. For the Law’s commands are not all of the same order, nor do they all yield the same ruling, and the same is true for its prohibitions. Even commands which indicate that the action concerned is obligatory are of varying degrees of importance, as are prohibitions which communicate that the action concerned is forbidden, for both obligations and prohibitions in Islam differ in degree and importance.

Al-Shāṭibī makes use of this same notion in his treatment of the subject of religious innovations in *al-I’tisām*. He writes,

Some acts of disobedience are minor sins, while others are major. Whether a given act of disobedience is to be classified as a major or a minor sin depends upon whether it is related to essentials, exigencies, or embellishments. If it touches upon the essentials, it will be the greatest of sins, and if it touches upon the embellishments, it will clearly be the most minor of sins, whereas if it touches upon the exigencies, it will fall somewhere between these two extremes. Moreover, each of these degrees has a complement, and it is impossible that the complement should be on the same order as that which is complemented. Rather, the complement is to that which it complements as a means is to an end. The means can never be on the same order as the end, and the differing degrees of violations and acts of disobedience may easily be observed.

Moreover, if one gives thought to the five essentials, one will find that they, too, are awarded differing degrees of emphasis. Preservation of human life, for example, is not given the same emphasis as preservation of the religion. Thus, even the sanctity of human life is considered a small thing when compared with that of the religion, and this is why unbelief is considered a justification for the shedding of blood, while preservation of the religion is a sufficient motivation for subjecting

oneself to the possibility of death and destruction for the sake of struggling against those who have rejected and turned against the religion. Similarly, preservation of the faculty of human reason and material wealth are given less emphasis than preservation of human life...¹⁷¹

He then moves on from this objectives-based introduction to his original theme, namely, innovations, and analyzes them in light of the objectives of the Law. He states, “This being the case, then innovations (*al-bidaʿ*) are a type of disobedience, and just as there are disparities among the various acts of disobedience, so also are there disparities among the various innovations. There are some which have to do with the essentials (that is, in the sense that they are a violation thereof), others have to do with exigencies, and still others affect the realm of embellishments. Moreover, those which have an impact on the essentials might affect preservation of the religion, human life, progeny, the faculty of human reason, or material wealth...”¹⁷²

Based on this distinction among benefits and sources of harm or corruption and the resulting distinction among the Law’s various commands and prohibitions, al-Shāṭibī declares,

Legally speaking, an act will be judged according to what benefits it achieves or what harm or corruption it causes. The Law has made this clear, drawing a distinction between, on one hand, those acts which lead to major benefit and which it thereby classifies as pillars (*arkān*, sing., *rukn*), or which cause serious harm or corruption and which it thereby classifies as major sins (*kabāʿir*, sing., *kabīrah*) and, on the other hand, those acts whose resulting benefit or harm is minor, in which case it terms them either charitable acts (*iḥsān*) or minor sins (*ṣaghāʿir*, sing., *ṣaghīrah*), respectively. In this way one may distinguish between that which is a pillar and fundamental of the religion, and that which is a branch or subsidiary, and between major and minor sins. Those commands to which the Law has given major importance are among the religion’s fundamentals, and those which it has given less importance rank among its branches and complements. Conversely, violations of those prohibitions to which the Law has given major importance are major sins, while violations of prohibitions to which

the Law assigns less importance are, therefore, minor sins, all of which is subject to the degree of benefit or harm which the acts in question have the potential to bring.¹⁷³

2. Questions Relating to That Which is Permitted (*al-Mubāḥ*)

Among the topics dealt with in virtually all writings on the subject of *uṣūl al-fiqh*, and particularly since the 5th Century AH, is that of legal rulings. Such rulings are divided, as is generally known, into two types, namely, what may be termed ‘action-related rulings’ (*al-aḥkām al-taklīfiyyah*) which serve to define legal obligations, and ‘condition-related rulings’ (*al-aḥkām al-waḍ‘iyyah*) which specify causes or conditions for such obligations and/or constraints thereon. According to the most widely agreed-upon division, the description of an action as *mubāḥ*, or ‘permitted,’ is one of the five categories of action-related rulings. What this means is that most *uṣūliyyūn*, and particularly later ones,¹⁷⁴ deal in their writings with issues relating to the category of *mubāḥ*. However, al-Shāṭibī’s treatment of the subject, as is the case with other subjects as well, differs significantly from that of other scholars, the reason for this being the overriding influence exerted on his thinking by the ‘objectives theory.’

Al-Shāṭibī opens his “*Kitāb al-Aḥkām*” (The Book of Rulings) with the category of *mubāḥ*, which he discusses in the context of five questions together with six ‘sections.’ Before presenting the first five questions, all of which relate to the category of *mubāḥ*, I will pause briefly to discuss Question 6 which, as I see it, should have been Question 1 under the heading of action-related rulings, since it is applicable to all of them. Moreover, it seems to me that Question 6 should have been the first issue to be discussed in relation to the category of *mubāḥ*, because what al-Shāṭibī states in his discussion of it – although it applies to the action-related rulings as a whole – has been objected to in connection with the category of *mubāḥ* in particular.¹⁷⁵ Hence, given that he begins with a treatment of the *mubāḥ*, he could have brought the two themes together by beginning with this particular issue.

