

MAQASID AL-SHARI'AH AND THE OBJECTIVES OF DEMOCRACY: A THEOLOGICAL AND COMPARATIVE ANALYSIS OF THEIR FOUNDATIONS, SCOPE, AND IRRECONCILABLE DISTINCTIONS

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Abstract

Maqasid al-Shari'ah has occupied the centre of Islamic legal and theological scholarship since at least the fifth century of the *Hijrah* and has received renewed attention in the modern period. Democratic theory, meanwhile, proposes its own objectives for political organisation, including protection of individual rights, popular sovereignty, freedom, equality, and human welfare as defined by consensus. This work investigates whether these two frameworks are comparable, compatible, or fundamentally distinct, arguing that despite surface-level similarities in certain goals, such as protecting human life and welfare, the two are rooted in entirely different sources of authority, serve different ultimate purposes, and rest on irreconcilable philosophical and theological foundations. The methodology is qualitative and analytical, drawing on primary Islamic sources (the Qur'an and authentic *Hadith*) alongside classical and contemporary scholarship in Islamic jurisprudence, legal theory, and political philosophy, as well as documented legislative and judicial data from democratic States. The findings confirm that *Maqasid al-Shari'ah* is divinely ordained, hierarchically structured, and oriented toward the pleasure of Allah (SWT) and human success in both this world and the Hereafter, while democratic objectives are humanly constructed, horizontally structured, and oriented exclusively toward worldly welfare as defined by majority consensus, making the two systems irreconcilable in source, method, structure, and ultimate aim. The paper concludes that *Maqasid al-Shari'ah* cannot be reduced to or replaced by democratic objectives without fundamentally distorting their theological meaning, and recommends that Muslim scholars resist the growing trend of reinterpreting the *Maqasid* through a democratic lens.

Keywords: *Maqasid al-Shari'ah*, Democracy, Legal Objectives

Introduction

One of the most significant intellectual developments in contemporary Islamic thought is the rise of what may be called the '*Maqasid* approach', the use of the higher objectives of the *Shari'ah* as a framework for addressing modern challenges, including questions of governance, human rights, and political organisation. Scholars as influential as Jasser Auda, Muhammad al-Tahir Ibn 'Ashur, and Taha Jabir al-'Alwani have argued that the *Maqasid* framework provides a flexible yet principled Islamic response to modernity. However, a troubling tendency has emerged in some of this scholarship: the attempt to use the *Maqasid*

framework to provide Islamic legitimacy for democratic governance, by arguing that the objectives of the *Shari'ah* and the objectives of democracy substantially overlap.

This article argues that this tendency, though well-intentioned, is built on a shallow reading of both the *Maqasid* tradition and democratic theory. A careful and honest comparison supported by concrete legislative evidence from the world's leading democratic states, reveals that while the two frameworks may occasionally produce similar-sounding objectives, they are separated by the most fundamental questions of all: Who defines the objectives? By what authority? For what ultimate purpose? And within what framework of accountability?

The Qur'an establishes the principle that defines the entire Islamic approach to law and governance:

And We have sent down to you the Book as clarification for all things and as guidance and mercy and good tidings for the Muslims. (Qur'an 16:89)

The *Shari'ah*, of which the *Maqasid* are the highest expression, is a revelation from Allah (SWT), complete, authoritative, and ultimately oriented toward the success of human beings before Allah (SWT) on the Day of Judgment. Democratic objectives, by contrast, are defined by human consensus, limited to this worldly life, and subject to revision by majority vote at any time.

Democracy: Definition, Origins, and Stated Objectives

The word 'democracy' derives from the ancient Greek *demos* (people) and *kratos* (rule or power), meaning literally 'rule by the people.' In its modern form, democracy is broadly defined as a system of government in which supreme political authority is vested in the people, who exercise that authority either directly or through freely elected representatives. The American political scientist Robert Dahl, one of the twentieth century's foremost theorists of democracy, defined it as a political system characterised by competitive elections, universal suffrage, protection of civil liberties, and accountability of rulers to the ruled (Dahl, 1989). The United Nations Development Programme similarly defines democracy as 'a system of governance in which rulers are held accountable for their actions in the public realm by citizens, acting indirectly through the competition and cooperation of their representatives'. (United Nations Development Programme [UNDP], 2002)

The French political philosopher Jean-Jacques Rousseau, whose ideas profoundly shaped modern democratic theory, argued in *Du Contrat Social* (1762) that legitimate political authority rests on the 'general will' of the people not on divine mandate or inherited right. (Rousseau, 1968) This foundational idea that the people, not God, are the ultimate source of political authority has remained the philosophical bedrock of democratic theory to the present day and is the most fundamental point of its divergence from Islamic governance.

