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AN ANALYSIS ON *KITĀB AL-MUWĀFAQĀT* WITH AN ANNOTATED TRANSLATION OF THE FIRST PART

BY

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WAN AMALI FAKRI

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ABSTRACT

This study is intended to analyse *al-Muwāfaqāt*, the book of Abū Ishāq Ibrāhīm b. Mūsa, well known as al-Shāṭibī (d.790A.H). The book by itself is a work on Islamic legal methodology. What makes the work distinctive is its discussion of the legal methodology on the basis of the comprehension of the universal principles of Sharīᶜah. Thus this study is carried out by critically examining this literary contribution on Islamic legal methodology in view of the comprehensive understanding of the universal principles of Sharīᶜah together with translation of thirteen *muqaddimāt*(premises)of the book which are considered the prerequisites, as the author has emphasized, in contemplating the composition. Besides, a comparison with other prolific legal theorists, those before and after him, is not to be neglected that by such incorporation the study is to be more comprehensible and significant. The findings of this analytical study are that the nature of al-Shāṭibī's Islamic legal thought based on the comprehensive perception of the intentions of Sharīᶜah is not that of initiating the new spheres to interpreting the sources of Sharīᶜah but a sort of the inherent contemplation on Sharīᶜah. And also the concept of flexibility applied by al-Shāṭibī in his exertion to face the challenge of the social change is the theory established on the apprehension of correlation between the general and particular meaning of Islamic legal proofs, not by the separation understanding.

ملخص البحث

هذه دراسة تحليلية لكتاب الموافقات لأبى اسحاق إبراهيم بن موسى المعروف بالشاطبي. *الموافقات* هي كتاب عن مادة أصول الفقه خاصة بلا ريب .المنهج الأصولي الذي إتخذه الشاطبي في كتابه ذو ميزة خاصة، لأنه قد وقف على أصول الفقه بطريقة فهم المقاصد العامة للشريعة الإسلامية التى حصلت من استقراء أدلته. وأما طريقتنا في هذه الدراسة تجرى على منهجية تحليلية نقدية على نظرية أصولية للشاطبي مع إعمال ترجمة على ثلاثة عشر مقدمة التي ا يتم إدراك تمهيد المقصود. لعل هذه الدراسة لم تكن كاملة إلا بوجود دراسة مقارنة بالأصوليين الأخرين قبل الشاطبي وبعده. اذن، انه مما نعتبره من إحدى مناهجنا. وآخيرا، بالنظر إلى نتائج هذه الدراسة؛ نستطيع أن نستخلص أن الشاطبى ليس في نيته التعامل مع النص الشرعي بالمنهج الجديد؛ أي نظرية المقاصد؛ بل بالمنهج الذي كان قد بني على استخراج الأدلة الشرعية على صورة أكمل وأشد تفصيلا من قبل. وأيضا؛ نظرية تغيير الأحكام عند الشاطبي تكون على وشك المطرود؛ ولكنها ماقبل ا إذا لم يكن هناك تعارضا بين قاعدتين؛ كليا وجزئيا.

APPROVAL PAGE

I certify that I have supervised and read this study and that in my opinion, it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Master of Arts (Islamic Civilization).

…….
Ala'eddin Kharofa
Supervisor

I certify that I have read this study and that in my opinion it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Master of Arts (Islamic Civilization).

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'Uthman El-Muhammady
Examiner

This dissertation was submitted to International Institute of Islamic Thought and Civilization (ISTAC) and is accepted as a partial fulfilment of the requirements for the degree of Master of Arts (Islamic Civilization).

……
Ibrahim M. Zein
Dean, International Institute of
Islamic Thought and Civilization

DECLARATION

I hereby declare that this dissertation is the result of my own investigations, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

Wan Amali Fakri Wan Muhammad

Signature……. Date……...