Be that as it may, *al-Shāṭibī* states in Question 6 that “the five rulings¹⁷⁶ relate only to actions and omissions considered together with

their objectives.”¹⁷⁷ In other words, al-Shāṭibī is saying that action-related rulings are only applicable to human beings’ actions and omissions if they are accompanied by ‘intention.’ If, however, they occur without an aim, deliberateness, intention or awareness, they are “tantamount to actions by dumb beasts and inanimate objects.”¹⁷⁸

In so saying, al-Shāṭibī appears to be taking issue with the prevailing definition of legal rulings according to which a legal ruling is “divine discourse relating to human actions,” since divine discourse, according to al-Shāṭibī, is not related to human actions if they are devoid of intention.¹⁷⁹

Another observation, also having to do with the arrangement of the questions relating to the category of *mubāḥ*, is that after devoting the first five issues to a discussion of *mubāḥ*, al-Shāṭibī goes on to discuss the other action-based rulings. Then, at the conclusion of his discussion of action-based rulings, he devotes Questions 12 and 13 to a discussion of a further aspect of the subject of *mubāḥ*.¹⁸⁰ In any case, no matter how diverse and tangential al-Shāṭibī’s discussions happen to be, the ‘objectives thread’ is always there to bring them together and close the gaps among them, reminding you of their beginning as you approach their conclusion.

The first thing which al-Shāṭibī concludes in his discussions of the category of *mubāḥ* is that “that which is permissible, insofar as it is permissible, is something which one is neither required to do nor required to refrain from.”¹⁸¹ He then proceeds to express the same thought in the language of objectives, saying, “...As far as the Lawgiver’s intention is concerned, it makes no difference whether one performs such an action or refrains from it.”¹⁸²

What we are speaking of here is the essential meaning of the category of *mubāḥ*, or ‘permissible.’ Scholars have described actions which fall into this category as neutral in the sense that there is an equal preference, if you will, for performing them or refraining from them, and that one is free to choose between these two options. This, then, is the meaning of the term ‘permissible’ when considered in isolation from all attendant circumstances and influences. Viewed from this perspective, the Lawgiver intends neither that we perform such

an action nor that we refrain from it, and as such, neither choice is required of us, for if we are required either to perform it or to refrain from it, then it will fall into one of the other four categories of actions and can no longer be classified as 'permissible.'

In declaring this perspective, al-Shāṭibī is responding to two points of view:

1. The view according to which we are required to refrain from actions categorized as 'permissible,' that to refrain from them is preferable to doing them, and that we should engage in them as infrequently as possible.
2. The view according to which we are required to perform actions which are categorized as permissible and that performing them is, in fact, obligatory, since every performance of a permissible act involves refraining from that which is forbidden, and refraining from that which is forbidden is obligatory. Hence, the performance of acts which are permissible is obligatory because of what it entails by way of refraining from that which is forbidden.

This second view, espoused by Muṭalazite scholar Abū al-Qāsim al-Kaʿbī, had been refuted long before and for this reason, al-Shāṭibī's response to it is a brief two pages.¹⁸³ As for the first view, however, al-Shāṭibī devotes special attention to it, setting forth the evidence cited in its support and discussing it in full detail,¹⁸⁴ thereby testifying to its pertinence and its widespread popularity.

Among the arguments cited in support of the first view (i.e., according to which one is required to refrain from actions classified as permissible) is that occupying oneself with the performance of permissible actions will distract the individual from things which are more important, such as acts of obedience and supererogatory acts of piety. It may distract one even from carrying out one's obligations, and might cause one to fall into certain forbidden actions. It is on this basis that some have condemned this world with its various enjoyments and attractions. It has been reported of the pious ancestors, for example, that they were hesitant to engage in so many permissible activities that abstinence from this world became the

byword of the righteous and the preferred path of the God-fearing.

In response to such arguments, al-Shāṭibī points out that the topic of discussion is that which is permissible in and of itself. As regards permissible acts which distract one from that which is superior to them or which cause one to fall into certain legal dangers, this is another matter, since in these cases, the permissible has been influenced by external factors and has thus become an expedient and a means to some other end. It is a recognized fact that means fall under the rubric of intentions or objectives, and that the ruling thereon is influenced accordingly. Hence, concludes al-Shāṭibī, occupying oneself with permissible activities and their enjoyment is permissible in and of itself; if such activities distract one from performing some obligation or cause one to fall into that which is forbidden, the ruling on them will change to reflect this development. Moreover, unexpected outcomes of doing that which is permissible, just as they may be blameworthy and thereby render the permissible action blameworthy, may also be praiseworthy, thereby rendering the permissible act praiseworthy as well. Hence, it makes no more sense unconditionally to favor abstention from permissible activities than it does unconditionally to favor engagement in them. After all, many permissible activities may assist the person who engages in them toward fulfilling his obligations, avoiding that which is forbidden, and engaging in acts of virtue and charity and in fact, this is the ideal for which such activities were intended (by the Lawgiver). As a certain Prophetic hadith expresses it, “What a blessing wealth is in the possession of the righteous man!”¹⁸⁵ And in the words of another: “Those with abundant wealth have taken the rewards, the advanced [spiritual] degrees and everlasting bliss.”¹⁸⁶