Abraham Lincoln's celebrated formulation at Gettysburg in 1863 that democracy is government "of the people, by the people, for the people", captures this anthropocentric foundation precisely. In a democracy, it is the people who define what is lawful and unlawful, what is beneficial and harmful, and what the state may and may not do. No divine revelation, no prophetic tradition, and no *Shari'ah* has any standing in a democratic framework except insofar as the people choose to incorporate it, and even then, it operates under the authority of the constitution, not above it.

While democracy takes many forms, such as liberal democracy, social democracy, constitutional democracy, deliberative democracy, contemporary democratic theory broadly identifies the following core objectives, most comprehensively articulated in the Universal

Declaration of Human Rights (UDHR) adopted by the United Nations General Assembly on 10th December 1948, and in the scholarship of leading democratic theorists:

- i. Popular Sovereignty and Political Participation:** The first and foundational objective of democracy is the vesting of supreme authority in the people. This is expressed through universal suffrage, free and fair elections, and the right of every adult citizen to vote and stand for office, regardless of religion, sex, race, or moral conduct. Article 21 of the UDHR states: “The will of the people shall be the basis of the authority of government”. (United Nations [UN], 1948, Art. 21)
- ii. Protection of Individual Rights and Freedoms:** Democratic governance is committed to protecting a broad range of individual rights including freedom of expression, freedom of religion (understood as the equal right to hold, change, or abandon any belief), freedom of assembly, and the right to privacy. These rights are inalienable in democratic theory, they cannot be removed even by a democratic majority, though their boundaries may be defined by law.
- iii. Rule of Law and Equality before the Law:** Democracy commits to governance through law rather than arbitrary power, with all persons – including rulers – subject to the same legal framework. Equality before the law is enshrined in Article 7 of the UDHR. Importantly, the law in a democracy is made by human legislatures, not by divine revelation, and is subject to change by democratic processes.
- iv. Protection of Social and Economic Welfare:** Modern democratic states accept responsibility for the social and economic welfare of their citizens, including healthcare, education, housing, and social security. This welfare is defined by human needs assessments, political deliberation, and majority decision, not by divine injunction.
- v. Separation of Religion from the State (Secularism):** Most liberal democratic constitutions explicitly separate the state from religion, establishing that no religion has a privileged claim to state authority. France’s principle of *laïcité* (secularism), enshrined in the 1905 Law on the Separation of the Churches and the State and reaffirmed in Article 1 of the 1958 Constitution of the Fifth Republic, is the most explicit expression of this commitment (Assemblée Nationale, 1958, Art. 1). The United States First Amendment (1791) prohibits Congress from making any law ‘respecting an establishment of religion,’ effectively establishing the same principle. (United States Congress, 1791)
- vi. Changeability of All Laws by Majority Will:** Perhaps the most theologically significant feature of democracy is that no law – moral, social, economic, or otherwise – is permanently fixed. Everything can be changed by sufficient democratic consensus. This includes laws on marriage, the family, property, religion, and life. This feature is the precise opposite of the *Maqasid* framework, in which the essential objectives and their core rulings are fixed by divine revelation and cannot be altered by any human authority.

Having defined democracy and its objectives clearly, the paper now turns to the classical *Maqasid* framework before conducting the comparative analysis with concrete democratic data.

The Classical Framework of *Maqasid Al-Shari'ah*

The term *Maqasid al-Shari'ah* refers to the objectives, purposes, and intentions of Islamic law – the deeper ‘why’ behind the specific rulings of the *Shari'ah*. The idea that divine law has underlying purposes is not a modern invention; it is deeply rooted in the Qur'an and the Prophetic tradition. Allah (SWT) says:

We have not sent you except as a mercy to the worlds. (Qur'an 21:107)

Establishing that the entire prophetic mission and therefore the *Shari'ah* it brought is purposive: it exists for a reason, and that reason is the wellbeing in the fullest and most comprehensive sense of humanity.