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TRANSLITERATION

Letters of the alphabet:-

ء	ʾ	ص	ṣ	ھ	h
ب	b	ض	ḍ	و	w
ت	t	ط	ṭ	ى	y
ج	j	ظ	ẓ		
ح	ḥ	ع	ʿ		
خ	kh	غ	gh		
د	d	ف	f		
ذ	dh	ق	q		
ر	r	ك	k		
ز	z	ل	l		
س	s	م	m		
ش	sh	ن	n		

Vowels and Diphthongs:-

ـَ	a	ـٰ	ā	ـِىْ	ī
ـِ	i	ـُوْ	ū	ـَوْ	aw
ـُ	u			ـَىْ	ay

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PART ONE

CHAPTER ONE

INTRODUCTION

The need for clear guideline to understanding the textual sources of Islamic jurisprudence after the death of the Prophet, peace be upon him, was a dire necessity when Islam was spreading in various countries which led to the influx of the non-Arab Muslims along with their previous legal and cultural tradition entering into Islamic thought. In relation to this, al-Shāfiᶜī (150-204A.H) was the first to create the systematic way of understanding the authority of the various sources of Islamic law in his concern to protect the Sharīᶜah and the language of the Qur'ān. He is regarded as to have put into practice the inductive method in the legal research, while, on the other hand, Abū Ḥanīfah (d.150 A.H) is regarded as the first to formulate the method of the legal evolution in order to codify the law while applying the deductive method.

However the controversy between al-Shāfiᶜī, representing the way of the Mutakallimūn, and Abū Ḥanīfah, standing for the way of the people of reason, was nothing less than a sign of the positive growth in the legal thought particularly, and can be considered as one of the remarkable achievements in Islamic intellectual development generally. We described this controversy as positive, because later, by the end of the fourth century or the middle of five century, it led to the rise of very significant scholars in the Islamic jurisprudence such as al-Sarakhshī (d.490A.H), al-Juwaynī (d.487A.H), al-Ghazālī (d.505A.H), al-Rāzī (d.606A.H),al-Qarāfī (d.684 A.H) and the others, innumerable to state.

As a matter of fact, what placed them in disagreement was no other than the theme of elaborating the Sharīᶜah, which is the sacred scheme of basic laws, values, and principles enshrined in the Qur'ān and *Sunnah*. This elaboration and interpretation of Sharīᶜah was precisely the intellectual effort in knowing the detail of the application by the judiciary body known as *ijtihād* and its resulted called *fiqh*. These efforts reflected the Sharīᶜah and *fiqh*, the former certainly supreme law, eternal, universal, comprehensive and always applicable, and that the latter was characterized as diverse and subject to change, due to the result of human intelligence in dealing with the individual Muslims and Muslim societies without being independent from the jurisdiction of the Sharīᶜah.

Among the jurists aforementioned, al-Ghazālī, inspired by his master al-Juwaynī, had set up the theory of the purposes of Sharīᶜah law by integrating the way of Mutakallimūn and the people of reason. This work of al-Ghazālī who lived while Islam was facing a great challenge brought about by the foreigners of past civilizations as well as religious deviationists, was the first manifestation for the rise of the subsequent manifestations of the said theory. Then the later jurist of 8th century, known as al-Shāṭibī (d.790 H), came, expanding more detailed what was initiated by al-Ghazālī in a unique and creative marriage between notion of induction and the doctrine of consideration of benefits[1] in his effort to make a systematic analysis of Islamic law in terms of its overriding principles and ultimate objectives.[2]

Al-Muwafaqāt, which means *The Concurrence*, was his great work composed by al-Shāṭibi to discuss the Islamic legal theory, as well as its legal philosophy, within

[1] Hallaq, Wael, "Usul al-fiqh; Beyond tradition," *Journal of Islamic Studies*, vol. 3, no. 2 (1992): 172-202.
[2] ᶜUmar ᶜAbd Allah, "The Nature of the ethical speculation In al-Shāṭibī's Thought," *The Magreb Review*, vol. 6, no. 2 (1981): 19-26.

the framework of the purposes of Sharīᶜah.[3] Besides a sparkling manifestation of the author's scholarly life and work, the work was a unique composition in the comprehensive discussion of Islamic Jurisprudence. The work was disposed in response to the consequence of the socio-economic development during al-Shatibī's life, and to some misconception of the legal theories. This work of al-Shāṭibī reflected the eloquent evidence of his concept of the flexibility in Islamic law in accordance to the theory of the purposes of the law which was substantiated and extracted from Sharīᶜah sources.