As for the claim that abstinence from permissible activities was the path followed by ascetics and the righteous, it cannot be accepted as a given. Firstly, the true mark of asceticism is abstinence from that which we are required to abstain from; however, that which is permissible in the purest sense is not included in what we are required to abstain from. Secondly, abstinence from certain permissible activities, if we consider this to be asceticism, is undertaken for the sake of some good purpose or intention and in order to occupy oneself

with something which is of greater importance. In such a case, abstinence is a means to an end and, as such, no longer pertains to the realm of the permissible. As al-Shāṭibī states it, “It [i.e., abstinence from what is permissible] is a virtue on account of the aim sought, not on account of the mere abstinence alone. This point is beyond dispute.”¹⁸⁷

This brings us to another aspect of the discussion of the permissible, and which provides clarification and greater detail relating to the foregoing, namely, that, “What is permissible ceases to fall in the category of ‘permissible’ by virtue of intentions and external factors.”¹⁸⁸ For example, a permissible activity may become desirable and even required if it is “in the service of one of the essentials, exigencies or embellishments,”¹⁸⁹ such as enjoyment of the food, drink and clothing which God has permitted to us. Such blessings and sources of enjoyment are permissible insofar as they are blessings and sources of enjoyment, and insofar as they are particular entities from which human beings may take what they wish and leave what they wish, however they wish. However, when viewed in their most general, or universal sense, they are seen to be in the service of an essential interest, namely, the preservation of life; and as such, they are activities in which we are commanded to engage and have thereby gone from being merely permissible to being required.

Conversely, a permissible activity may become undesirable and something which we are required to abstain from if it undermines any of the three categories of human interests (essentials, exigencies, and embellishments), as, for example, unnecessary divorce. For divorce is permissible and legitimate in circumstances which call for it. However, if it comes to be used for ends other than those for the sake of which it was instituted, it becomes a source of harm to a number of essential interests and exigencies and, as such, it becomes blameworthy. The same applies, moreover, to things such as amusement, play and relaxation, all of which are permissible so long as none of them involves some activity which is itself forbidden. However, if they exceed their proper bounds, they become blameworthy; hence, scholars and the pious ancestors took a dim view of those who make the most of neither this life nor the life to come.

In all other cases, permissible activities remain as they are, namely, permissible activities. This manner of viewing things leads al-Shāṭibī to divide the permissible into four categories. For, despite the fact that a given activity is permissible in and of itself, it might shift from the category of ‘permissible’ to one of the other four (namely, ‘obligatory,’ ‘recommended,’ ‘undesirable,’ or ‘forbidden’). Such a shift will occur based on how permissible activities function in individuals’ daily lives, or as a result of viewing these permissible activities in their most general, comprehensive sense for both individuals and the society.

This will become clearer through al-Shāṭibī’s division and the examples which he cites for each of the four categories to which a permissible activity might shift. The categories are as follows:

1. Permissible individually, recommended collectively. An example of an activity which falls into this category is the enjoyment of pleasant food, drink and clothing beyond what is necessary for survival.¹⁹⁰ The enjoyment of such blessings beyond the bare minimum is permissible on the individual level; in other words, it is a right enjoyed by individuals in a variety of situations and with respect to a variety of blessings of this nature. One is free to enjoy them or not to enjoy them. However, on the collective level, that is, in people’s lives as a society, to do so is desirable and even required. Hence, on the collective level it is recommended, and on the individual level, permissible.
2. Permissible individually, obligatory collectively. This includes eating, drinking, having sexual relations with one’s spouse, buying and selling, and all of the various trades and occupations. On the individual level these are all permissible activities. As God Almighty declares, “God has made buying and selling lawful and usury unlawful” (Qur’an, 2:275); “Lawful to you is all water-game, and what the sea brings forth, as a provision for you” (Qur’an, 5:96); and, “Lawful to you is the [flesh of every] beast that feeds on plants, save what is mentioned to you [hereinafter]” (Qur’an, 5:1). Hence, whether a given individual eats or drinks or

wears this or that, all such choices are permissible; there is nothing to prevent one from choosing them or refraining from them. However, notes al-Shāṭibī, “Suppose that everyone stopped doing these things; in this case, it would be an abandonment of one of the essential interests which we have been commanded to preserve. Hence, engaging in such activities is obligatory on the collective level.”¹⁹¹ The same applies to the choice of a given trade and practicing it at this time or that or in this or that manner, all of which falls within the realm of the permissible. There is nothing wrong with doing such things, and nothing wrong with not doing them; however, if such pursuits were abandoned on a mass scale, this would be the abandonment of a duty. Hence, they are permissible for the individual, but obligatory for the collectivity.