The systematic articulation of the *Maqasid* as a jurisprudential framework began with Imam Abu Hamid al-Ghazali (1058–1111 CE), who in *al-Mustasfa min 'Ilm al-Usul* identified five essential human interests that the *Shari'ah* is designed to protect: religion (*Din*), life (*Nafs*), intellect ('*Aql*), lineage (*Nasl*), and property (*Mal*). He wrote that the objective of the *Shari'ah* is to preserve for human beings these five fundamentals, and that whatever ensures their preservation is *Maslahah* (public interest), while whatever undermines them is *Mafsadah* (corruption). (al-Ghazali, 1997)

The most thorough classical treatment belongs to Abu Ishaq al-Shatibi (d. 790 AH / 1388 CE) in *al-Muwafaqat fi Usul al-Shari'ah*, who elevated the *Maqasid* into a fully developed jurisprudential theory and introduced the crucial three-tier hierarchy: *Daruriyyat* (necessities), *Hajiyyat* (complementary needs), and *Tahsiniyyat* (enhancements) – a divinely grounded ordering of priorities that no human legislature has the authority to alter. (al-Shatibi, 2004)

Muhammad al-Tahir Ibn 'Ashur (1879–1973 CE) expanded the framework in *Maqasid al-Shari'ah al-Islamiyyah*, adding broader social objectives while retaining the divine grounding of the framework (Ibn 'Ashur, 2001). Contemporary scholar Jasser Auda, in *Maqasid al-Shari'ah as Philosophy of Islamic Law: A Systems Approach*, has proposed reframing the five *Maqasid* as a charter of human development corresponding to modern human rights discourse – an approach this paper engages critically in Section 6. (Auda, 2008)

The Five *Maqasid* and Their Democratic Counterparts: A Comparative Analysis with Country-Specific Data

- *Hifz al-Din*– The Preservation of Religion

The first and highest *Maqsad* in the classical hierarchy is *Hifz al-Din*– the preservation of religion. Al-Shatibi placed *Din* at the apex of the hierarchy because the relationship between the human being and Allah (SWT) is the most essential dimension of human existence. The *Shari'ah* protects *Din* through measures including the prohibition of apostasy, the obligation of Islamic education, and the state's duty to protect the conditions of worship. (al-Shatibi, 2004)

Democratic governance, by contrast, pursues the precisely opposite policy: the state must be neutral between all religions and between religion and irreligion. The following concrete legislative and statistical evidence from major democratic states illustrates how far this objective places democracy from *Hifz al-Din*:

France: France's 1905 Law on the Separation of the Churches and the State, reaffirmed by Article 1 of the 1958 Constitution, prohibits the state from recognising or funding any religion. In March 2004, the French National Assembly passed Law No. 2004-228, signed by President Jacques Chirac on 15th March 2004, banning the wearing of 'conspicuous religious

symbols' in state schools – a law widely understood as targeting the Islamic hijab. According to the French Ministry of National Education, in the 2004–2005 academic year alone, 47 students were expelled under this law (Ministère de l'Éducation Nationale, 2005). In 2010, France went further with Law No. 2010-1192, signed by President Nicolas Sarkozy on 11 October 2010, banning face-covering veils (*niqab*) in all public spaces, making France the first European country to do so. By 2023, the French government of Prime Minister Élisabeth Borne moved to ban the *abaya* (a full-length Islamic dress) from state schools, with Minister of National Education Gabriel Attal announcing the ban in August 2023. (Ministère de l'Éducation Nationale, 2023)

United Kingdom: The UK's Equality Act 2010, passed under Prime Minister Gordon Brown and entering force on 1st October 2010, requires all organisations, including religious institutions, to comply with equality law in most of their activities. In 2013, the Marriage (Same Sex Couples) Act was passed under Prime Minister David Cameron, legalising same-sex marriage in England and Wales from 29th March 2014 – a direct legislative repudiation of the Islamic definition of marriage as between a man and a woman, which is central to *Hifz al-Nasl*. A 2023 report by the Office for National Statistics found that 68% of people in England and Wales reported no religion in the 2021 Census, up from 25% in 2001 and 53% in 2011. (Office for National Statistics [ONS], 2022)

United States: The United States First Amendment (1791) prohibits any law 'respecting an establishment of religion.' In 1962, in the landmark case *Engel v. Vitale* (370 U.S. 421), the Supreme Court ruled 6–1 that school-sponsored prayer in public schools was unconstitutional, effectively removing organised prayer from approximately 50 million American schoolchildren. According to a 2023 Pew Research Center survey, 28% of American adults now identify as religiously unaffiliated ('nones'), up from just 16% in 2007, a shift that scholars directly link to the secular character of democratic public life (Pew Research Center, 2023). In June 2015, the Supreme Court ruled 5–4 in *Obergefell v. Hodges* (576 U.S. 644) that same-sex marriage was a constitutional right, binding on all 50 states.