The concept of the purposes of the law of al-Shāṭibi as enshrined in his *al-Muwāfaqāt*, seems to have a major influence over the later Muslim scholars especially for the Modernists. Muhammad ᶜAbduh, for example, has been the first person among them advocating al-Shātibi's doctrine. Then Rashīd Riḍā comes introducing al-Shāṭibī's theory in *al-Manār*, the monthly publication. Afterwards al-Maudūdi incorporates al-Shātibi's view in his program in establishing Islamic law in Pakistan.[4]

On the difficulty of understanding the content of *al-Muwāfaqāt*, Margoliouth said it is because the readers have to be well versed not only with the doctrines of *fiqh* but other disciplines of knowledge such as theology, philosophy, mysticism, logic as well as the knowledge of the political, economic and social developments during al-Shāṭibī's period.[5] Despite of that, this study which is designed to analyze al-Shātibi's work is possible due to availability of abundance of writings on it presently, and also due to the nature of the work per se which is in general well arranged.

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[3] According to al-Shāṭibī, his intention in composing the book is to unveil the secrets of the obligation pursuant to the Islamic jurisprudence.
[4] M.K.Masʻūd, *Islamic Legal Philosophy*, (Islamabad: Islamic Research Institute, 1977), 193-194.
[5] Ibid.

This study is divided into two parts. First part which is the major part of this work, is to analyze four essential sections as in *al-Muwāfaqāt*.[6] Chapter II discusses *al-aḥkām*(the legal norms). Chapter III deals with *al-maqāṣid* (the intentions) which is his great work. Chapter IV is about *al-adillah*(Islamic legal proofs). Chapter IV deals with *Ijtihād*, representing the last discussion of part I.

Meanwhile part II of this study is a translation into English of thirteen premises, which was considered by al-Shātibī as prerequisite before proceeding to the later discussion, that is, book of the legal norms, book of the intentions…etc. These thirteen premises, in its original place in *al-Muwafaqāt*, are placed right after the author's exordium.

So our method of study here is very clearly a combination of analyzing and translating the text of *al-Muwafaqāt.* To the extent, hopefully, we are able to evaluate and discover a more accurate reflection of the nature of the intentions of Islamic law, its impact, and how far this legal theory have been grasped and adopted in serving social changes relating to the customary law such as in the justification of the theory of 'Sharīᶜah value based on a reason is bound with the reason in its existence and its non-existence',[7] while in the Roman law '*rationē legis cessantē, cessat lex*'(the law would cease when its *justification* has ceased).[8]

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[6] Throughout this analysis of *al-Muwafaqat*, the term of *kitāb* represents the main division, chapter or heading, *masā'il*, plural of *mas'alah* denote sub-headings, and *faṣl* means simply sub sub-headings.

[7] This theory, according to Maḥmaṣāni Ṣubḥi, was of the general principles adopted by the Muslims legal theorists, for the detailed explanation, see, Maḥmaṣāni, Ṣubḥi, *al-Daᶜāim al-khuluqiyyah li al-qawānīn al-sharᶜiyyah*, (Bayrūt: Dār al-ᶜIlm al-Malāyīn, 1979), 363-364

[8] Ibid. It is inappropriate to say that the former theory is comparable with the latter; for the former is not founded absolutely on reason.

A BRIEF BIOGRAPHY OF Al-SHĀṬIBĪ

He was Abu Ishāq Ibrahīm bin Mūsa bin Muhammad al-Lakhmi, al-Gharnāṭī, well known as al-Shāṭibī. He belonged to the family of al-Lakhmī, was born and grown up in Granada, Spain. We found no exact date of his birth. Al-Shāṭibī lived during the epoch of Sultan Muhammad V al-Ghāni bi Allah in 1354 A.D when the state was achieving the glorious era. It was a time when a progressive development had happened in almost all aspects of life. Very close to the Mediterranean Sea, Granada was capable of generating its economy in commerce and in advancement was an attractive place to visit and transit especially for those interested in scholastic courses due to the advancement of the system and encouragement by the rulers. Hence it is no wonder that Granada was once a famous place for Sufi activities. Al-Shāṭibi met his day on 8th of Sha^{c}bān in 790A.H.