3. Permissible in moderation, undesirable in excess. The example which al-Shāṭibī cites from this category is that of going for picnics in orchards and listening to licit singing and the cooing of the doves, as well as all other permissible forms of recreation. Al-Shāṭibī states “Such things are permissible on the individual level. Hence, if someone does these things on a given day in a particular situation, there is nothing objectionable in it. However, if one were to do it all the time, it would become undesirable.”¹⁹²
4. Permissible in moderation, forbidden in excess. This includes permissible activities whose constant pursuit undermines justice. Hence, were it not for the fact that scholars consider the constant pursuit of such activities to be forbidden, they would not take exception to those who do so and categorize them as transgressors.

Al-Shāṭibī provides no examples of this category, nor does he cite any evidence in support of it with the exception of al-Ghazālī’s statement, “Constant pursuit of a permissible activity may turn it into a minor sin, just as constant pursuit of a minor sin turns it into a major sin.”¹⁹³

This final category may be difficult to acknowledge, especially given that al-Shāṭibī mentions it without illustrative examples or evidence in its favor. It is also difficult to distinguish between it and the category which precedes it, since both of them involve the constant pursuit of certain permissible activities. In this case, however, we say that such permissible activities become forbidden if one becomes addicted to them or is immoderate in their pursuit since in such a case, they have become like a passion to which one gives oneself over without reserve, a deeply ingrained habit and a waste of time, which provides a clear reason for deeming them prohibited. An illustrative example of this may be seen in the modern phenomenon of taking on a sport as a profession, as a result of which one's profession becomes that of 'player,' and one's life becomes one big game! Another, similar, example is some people's habit of spending long hours, day in and day out, in coffee shops, not to mention numerous other trivial, frivolous pursuits.

The distinction which al-Shāṭibī introduces amongst acts and omissions based on their particular and universal aspects is, in essence, a view based on interests and objectives. In support of this distinction he cites several types of evidence; however, the most important and central of these is the agreed-upon premise that "the Lawgiver established the Law based on a consideration for human interests. It has likewise been determined that the interests which are explicitly recognized by the Law are universals, not particulars, since rulings also apply to prevailing customs. And were it not for the fact that particulars are less worthy of consideration, this would not be acceptable."¹⁹⁴

Al-Shāṭibī then moves to the other aspect of the category of 'permissible' to which reference was made earlier, and the discussion of which he delays until the section on action-based rulings. Specifically, this aspect has to do with a permissible activity which one pursues in the process of preserving either essentials or exigencies, but the pursuit of which is attended by conditions which are contrary to the action's continuing to be deemed 'permissible.' If, for example, while in the process of pursuing some activity that God has rendered permissible to him, an individual is obliged to engage in certain

actions which are forbidden, do the permissible activities in which he is engaged continue to be deemed 'permissible' such that the person concerned may go on pursuing them regardless of the transgressions he commits along the way? Or do such conditions influence the ruling on the activity being pursued such that it ceases to be 'permissible' and is deemed 'prohibited' instead?

Examples of the type of situation being referred to here include passing through the streets and marketplaces even though this will entail hearing or seeing what one is forbidden to hear or see; mixing with other people even if this will force one to hear slanderous remarks, lies and lewd speech; sharing quarters with others even though this will lead to one's engaging in prohibited behaviors; entering into marriage even though this will lead to certain dubious or forbidden practices; and seeking knowledge even though the activity is fraught with moral perils. Al-Shāṭibī touches upon this question in a number of different places, and in contexts other than the present one.¹⁹⁵ In each of these places, he deals with the issue, as is his wont, based on what are, for him, firmly established objectives-based principles. As a result, he deems that in the presence of moral impediments such as those mentioned above, the rulings on permissible activities will vary as follows according to their position on the scale of objectives:

1. If the permissible activities concerned are connected with preservation of the essentials and are among those classified earlier as permissible individually and obligatory collectively, it is acceptable for one to engage in them without being influenced by attendant impediments, since "preservation of that which is essential is an interest explicitly recognized by the Law, and whatever potential causes of harm or corruption happen to attend the activities involved in such preservation are excusable by virtue of the interest being achieved."¹⁹⁶ Moreover, a recognized objectives-related principle is that if a complement to a given obligatory act causes said act to be nullified, then the complement itself should be disregarded and the obligatory should be retained in its absence. The situation which we are discussing here falls within this category

as well, since freedom from impediments is a complement to the pursuit of the essentials; hence, it would not be acceptable to abolish the essentials on account of such impediments.