These legislative facts demonstrate that democratic governance does not merely permit the weakening of religious adherence, it actively legislates in ways that directly contradict the Islamic obligation to preserve *Din* as the highest *Maqsad*. Where Islam requires the state to protect religion at the apex of all priorities, democracy requires the state to be neutral, and in practice, many democracies actively restrict religious expression in the public sphere.

- ***Hifz al-Nafs*– The Preservation of Life**

The second *Maqsad* is *Hifz al-Nafs*– the preservation of human life. The Qur'an establishes its paramount importance:

Whoever kills a soul unless for a soul or for corruption done in the land it is as if he had slain all mankind. (Qur'an 5:32)

The *Shari'ah* protects life through the institution of *Qisas* (divinely mandated retaliation) and the absolute prohibition of abortion of a formed foetus and of euthanasia. Prophet Muhammad (SAW) said:

The blood of a Muslim man is not lawful except in one of three cases: a married person who commits adultery, a soul for a soul, and one who abandons his religion and separates from the community. (al-Bukhari, 1997)

Abortion in Democratic States: Abortion is the termination of a foetal life and this is legalised in virtually all major democracies, directly contradicting *Hifz al-Nafs*. The following data documents the scale of this legislative departure from the Islamic standard:

In the **United States**, the Supreme Court in *Roe v. Wade* (410 U.S. 113, decided 22 January 1973), under Justice Harry Blackmun writing for the 7–2 majority, constitutionalised abortion rights nationwide. Although the Court overturned *Roe* in *Dobbs v. Jackson Women’s Health Organization* (597 U.S. 215, decided 24th June 2022) under Justice Samuel Alito writing for the majority, returning the question to states, abortion remains legal in 36 of 50 states as of 2024. The Centers for Disease Control and Prevention (CDC) reported 620,327 abortions in the United States in 2020 alone (Centers for Disease Control and Prevention [CDC], 2023).

In the **United Kingdom**, the Abortion Act 1967, passed under Prime Minister Harold Wilson, legalised abortion up to 28 weeks (later amended to 24 weeks by the Human Fertilisation and Embryology Act 1990 under Prime Minister Margaret Thatcher). In 2022, the UK Department of Health and Social Care reported 214,256 abortions in England and Wales – the highest number recorded since the Act was passed in 1967 (Department of Health and Social Care [DHSC], 2023).

In **France**, abortion was legalised by the Veil Law (Loi Simone Veil) of 17th January 1975 under President Valéry Giscard d’Estaing, passed by Health Minister Simone Veil. In February 2024, France became the first country in the world to enshrine the right to abortion explicitly in its Constitution, with the National Assembly voting 780 to 72 in favour of the amendment on 4th March 2024, under President Emmanuel Macron. France recorded approximately 234,000 abortions in 2022 (SantéPublique France, 2023).

Euthanasia and Assisted Dying: Democratic states have also moved to legalise euthanasia and assisted suicide – acts that directly contradict *Hifz al-Nafs* by placing the taking of life within the domain of human will rather than divine authority. In the Netherlands, the Termination of Life on Request and Assisted Suicide Act came into force on 1st April 2002 under Prime Minister Wim Kok, making the Netherlands the first country in the world to legalise euthanasia. By 2022, the Dutch Regional Euthanasia Review Committees reported 8,720 cases of euthanasia, representing 5.1% of all deaths in the Netherlands in that year (Regionale Toetsingscommissies Euthanasie [RTE], 2023). In Canada, Medical Assistance in Dying (MAID) was legalised under Prime Minister Justin Trudeau by Bill C-14, receiving Royal Assent on 17th June 2016. By 2022, Health Canada reported 13,241 MAID deaths, representing 4.1% of all deaths in Canada that year, a 31.2% increase from 2021. (Health Canada, 2023)

These statistics reveal a democratic trajectory that is not merely incidentally different from *Hifz al-Nafs* but is directionally and deliberately opposed to it: where Islamic law fixes the protection of life as a divine obligation, democratic legislatures have progressively expanded the legal right to terminate life at its most vulnerable moments, in the womb and in old age, by popular vote.