He was a jurist who had been a student of some well known scholars of various fields; in Arabic, he was under Sheikh al-Nuḥāt Abū ʿAbd Allah Muhammad bin ^{c}Ali al-Fakkhār al-'Ilibirī (d.754A.H); in fiqh and Sufism under Abu ^{c}Abd Allah al-Maqarrī; in philosophy and *kalām* under Abu Manṣūr al-Zawāwī. In short, al-Shāṭibī was trained in both traditional and rational sciences. Concerning his writings, besides *al-muwafaqāt*, he was an author of books in various fields mainly in Arabic language and Jurisprudence.[9]

[9] M.K. Mas'ūd in his *Islamic legal Philosophy* enumerated all his work , great and small, published or unpublished. For a more detailed account on al-Shātibi's life see, M.K. Masʿūd, 95; al-Shāṭibi, Abu Ishaq, *Al-I^{c}itiṣām*, ed.Rashīd Rida, (al-Qāhirah: Maktabah al-Tijārah al-Kubra, n.d,) 1:2; Sha^{c}bān Muhammad Ismā^{c}īl, *Uṣūl al-fiqh;Tārīkhuhu wa rijāluhu*, (Riyāḍ: Dār al-Marīkh, 1981), 384.

CHAPTER TWO

THE LEGAL NORMS

This chapter particularly deals with the subject-matter of *al-aḥkām* (the legal norms) as in book one in *al-muwāfaqāt*.[1] The discussion is divisible into two major parts; first, *khiṭāb al-taklīfiyy*(the mandatory address); secondly, *khiṭāb al-waḍ*^{c}*iyy*(the declaratory address.

The structure of the contents of the two major parts is as follows:

1. On the mandatory address:-
    a. *Al-Mubāḥ* (the permissible).
    b. *Al-Mandūb* and *al-Makrūh* (the recommended and the detestable).
    c. *Al-Wājib* and *al-Muḥarram* (the obligatory and the prohibited).
2. On the declaratory address:-
    a. *Sabab* and *musabbab* (the cause and the caused)
    b. *al-Shurūṭ* (conditions)
    c. *al-Mawāni*^{c}(the impediments)
    d. *Ṣiḥḥah* and *Buṭlān* (soundness and invalidity).

Apparently the subject matter has similarity in common connotation, namely its theory and application, with other jurists' works. However having analysed thoroughly, we discover that the subject-matters were discussed within the frame work of *al-maqāṣid al-shar*^{c}*iyyah*(the intentions of Sharī^{c}ah).

[1] Al-Shātibī, Abū Ishāq, *al-Muwāfaqāt fi Uṣūl al-Sharī*^{c}*ah*, ed. ^{c}Abdullah al Darrāz (Bayrūt: Dār al-Ma^{c}rifah, 2001), 1: 95.

Throughout our inquiry, it is not feasible or relevant to study all subject-matters of the two parts, while al-Shātibī himself has given a concentration only on two things that is the permissible and the cause and the caused. In our view these two are very significant to the extent they substantiate the conception of the intentions of Sharīᶜah, while the remaining is not so comparatively and it has been heavily discussed by his predecessors. And also perhaps he tries to eradicate the misconception of the permissible, particularly among the scholars of the Muᶜtazilah, who maintain that the permissible isn't one of the five legal norms;[2] that the permissible is not subsumed under the obligatory.[3] Among the reasons of the polemic of the permissible, is due to the disagreement over the expression of the word "*al-mubāḥ"* itself; some of the theorist do not admit it as of the obligation on the basis that *raf' al-ḥaraj* (to remove difficulties) requires no revelation while some include it on the basis that to remove difficulties requires the revelation as well as to act and to avoid.[4]

The following analysis is going to study the two said matters; first, the permissible from the mandatory address and secondly, the cause; and the caused from the declaratory address.