2. If the permissible activities concerned are not connected with the pursuit of essentials but their abandonment would cause hardship in the individual's life, then "we should retain the original categorization of these activities as 'permitted' and cease giving consideration to unforeseen contingents, since that which would normally be forbidden becomes excusable for the sake of eliminating hardship, as will be seen below in Ibn al-^cArabī's discussion of the topic of entering the bathroom. Therefore, even if there are many offensive stimuli in the streets and marketplaces, this need not prevent one from acting in order to meet genuine needs if failure to act would cause manifest hardship, for '[God] has laid no hardship on you in [anything that pertains to] religion' (Qur'an, 22:78)." ¹⁹⁷

As for the statement by Ibn al-^cArabī to which al-Shāṭibī refers in the quotation above, he quotes it in Part 3 in a discussion of the same topic, but in a different context. Al-Shāṭibī writes,

If activities which are, in and of themselves, legitimate, such as buying, selling, mixing with and sharing quarters with others, etc. become tainted with that which is forbidden, and if corruption is rife in the land to the point where, if one goes about meeting one's needs and seeing to his affairs, he is in danger of coming in contact with what is forbidden and its attendant conditions, then the most obvious solution requires that he cease doing anything which would place him in such a situation. However, the truth requires that he meet his needs, be they on the individual or the collective level. Moreover, such needs will either be required in and of themselves, or in the service of something else which is required in and of itself. Hence, if the individual were obliged to cease all such activities, this would lead to constriction and hardship, or to obligations which would be beyond his ability to fulfill. However, members of the Muslim community have been exempted from all such

burdens. Hence, one must continue to do what is necessary to meet one's needs while refraining from whatever one is able to refrain from; as for what one cannot refrain from, one is exempted from responsibility for it since it is considered to be subsidiary rather than central. After ruling that it is permissible to enter the bathroom, Ibn al-^cArabī states, "If someone objects, saying, 'The bathroom is a place filled with that which is reprehensible; hence, entering it is closer to being forbidden than it is to being merely undesirable. How, then, could it possibly be permissible?!', our reply will be that the bathroom is a place where one is 'cured' and restored to ritual purity. Consequently, it may be compared to a river, since it is frequently the site of that which is objectionable due to the fact that people's private parts are exposed there. However, if a person needs to enter, he enters while averting his eyes and ears from that which is reprehensible to the extent that he is able. In our day and age, [even] the mosques and cities are teeming with objectionable stimuli. Hence, the bathroom is similar to a city in general, and to a river in particular." This is what he said, and this is what it appears to mean.¹⁹⁸

3. If, by contrast, the permissible activities which are attended by moral impediments bear no connection to the pursuit of essentials, and if by abandoning them, one suffers no hardship, then the ruling on them becomes a matter of *ijtihād*, or independent reasoning. In the course of arriving at a decision, one must consider the conflict between the original ruling on such activities, namely, that they are permissible in and of themselves, and preponderant influences. If the decision is based on the original ruling on such activities, one will conclude that they must continue to be deemed permissible; if, on the other hand, it is based on preponderant influences, emphasis will be placed on the moral impediments which attend them and, as a consequence, they will be deemed forbidden. After presenting the arguments in favor of both points of view, al-Shāṭibī concludes, "There are numerous arguments in favor of both positions, and my intention here is simply to draw attention to the fact that the question is subject to independent reasoning. And God knows best."¹⁹⁹

Al-Shāṭibī reaches the same conclusion on this question in Part 3, where he writes, “The question is open to more than one solution, subject to two competing points of view.”²⁰⁰ However, in Part 4 he does not devote the same attention to the distinction among levels; instead, he adheres in each of the three categories above to the original ruling that such activities are permissible in and of themselves, stating, “If activities relating to the essentials, as well as to exigencies and embellishments, are attended outwardly by contingents which are not viewed favorably by the Law, it may be concluded that undertaking whatever activity is required to achieve human benefit is acceptable provided that one exercise the greatest possible reserve, though without the imposition of hardship.”²⁰¹

In support of this judgment al-Shāṭibī cites a variety of examples, some of them having to do with the essentials, others with exigencies, and still others on the level of embellishments, such as attending funeral processions.²⁰² However, in Part 3 he excludes from the category of ‘permissible’ those activities which he earlier classified as permissible in moderation, undesirable or forbidden in excess,²⁰³ stating that if such an activity is attended or associated with that which is morally objectionable, it is not permissible to engage in it. Examples of such activities are singing which would otherwise be permissible, and various types of otherwise permissible entertainment. Al-Shāṭibī states that it is not acceptable to pursue such activities on the pretext that they are permissible if they are associated with anything forbidden.

3. Causes and Effects

Al-Shāṭibī’s discussion of causes is the longest of all his discussions devoted to condition-related rulings (*al-aḥkām al-taklīfiyyah wa al-aḥkām al-waḍ’iyyah*); in fact, it is the longest of all his discussions relating to rulings as a whole, both action-related and condition-related rulings together. It is also the discussion most clearly colored by the notion of ‘objectives.’ My choice of title for this section is based on the fact that these discussions are almost entirely limited to the relationship between causes and their effects.

As for the connection between causes, effects and objectives it may be said that causes and effects bear a connection to both divine and human intentions, although they are most closely linked to human intentions.

Before touching upon what concerns us in relation to this topic, I should point out that although al-Shāṭibī divides causes, as well as all condition-related rulings (*al-ahkām al-waḍʿiyyah*) into: (1) those which are within human control and capability, and (2) those which are not within human control. Even so, he focuses in his thirteen ‘questions’ devoted to causes upon those causes which are within human control. Specifically, the causes around which his discussions and conclusions revolve include the following: (1) Earning money (through buying and selling, agriculture and professional work) considered as a basis for, or cause behind, the preservation of life, the validity of ownership, and the permissibility of enjoyment, and (2) marriage, considered as the basis (cause) for the permissibility of a husband and wife enjoying each others’ bodies, as well as the basis for procreation, one’s inheriting from the other, and the sanctity of relationships by marriage. Moreover, just as he bases his conclusions and principles upon legitimate causes such as these, he also bases them on illegitimate causes such as murder, adultery, and extortion, all of which engender numerous rulings and effects.