- ***Hifz al-‘Aql*– The Preservation of the Intellect**

The third *Maqsad* is *Hifz al-‘Aql*, the preservation of human reason and intellect, protected primarily through the absolute prohibition of intoxicants. The Qur’an prohibits all intoxicants categorically:

O you who believe, indeed, intoxicants, gambling, stone altars,
and divining arrows are but defilement from the work of *Satan*,
so avoid it that you may be successful. (Qur'an 5:90)

This is a *Hadd* ruling, a divinely fixed prohibition that no parliament or majority can override.

Democratic governance has not merely failed to protect the intellect from intoxicants; it has progressively expanded legal access to mind-altering substances, framing this as an expression of individual freedom, one of democracy's core objectives:

Alcohol: Alcohol is legally sold and consumed in all major democratic states, often with significant state revenue derived from its taxation. The World Health Organisation reported in 2018 that alcohol causes 3 million deaths per year globally and contributes to more than 200 disease and injury conditions (World Health Organisation [WHO], 2018). In the United Kingdom, the Office for National Statistics reported in 2023 that alcohol-specific deaths reached a record high of 9,641 in 2021, the highest since records began in 2001 (ONS, 2023). The UK government earns approximately £12.6 billion per year in alcohol duties (HM Revenue and Customs [HMRC], 2023).

Cannabis Legalisation: Several democracies have moved to legalise cannabis, a substance that directly impairs the intellect. In Canada, Prime Minister Justin Trudeau's government legalised recreational cannabis nationwide through the Cannabis Act (Bill C-45), which received Royal Assent on 21 June 2018 and came into force on 17th October 2018. Statistics Canada reported that by 2022, 27% of Canadians aged 16 and over reported using cannabis in the past three months (Statistics Canada, 2023). In the United States, 24 states plus the District of Columbia had legalised recreational cannabis by 2024, with total cannabis sales exceeding USD 30 billion in 2023. (BDSA Analytics, 2024) In the Netherlands, the 'tolerance policy' (gedoogbeleid) permitting cannabis use in licensed coffee shops has been in effect since the 1970s, with Amsterdam alone hosting over 150 licensed cannabis coffee shops as of 2023. (Municipality of Amsterdam, 2023)

These figures make clear that democratic governance, guided by the principle of individual freedom and personal autonomy, has moved steadily in the direction of expanding, not restricting, access to substances that the Shari'ah has categorically prohibited precisely in order to protect the human intellect.

- ***Hifz al-Nasl*– The Preservation of Lineage and the Family**

The fourth *Maqсад* *Hifz al-Nasl*– the preservation of lineage, family, and moral purity. The Shari'ah protects lineage through the prohibition of *Zina* (fornication and adultery), the institution of *Nikah* as the only legitimate context for sexual relations, and the prohibition of all acts that undermine the family structure. Prophet Muhammad (SAW) said:

There is no sin after Shirk greater in the sight of Allah (SWT) than a man depositing his seed in a woman who is not lawful to him. (Ibn Hanbal, 2001)

Democratic states have departed from *Hifz al-Nasl* on virtually every front – through the legalisation of fornication and cohabitation, the redefinition of marriage, the promotion of gender ideology, and state funding for activities that directly contradict this *Maqсад*:

Same-Sex Marriage: Same-sex marriage is a direct legislative redefinition of the family that Islam regards as a violation of *Hifz al-Nasl* and has been legalised in a growing number of democracies. The Netherlands became the first country in the world to legalise same-sex marriage on 1st April 2001, under Prime Minister Wim Kok. Canada followed under Prime Minister Paul Martin with the Civil Marriage Act (Bill C-38) on 20th July 2005. The United Kingdom enacted same-sex marriage in England and Wales on 29th March 2014, and Scotland on 31st December 2014, under Prime Minister David Cameron. In the United States,

same-sex marriage was imposed nationwide by the Supreme Court in *Obergefell v. Hodges* (576 U.S. 644) on 26th June 2015, in a 5–4 decision written by Justice Anthony Kennedy. France legalised same-sex marriage on 18 May 2013 under President François Hollande, with the National Assembly voting 331 to 225 in favour. As of 2024, same-sex marriage is legal in 37 countries, all of which are democracies. (ILGA World, 2024)