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[2] This was upheld by most of the Muᶜtazilah, for the refutation on that, see al-Ghazali, Muḥammad b. Muḥammad, *al-Mustaṣfa min ᶜUlūm al-fiqh*, (Baghdād: Maktabah al-Muthanna, 1294H), 1:75.

[3] This was attributed to al-Kaᶜbi,of Muᶜtazilah; for his reasoning and the refutation on that , see, ᶜAbd al-ᶜAli al-Anṣāri, *Fawātiḥ al-raḥamūt bi sharḥ musallam al-thubūt fi usūl al-fiqh*, (Baghdād: Maktabah al-Muthanna, 1294H), 112-115.

[4] Al-Armawi, *al-Taḥṣīl Min al-Maḥṣūl*, ed. ᶜAbd al-Hamīd ᶜAli, (n.p: Mu'assat al-Risalah, n.d), 315 ; see also, Ibn Hazm, ᶜAli b. Muḥammad, *al-Iḥkām fi usūl al-aḥkām*, ed. Aḥmad Shākir, (al-Qahirah: Maṭbaᶜah al-ᶜĀṣimah, n.d), 47-54.

THE PERMISSIBLE

In this discussion of the permissible,[5] al-Shāṭibī elaborated the conception of the permissible in two important schemes; first the definition of the permissible *per se* and secondly the result of its being related to *al-kulliyyah* and *al-juz'iyyah*(the general and particular), that is, in view of the outer matters.

The permissible, according to al-Shātibi, in regards to its definition *per se* is that which is neither obligatory to act nor to stay away from something. As matter of fact, besides the word "*al-mubāḥ*", some legal theorists also have used other words such as *al-ḥalāl*, *al-jā'iz*, and *al-muṭlaq*[6] while Ibn Hazm has employed the word "*al-takhyīr*", instead of "*al-mubāh*".[7]

To support the said meaning of the permissible, al-Shāṭibi has given some arguments.

First, the permissible pursuant to Sharī'ah is an option to act or to avoid without entailing any praiseworthiness and any blameworthiness. Thus the permissible is indifferent and optional to the extent that it is unaccepted to imagine that those avoiding are an obedient; for the obedience is subject to the commission.[8]

Secondly, since it is indifferent of doing and avoiding from the permissible, if those avoiding the permissible were to be obedient then the doer would have been so also, because of indifference. However this is unanimously unaccepted and inconceivable.[9]

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[5] This discussion is in volume 2 and covers five *mas'alah* and six *fasl*.
[6] See, al-Shawkāni, *Irshād al-fuḥūl ila taḥqīq al-ḥaq min ᶜ ilm al-uṣūl*, (al-Qahirah: Maṭbaᶜah Muḥammad ᶜAli Ṣubaih, n.d), 6; and also, al-Juwaini, ᶜAbd al-Mālik b. ᶜAbd Allah , *al-Waraqāt fi usūl al-fiqh*, ed. Aḥmad Muḥammad al-Dimyatī, (al-Qāhirah: Maṭbaᶜa h Mustafa al-Bābi al-Ḥalabi, 1955), 4.
[7] Ibn Hazm, 319.
[8] Compare al-Shawkāni, 6.
[9] Al-Shāṭibī, 95-96.

Having determined that the permissible had no relation either commission to do or not to do, al-Shātiḅī rejected that the act of the permissible in general was a means to harm. He explained such argument was baseless; for the permissible as previously defined *per se*, was to mean an equality of two sides, namely the commission and omission; and hence the given definition had excluded that it is a means to the other matters.[10] If it was a means to the prohibited then on the basis of *sad al zarā'i*ᶜ(blocking the means) it would be no longer permissible by itself.[11]

The permissible in connection with the general and the particular would change to be like the remaining legal norms, namely the obligatory, detestable, commended …etc. For example, in any lawful acquisition, it is permissible, if already done by any individual but it may turn to be obligatory in general, if all people were to neglect it, for persistently neglecting the lawful acquisition would be detrimental some of *ḍāruriyyāt* (the necessities). In another example, singing and playing the permissible game, are permissible, if just in certain times, but they are detestable, if extremely done. Such this happens also in the remaining legal norms; the obligatory, commendable, detestable and prohibited. For instance, *adhān* in the mosque, it would be commendable particularly, if done by some people and obligatory generally, if all the people to neglect it.