Let us now turn to the principles and rulings which al-Shāṭibī establishes in accordance with his objectives-based outlook. One such principle is that the Lawgiver, in determining causes, has their effects as His intention. He states, “The establishment of causes requires that the One who established them – that is, the Lawgiver – have the intention of seeing their effects.”²⁰⁴ After all, it would make no sense for Him to establish causes without intending their effects.

Another firmly established objectives-related principle is that “legal rulings have been issued in order to achieve benefits and to prevent harm and corruption. These, then [i.e., the achievement and the prevention of harm], are their effects. Moreover, if we know that causes have been legislated for the sake of their effects, then the intention of establishing causes necessitates the intention of bringing

about effects.”²⁰⁵ Hence, the establishment of causes can guide us to the knowledge of the Lawgiver’s intention to bring about their effects. This principle will prove useful to us in relation to a theme to be detailed further below, namely, “How the Lawgiver’s higher objectives may be determined.”²⁰⁶

So long as we are dealing with the theme of causes, I want to draw attention to the connection between this question (Question 4) and two other questions (Questions 12 and 13), which are only mentioned much later and which should actually have been placed directly after Question 4, since they contain details and definitions of what is discussed in Question 4 in the most general terms. It might be inferred from what is said in Question 4, for example, that all effects which result from causes were intended by the One who established these causes; however, this is a dangerous generalization. In the discussions of Questions 12 and 13, we find that in relation to their causes, effects belong to one of two categories:

1. Effects for the sake of which their causes were established, either as primary objectives or as secondary objectives, both of which²⁰⁷ are expounded in ‘The Book of Higher Objectives.’²⁰⁸
2. All other effects, including those whose causes are known or believed not to have been established for their sake, and those concerning whose causes it is not known whether they were established for their sake or not.²⁰⁹

Hence, we have three categories of effects, namely: (1) effects whose causes we know to have been established for their sake, (2) effects whose causes we know not to have been established for their sake, and (3) effects concerning whose causes we do not know for certain whether they were established for their sake or not. It appears that what al-Shāṭibī concludes and applies unconditionally in the context of Question 4 applies to the first of these three categories. As for the other two categories of effects, they call for a separate treatment; in the case of the second category, they are known not to have been intended by the Lawgiver, while in the case of category three, it

calls for reflection and investigation.²¹⁰

It should be noted here that although the Lawgiver intends effects by means of causes, this should not be taken to mean that such effects are included in what human beings are held responsible for. Rather, human beings are held accountable for causes only, and not for their effects. Consequently, when one acts to bring about causes (legitimate causes, that is), he or she is not obliged to intend the effects. This is what al-Shāṭibī concludes in Question 3, where he states, “When human beings act to establish causes, they are not required to intend, or even to turn their attention to, their effects. Rather, all that is required of them is that they act in accordance with the rulings which have been laid down, whether they have to do with causes or anything else, and whether their occasions are known or not.”²¹¹ That is to say, where human beings are concerned, it is sufficient that they bring about causes in their correct, legitimate form; however, they are not held accountable for intending these causes’ effects, since they are not held accountable for the effects themselves. Rather, it is God who takes responsibility for effects and for the causal connection between them and their causes. As al-Shāṭibī puts it, “So then, the Lawgiver’s intention that effects should occur has nothing to do with an intention for which human beings are held accountable; rather, human beings are only required to intend effects if some evidence for this requirement exists. However, there is no such evidence;”²¹² and, “there is no explicit evidence in the Law to indicate that human beings are required to intend effects.”²¹³ Again, it should be noted that this unconditional statement calls for reflection and examination, since in ‘The Book of Higher Objectives’ (under the heading of ‘human objectives’), al-Shāṭibī concludes that “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,”²¹⁴ which requires that the individual intend, through the causes which he brings about, to bring about the effects for the sake of which the causes were legislated. Hence, the person bringing about the causes is required to aim for effects just as the Lawgiver does, whereas what al-Shāṭibī stated earlier was that human beings are not held accountable for such an aim.