Cohabitation and Sexual Freedom: Fornication, sexual relations outside of marriage, is not only legal in all democracies but is statistically the dominant pattern of social life. In the United Kingdom, the Office for National Statistics reported in 2023 that 22% of adults aged 16 to 59 were cohabiting outside marriage, and that the number of cohabiting couples had more than doubled from 1.5 million in 1996 to 3.6 million in 2021 (ONS, 2022). In **France**, the Institut National d'Études Démographiques (INED) reported in 2022 that 62% of births in France in 2021 were to unmarried parents, the highest rate in the European Union. (Institut National d'Études Démographiques [INED], 2022)

Transgender Legislation: Several democratic states have enacted legislation enabling individuals to legally change their recorded sex, legislation that directly contradicts the Islamic understanding of divinely created gender as fixed and binary. In the United Kingdom, the Gender Recognition Act 2004 allowed individuals to legally change their gender. In Canada, Bill C-16, passed on 19th June 2017 under Prime Minister Justin Trudeau, added gender identity and expression to the Canadian Human Rights Act and the Criminal Code, effectively making it a hate crime to consistently use a person's biological pronouns against their stated preference. In 2024, the Scottish Government under First Minister Humza Yousaf attempted to lower the age for legal gender recognition to 16, though this was blocked by the UK Government under Prime Minister Rishi Sunak using a Section 35 order, the first ever such order, in January 2023 (Scottish Parliament, 2023).

- ***Hifz al-Mal*– The Preservation of Property and Wealth**

The fifth *Maqсад* is *Hifz al-Mal*, the preservation of property and wealth, protected through the prohibition of *Riba* (usury and interest), the prohibition of theft, the institution of Zakat, and a comprehensive system of just economic transactions. The Qur'an warns with unmistakable severity:

Allah has permitted trade and forbidden usury. (Qur'an 2:275)

Allah (SWT) also says:

If you do not leave what remains of usury, then be informed of war from Allah (SWT) and His Messenger. (Qur'an 2:279)

The entire economic framework of modern democratic states is built on interest-based banking, the very *Riba* that Allah (SWT) has declared war upon. The following data documents the scale of this institutional Riba:

Interest-Based Banking: In the United States, the Federal Reserve reported total interest income earned by U.S. commercial banks in 2022 as USD 471.2 billion (Board of Governors of the Federal Reserve System, 2023). The U.S. national debt as of January 2024 stood at USD 34 trillion, with the Congressional Budget Office projecting interest payments on this debt to reach USD 870 billion in fiscal year 2024 alone (Congressional Budget Office [CBO], 2024). In the **United Kingdom**, the Bank of England reported total interest income of UK banks in 2022 at £132.4 billion (Bank of England, 2022). The entire Basel III international banking regulatory framework, agreed by G20 leaders at the Seoul Summit in November 2010 and progressively implemented since 2013, regulates interest-based banking globally –

not as an anomaly to be corrected but as the permanent and normalised foundation of international finance. (Basel Committee on Banking Supervision, 2011)

Gambling: Gambling, also prohibited in Islamic law as a violation of just property acquisition, is a major and growing industry in democratic states. In the United Kingdom, the Gambling Commission reported that the gross gambling yield (GGY) of the UK gambling industry in 2021–22 was £14.1 billion, with 22.5 million people, 43% of adults, participating in some form of gambling in that period (Gambling Commission, 2022). In the United States, the American Gaming Association reported total commercial casino revenue of USD 60.4 billion in 2022 – a record high (American Gaming Association [AGA], 2023).