Indeed the particular and the general which led to the alteration of the original value of the permissible and the remaining assessment could be proven through some observations.

First, it has been noted that *mudāwamah*(frequency) and *ghair mudāwamah* (infrequency) have differences and impacts on actions done, as given example in

[10] The permissible being probably a means of the commanded and the prohibited, such as an enjoyment of the worldly matters.

[11] Al-Shāṭibī, 98-99. This is the refutation of al-Shatibi to what al-Kaʻbi of Muʻtazilah upholding that the permissible was to avoid the prohibited, so that the permissible must be of the obligatory.

playing the games and singing. Thus the scholars reached the agreement on that unanimously.[12]

Secondly, on the basis of considering the benefits, the general benefit is preferred over the particular as well as over the current of the custom. For if the particular were to be considered then it would be no difference with the general and thus the decision couldn't be passed except on what is really known. Accordingly *ẓann* (probability) would be absolutely rejected whereas actually it is not. Instead the probability is adopted, even though it appears incorrect in some events afterwards.[13] Subsequently it is acceptable to say that one act is dissimilar in consideration of the generality and particularity, and also the particular is regarded less than the general.

Thirdly in the case of the learned man who make an error in act and knowledge, it was unanimous among scholars that if such a matter is upon himself only it is deemed small and forgivable but if spreads out to the people it is a grave matter. This is also in consideration of the generality and particularity.[14]

Still under the permissible, al-Shāṭibi made a distinction between the concept of *lā ḥaraj* (no difficulties) and the conception of *takhyīr* (choosing) regarding to permissible. Linguistically *la haraj* meant no sin as in the Quran,"It is not sinful for him to circumambulate both... ."[15] Comparatively *lā ḥaraj* was clearly different from the permissible within three areas of concern; first, the legal norms; secondly, the intentions of Sharī ᶜah; and thirdly the desire.

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[12] Al-Shāṭibī, 121. Compare with ᶜAbd al-'Ali al-Anṣārī, 168.

[13] The applicability of the probable has been recognized , mostly by the school of Hanafi, as a valid method in finding out *'illah* of a rule with certain reservations and in founding *maslahah* .Such a well known method is *takhrij al-manāṭ* (derivation of the basis of the rule), see , al-Asnawi, Jamāl al-Dīn ᶜAbd al-Raḥīm, *Syarḥ al-Asnawi nihāyah al-sūl*, (Bayrūt: Dār al-Kutub al-ᶜilmiyyah, 1984), 3:185; and also, Aḥmad Hasan , A*nalogical reasoning in Islamic jurisprudence*, (Islamabad: Islamic Research Institute, 1986), 232-254.

[14] Al-Shāṭibī, 1:113-122.

[15] Qur'an, al-Baqarah: 158

In regards to the legal norms, *lā ḥaraj* (no difficulties) was sometimes joined to the obligatory as in, "It is not sin on him who performs *ḥaj* or ᶜ*umrah* to circumambulate"[16] and sometimes was to oppose the commendable as in, ".. Except him who is forced thereto and whose heart is at rest with Faith."[17] Absolutely, the permissible was neither to be with the obligatory nor with the commendable, nor in opposition of it.

As far as Sharīᶜah intention was concerned, the word *rafᶜ al-junāḥ* (no sin), i.e. *lā ḥaraj*, conveyed that Sharīᶜah intends to remove difficulties in the act, if they exist, from the subject while the permission to act remains unspoken to the extent that the permission to act may be the purpose but as the secondary such as *rukhṣah* (concession). For example when Sharīᶜah says on what happened, *lā ḥaraj*, that can't be considered as the permissible; for, perhaps it is so and perhaps it is detestable. The detestable can not be *la haraj* after it has occurred. In contrast, the word of the permissible is understood in accordance to the Sharīᶜah intention as the permission to act or to avoid without any difference[18].