Al-Shāṭibī was not unaware of this ‘contradiction’ between the conclusion he had reached in “*Kitāb al-Aḥkām*” and what he had stated in “*Kitāb al-Maqāṣid*.” Consequently, we find that in ‘The Book of Rulings,’ he quotes to himself the objection based on what he wrote in ‘The Book of Higher Objectives’ (by saying, “And if someone were to say...”). In addition, we find that after stating his conclusion in ‘The Book of Higher Objectives,’ he writes, “If we clarify the details of the objectives as they relate to the individual, we find that they may be understood in light of what was mentioned in ‘The Book of Rulings’ in connection with the individual’s pursuit of causes,²¹⁵ where five aspects thereof are treated as they relate to intentions which are either in agreement with or in violation of [the objectives of the Lawgiver]. Hence, the reader is encouraged to review what is written there for further clarification.”²¹⁶

The question to which al-Shāṭibī refers the reader is Question 6 on the topic of condition-related rulings. This discussion is based upon what precedes it, and which he introduces with the words, “Since it has been established that it is not necessary for one to intend effects, the individual may thus choose whether or not to aim for them.”²¹⁷ Then, having demonstrated the matter of individual choice in whether or not to aim for effects, al-Shāṭibī moves on to the question to which he has referred the reader, saying, “Given the foregoing,²¹⁸ attention to effects may be divided into three levels”:²¹⁹

1. On the first level, the individual acts to bring about causes with the belief that he is the effective actor and that it is he who brings about effects, or that the effects are a necessary, inevitable result of their causes. However, he states, “this is idolatry, or similar to it,”²²⁰ which of course is unacceptable.
2. On the second level, the individual exerts efforts to bring about causes with the notion that such causes generally lead to specific effects, and that this is the nature of things as they were created. This is the level of most people’s thinking, and there is nothing wrong with it, although the third level is the preferable one.

3. On the third level, the person exerts effort to bring about causes with the thought that God Almighty is the One who produces effects from them if He wills, and who frustrates them if He wills. This level is superior to the preceding one, since the preceding level is dominated by consideration for and dependence upon 'what happens in general,' which results in a certain degree of heedlessness of the true Producer of Effects, namely, God Almighty.

These, then, are the levels of concern with effects. As for abandoning concern for effects, this is also manifested on three levels:²²¹

1. The person exerts effort to bring about causes, considering that this is a test and affliction by means of which God determines how His servants will conduct themselves. Hence, he considers himself accountable to God for bringing about these causes as a test, and this is his sole concern.
2. The person enters into the effort to bring about causes based on the simple notion that he is God's servant; hence, he is fulfilling the requirements of servanthood and has no concern for causes, effects, or causality. For he is simply a servant of God, conducting himself in accordance with his Master's will.
3. The person engages in efforts to bring about causes based on the thought that they are legitimate, permissible causes, and that they have effects which are produced by their Creator, Glory be to Him, if He so wills. This person's action is likewise based on the belief that the requirement that human beings strive to bring about such causes is an affliction and a test. Al-Shāṭibī states,

This aim includes within it all of the foregoing, since the person has sought to achieve the Lawgiver's objective without looking to any other entity. He has come to know God's objective in these matters, as a result of which everything deriving from this causal connection, both that of which he is aware and that of which he is not aware, has been

fulfilled for him. This person seeks effects through earthly causes, yet knows that God is the Producer of Effects and the Sender of Affliction. He is fully realized in the sincere pursuit of God through these means; hence, his intention is pure even though it includes the pursuit of effects, since his effort is devoid of the thought of any being other than God or of anything which would defile the purity of his intention.²²²

Given the fact that al-Shāṭibī includes in Level 6 the virtues of all five previous ones, yet without any of the “idolatry and impurity” which taint some of them – and this despite the fact that the person described in Level 6 intends earthly effects – it is clearly the level which he deems superior. Moreover, what this leads us to observe is that al-Shāṭibī grants the individual freedom either to intend effects or not to intend them – without any distinction between the former and the latter – despite²²³ the “idolatry and impurity” which may taint one’s concern with and attachment to effects. Because of this possibility, al-Shāṭibī praises all levels of indifference to effects, yet praises none of the levels of concern for effects with the exception of Level 3, since Level 1 entails a denial of God, while Level 2 entails forgetfulness of God; it is these phenomena to which al-Shāṭibī refers as “idolatry and impurity.” However, if the individual’s intention is free of such defects, his concern for effects and his intending of them become preferable to a lack of concern for them. And thus it is that we escape the ‘contradiction’ referred to above and arrive at harmony with al-Shāṭibī’s statement in ‘The Book of Higher Objectives’ that “the Lawgiver’s objective for human beings is for their intention in what they do to be in agreement with His intention in laying down legislation.”

This same wariness lest the individual fall into “idolatry and impurity” causes al-Shāṭibī to return to this theme once again following Question 9, where he appends five additional ‘sections’²²⁴ in which he argues in favor of not concerning oneself with effects and committing them completely to God, Powerful and Majestic is He. The reason for this, states al-Shāṭibī, is

that the person who establishes a cause with the realization that the

effect is not due to the cause [itself] – diverting his attention from the effect and committing it to its true Effector – will be more grateful, more sincere and more able to entrust his affairs to God and depend on Him entirely; such a person will be able to demonstrate greater patience and perseverance in establishing those causes which he has been commanded to while avoiding those which are forbidden, and be more capable of achieving lofty spiritual stations and states pleasing [to his Lord].²²⁵

The reason for this is that attachment to effects may cause us to forget the true Producer of Effects. Or it may cause us to forget to thank Him for what He has given by way of results and fruits. Such attachment can be exhausting for the person concerned, so intense is his anxiety and concern over effects and either fear lest they not be realized, or grief over their not having materialized as he had hoped. All of these are on the order of “impurities and false gods” which prevent the individual from achieving what al-Shāṭibī refers to as “lofty spiritual stations and states pleasing [to his Lord].”