Summary Comparison Table

<i>Hifz al-Din</i>	Active state protection of Islam; apostasy impermissible; religion at apex of all priorities	France banned hijab in schools (2004), <i>niqab</i> in public (2010). UK: 68% non-religious (2021). USA: 28% unaffiliated (2023)
<i>Hifz al-Nafs</i>	Life fixed by divine <i>Qisas</i> ; abortion and euthanasia prohibited as violations of divine trust	UK: 214,256 abortions (2022). France: constitutionalised abortion (March 2024). Canada: 13,241 MAID deaths (2022, 4.1% of all deaths). Netherlands: 8,720 euthanasia cases (2022, 5.1% of all deaths)
<i>Hifz al-'Aql</i>	Absolute prohibition of all intoxicants; intellect is a divine gift for worship	UK: alcohol deaths record high 9,641 (2021). Canada legalised cannabis 2018; 27% of Canadians use it. US: USD 30 billion cannabis sales (2023) in 24+ states
<i>Hifz al-Nasl</i>	Marriage only between man and woman; <i>Zina</i> absolutely forbidden; family divinely defined	Same-sex marriage: Netherlands (2001), Canada (2005), UK (2014), USA (2015), France (2013); now 37 countries. France: 62% of births to unmarried parents (2021). Canada: gender ideology in Criminal Code (2017)
<i>Hifz al-Mal</i>	<i>Riba</i> absolutely forbidden; <i>Zakat</i> mandatory; just wealth distribution by divine injunction	US bank interest income: USD 471.2 billion (2022). UK gambling yield: £14.1 billion (2021–22). US national debt interest: USD 870 billion projected (2024)

Source, Structure, and Accountability: The Fundamental Distinctions

Source of Authority

The most fundamental distinction between the *Maqasid* of the *Shari'ah* and the objectives of democracy lies in their source. The *Maqasid* are derived from divine revelation – the Qur'an and the authentic *Sunnah*. Al-Shatibi was explicit: the *Maqasid* are not human constructions but are 'evident from the totality of evidences of the *Shari'ah*'. (al-Shatibi, 2004)

The objectives of democracy are entirely human constructions, rooted in the Enlightenment tradition of human reason as the supreme authority. The UDHR itself, adopted on 10 December 1948 by the UN General Assembly (Resolution 217A), was drafted by a committee chaired by Eleanor Roosevelt and composed of representatives from diverse cultural and philosophical traditions – not one of whom claimed divine authority for the document. Article 1 of the UDHR states that human beings are 'endowed with reason and conscience' as the basis for their rights – making human reason, not divine revelation, the ground of all rights. (UN, 1948, Art. 1)

Hierarchical Structure vs Horizontal Equality

Al-Shatibi's hierarchy –*Daruriyyat*, *Hajiyyat*, *Tahsiniyyat*– is a divinely grounded ordering of priorities: *Din* takes precedence over *Nafs*, *Nafs* over '*Aql*', and so on. This hierarchy means that when values conflict, Islamic jurisprudence has a clear and divinely grounded resolution principle. Democratic rights theory has no such hierarchy: all fundamental rights are treated as equally fundamental, and conflicts between them are resolved through pragmatic judicial balancing or democratic deliberation, not by reference to a divinely mandated order.

Dual Accountability vs Single-World Accountability

The *Maqasid* are oriented toward success in both *al-Dunya* (this world) and *al-Akhirah* (the Hereafter). Allah (SWT) says:

And I did not create the jinn and mankind except to worship Me. (Qur'an 51:56)

Every *Maqsad* of the *Shari'ah* serves this ultimate purpose. Democratic objectives are, by definition and design, confined to this world. Ibn Khaldun noted that the distinguishing mark of the true Islamic Caliphate was precisely this orientation toward the Hereafter, writing that its purpose was to lead the community in accordance with the requirements of religious insight, in order to protect the faith and manage the affairs of this world through it (Ibn Khaldun, 1967). There is no accountability before Allah (SWT) built into the democratic framework.

Critical Examination of Contemporary Attempts to Align *Maqasid* with Democratic Objectives

The most sophisticated contemporary attempt to align the *Maqasid* with democratic objectives is found in the work of Jasser Auda, who proposes reframing the five *Maqasid* as a charter of human development corresponding broadly to modern human rights discourse. Auda argues that *Hifz al-Din* corresponds to freedom of belief, *Hifz al-Nafs* to the right to life, *Hifz al-'Aql* to freedom of thought, *Hifz al-Nasl* to family rights, and *Hifz al-Mal* to economic rights. (Auda, 2008)

With respect for Auda's considerable scholarship, this alignment must be challenged. As Section 4 of this paper demonstrates with concrete legislative and statistical evidence, the practical content of each *Maqsad* and its supposed democratic equivalent diverge at precisely the most critical points. The country-specific data presented above – 214,256 UK abortions, 8,720 Dutch euthanasia cases, France constitutionalising abortion, Canada

criminalising biological pronoun use, and USD 471.2 billion in US bank interest income – are not fringe expressions of democracy. They are the mainstream legislative achievements of the world's leading democracies, celebrated by their governments as expressions of democratic freedom, equality, and individual rights. To argue that these outcomes are compatible with or equivalent to the *Maqasid* of the *Shari'ah* is to render the *Maqasid* framework meaningless.