Lastly concerning desire, apparently the meaning of *lā ḥaraj* (no difficulties) is as if it is alright to follow the desire and to be in opposition to the intention of Sharīᶜah that indeed demanded the comprehensive prohibition in following desire. However it is not entitled to be as expected due to its infrequent application in the Quran, particularly, and due to its contextual connotation aiming at the objective of the obligation apparently. In the case of the permissible, the *quasi* desire-following herein is an emphatic agent to pursue the intention of Sharīᶜah universally. It is not deemed as to follow the desire; for while it is supporting the required act, it is bound and in

[16] Qur'ān, al-Baqarah:158.
[17] Qur'ān, al-Naḥl 16:106
[18] Compare with ᶜAbd al-ᶜAli al-Anṣārī, 168-169.

parallel with the secondary intention. Therefore by origin the *quasi* desire-following herein is to follow the intention and to be auxiliary of it.[19]

As noted before, al-Shāṭibi had discussed the permissible concerning its essence, the particular and general. He then herein analyzed the permissible in consideration with *ᶜāriḍ* (impediment).[20] In this analysis, he tried to give a picture of the impact of incidents over the original assessment of the permissible. Therefore, there were three features of concerns.

First, when one who is forced to do the permissible, he cannot return to the initial assessment of the permissible. Nor should he take the accident into consideration. For, as of the strongest and the most leading reason given by Shāṭibi, the permissible has changed to be an obligatory act which is incontrovertible.

Secondly, one who is not necessary to do the permissible but may get difficulties in forsaking the permissible. This condition entails him to return to the origin of the permissible and to ignore the incident. For the forbidden things could be lawful in order to remove difficulties, such as eating the carrion while in dire necessity.

Thirdly, one who is not unnecessary to do the permissible, nor does he get difficulties for forsaking it. This state results leads to two assumptions; first those maintaining that the origin of the permissible should be taken into consideration, for the permissible has been *de facto* proven as an option which pertains to the necessities. And also the necessities are *uṣūl al-maṣāliḥ*(the foundation of the public interest). Contrarily, if we presumably don't regard the original meaning due to the existence of the opposition, we will take consideration of what opposes the necessities

[19] Al-Shāṭibī, 1:124-127.
[20] This employment of *ᶜa'riḍ* hereby is to designate the impediment pertaining to the amendment of the assessment.

in general. As a result, to consider the permissible is more preferable than to take consideration of what opposes the original meaning of the permissible.

The second opinion, those weighing over the consideration of what opposes the original meaning of the permissible, upholds that the permissible as far as the public interest is concerned, never ever reaches the position of the necessities; for the public interest of the permissible pursuant to its essence is an option to acquire and not to acquire the public interest, and also once the necessities reach the position of the permissible they remain no longer optional. Furthermore, when one opts to act, he indeed denies difficulties in aiming at the benefit. Since that, it is against the concept of the option.[21]

THE CAUSE AND THE CAUSED

Of the five legal norms constituting the declaratory address, which are *asbāb* (the cause and the caused), *syurūṭ* (conditions), *mawāni*^{c} (impediments), *ṣiḥḥah* and *buṭlān* (validity and nullity) and ^{c}*aẓāim* and *rukhṣ* (the original rules and the concession), al-al-Shātibī's concern on the matter of the cause and the caused would be an apparent mark of his being influenced by the concept of *maṣlahah*, means goodness, and *maqāṣid,* means the intentions of Shari'ah.[22] This subject has fourteen *mas'alah*(problems or cases) and seventeen *faṣl* (section).

[21] Al-Shāṭibī, 159-163.
[22] Raysūni Aḥmād, *Naẓariyyat al-maqāṣid* ^{c}*inda al-Imām al-Shāṭibī*, (Riyāḍ: Dār al-^{c}Alamiyyah li al-kutub al-Islāmiyyah, 1995), 192.