However, one can be delivered from these afflictions and become more moderate in his concern for effects, bearing in mind that they are in God’s hands and becoming as one who “seeks from the Producer of Effects Himself whatever the cause requires, as though he were petitioning the Producer of Effects with the cause’s hand outstretched just as he would petition Him for other things, lifting his hands in supplication.”²²⁶ In so doing, one will have escaped from the blameworthy attachment to effects, since the source of these afflictions is “the pursuit of effects by means of the cause itself,” and the belief “that the cause is that which gives rise to effects – a fearsome state of mind all too likely to lead to the aforementioned sorts of corruption.”²²⁷

However, once al-Shāṭibī is confident that he has issued sufficient warnings against the baneful consequences of excessive attachment to effects, he goes back to arguing in favor of the opposite point of view – which may be the stance he most favored to begin with – by pointing out the advantages and benefits of concern for effects when engaged in establishing causes. For example:

1. Al-Shāṭibī encourages the individual to be aware of the consequences, be they bad or good, which may result from the connection between causes and effects. This is a type of consideration for the results of one's actions, which is a recognized principle of Islamic Law. Thus, the Qur'an stipulates that "if anyone slays a human being – unless it be [in punishment] for murder or for spreading corruption on earth – it shall be as though he had slain all mankind: whereas, if anyone saves a life, it shall be as though he had saved the lives of all mankind" (Qur'an, 5:32). Similarly, we have a Prophetic hadith which states that, "Not a soul is killed unjustly but that Adam's first son bears some measure of guilt on its account, since he was the first person to establish the practice of killing."²²⁸ In another hadith we read that, "The person who utters a word which meets with God's favor may think that it has not been heard, yet for this word, God will raise him to a higher level of Paradise. Conversely, the person who utters a word that stirs God to anger may give no thought to what he said, only to have God cast him in Hell for seventy years."²²⁹ There is also a well-known hadith which speaks of "whoever establishes a practice in Islam..."²³⁰

All of these texts urge individuals to have concern for effects and to take them into consideration²³¹ when establishing causes. In this connection, he quotes a long statement by al-Ghazālī²³² in which he cites still other passages from the Qur'an, and after which he comments, saying, "Hence, if one gives some thought to the ultimate consequences of his actions, this may give him pause before he does the things [he is contemplating]...."²³³

2. God, Almighty and Majestic is He, has caused effects, generally speaking, to reflect their causes in terms of straightness and crookedness. If the cause is sound and if the causal relationship is functioning as it ought to, the effect will likewise be sound, and vice-versa. Hence, if there is something wrong with an effect, jurists look to the one who brought about the causes to see whether he/she is sound or not. If the person responsible for the causes is sound, then no fault

can be found there; otherwise, blame falls on this link in the chain. Have you not observed that they demand guarantees of the physician, the cupper, the cook, and any other artisan if it is established that he is guilty of negligence, either because he is discovered to be lacking in experience, or due to simple dereliction on his part? Otherwise, however, no guarantees are required of him...

If we only concern ourselves with effects insofar as they are an indication of their causes' soundness or lack thereof,²³⁴ we will have come upon a wonderful law by means of which to determine whether causes are, or are not, operating in accordance with the purposes for the sake of which they were established. Outward actions are evidence of that which is inward or concealed. If the outward is ridden with holes, the inward is judged to be in the same condition; and conversely, if the outward is sound, the inward is judged to be sound as well. This is a general principle of jurisprudence and of all rulings which pertain to daily customs and are based on empirical experience. Demonstrating concern for effects in this respect is beneficial in that it makes the Law into a limit. Indeed, it constitutes the entirety of legislation and the foundation of legal accountability as they pertain to establishing the limits of Islamic rites, both private and public.²³⁵

Lastly, and as I have pointed out above, al-Shāṭibī was aware of the fact that he had taken the discussion of this issue in two different, and we might even say, opposing, directions, the first of which requires that we disregard effects, and the second of which requires that we lend our attention to effects and take them into consideration when we are involved in producing causes. In fact, when arguing for either of these two perspectives, he would always present the opposite perspective in the form of an objection, saying, "And if someone were to say..."

In order to resolve the contradiction, al-Shāṭibī established a criterion by means of which to distinguish between those cases in which attention must be paid to effects due to the benefit which this will bring, and those cases in which no attention should be paid to effects given the harm which such attention might cause. He states,

If attention to the effect has the potential of both strengthening and completing the cause, encouraging the person concerned to do his utmost to perfect it, then it will bring benefit. If, by contrast, attention to the effect has the potential of neutralizing, weakening or undermining the cause, then it will bring harm.²³⁶

Details illustrating this principle have already been presented and explicated. However, what concerns us here is that the principle itself rests upon a clear objectives-based, and interest-oriented point of view; hence, whatever serves human interests and divine objectives should be desired and sought, and whatever harms them should be censored and avoided.