Furthermore, Auda's reframing shifts the source of the *Maqasid* from revelation to human rights discourse. Al-Shatibi himself warned against the use of *Maslahah* and the *Maqasid* in ways that detach the objectives from their Qur'anic and *Sunnah* evidential basis, calling this *Ittiba' al-Hawa* (following desires) rather than following the *Shari'ah*. (al-Shatibi, 2004).

Recommendations

Based on the analysis presented in this paper, the following recommendations are offered:

First, Islamic scholars – particularly those working in *Usul al-Fiqh* and *Maqasid* studies – must resist the intellectual pressure to reframe the *Maqasid* in the language of democratic human rights. The country-specific data presented in this paper demonstrates beyond reasonable doubt that democratic governance, in its concrete legislative practice, is not moving toward the *Maqasid* – it is moving systematically away from them. The *Maqasid* must be presented as what they are: a divinely grounded framework rooted in Tawhid, not an Islamic version of the UDHR.

Second, universities and Islamic studies institutions must include rigorous classical-language study of al-Ghazali's *al-Mustasfa*, al-Shatibi's *sal-Muwafaqat*, and Ibn 'Ashur's *Maqasid al-Shari'ah al-Islamiyyah* in their curricula, ensuring that students encounter the *Maqasid* in their original classical context before engaging with contemporary reinterpretations.

Third, Muslim scholars and institutions in Nigeria must engage directly with the data presented here. Nigerian Muslims must understand that the democracy they are asked to participate in is not a neutral political mechanism – it is a system that, in the world's leading democratic states, has produced the legalisation of abortion, euthanasia, same-sex marriage, cannabis, and interest-based economics, all of which directly contradict the five *Maqasid* of the *Shari'ah*. This is not a theoretical critique; it is a documented empirical reality.

Fourth, further scholarly research is urgently needed that applies the classical *Maqasid* framework to specific contemporary governance challenges, not to find accommodation with democratic theory but to articulate genuinely Islamic policy solutions rooted in the Qur'an, *Sunnah*, and the classical jurisprudential tradition.

Fifth, the Nigerian Supreme Council for Islamic Affairs (NSCIA), state *Shari'ah* commissions, and Islamic educational institutions should develop and publish curricula on the *Maqasid* framework that accurately represent both its classical formulation and its fundamental distinction from democratic objectives, equipping the Muslim community with the theological tools to navigate modern governance challenges without compromising the integrity of their faith.

Conclusion

This article has conducted a systematic comparison of the *Maqasid al-Shari'ah* with the objectives of democratic governance, supported by concrete legislative evidence and statistical data from the world's leading democratic states. The analysis confirms without ambiguity that the two frameworks are separated not merely by philosophical preference but by their most fundamental commitments: the source of authority, the hierarchy of values, the understanding of human nature and purpose, and the framework of accountability.

The five *Maqasid*– *Hifz al-Din*, *Hifz al-Nafs*, *Hifz al-‘Aql*, *Hifz al-Nasl*, and *Hifz al-Mal*– are divinely revealed, hierarchically structured, and oriented toward the pleasure of Allah (SWT) in both this world and the Hereafter. The data presented in this paper shows that democratic governance, in its concrete practice in France, the United Kingdom, the United States, Canada, and the Netherlands, has moved in the opposite direction on every one of these five *Maqasid*: restricting religious expression in public life, legalising abortion and euthanasia, expanding access to intoxicants, redefining and deconstructing the family, and building entire economies on the *Riba* that Allah (SWT) has declared war upon.

The task before the Muslim scholarly community is not to find the most convincing argument that these two frameworks are essentially the same. The task is to articulate, with confidence and clarity and with the support of evidence such as that presented here, what the *Maqasid* of the Shari’ah actually mean, why they constitute a superior and more comprehensive framework for human flourishing than anything democracy has produced, and how they can be applied faithfully to the governance challenges of the Muslim world today. As Allah (SWT) says:

This day I have perfected for you your religion and completed
My favour upon you and have approved for you Islam as your
religion. (Qur'an 5:3)

A perfected, complete, and divinely approved religion does not need to borrow its objectives from human philosophy.

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