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## **The nature of Public Interest in Muslim and Non-Muslim writers**

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# **The nature of Public Interest/ in Muslim and Non-Muslim**

**or**

## **The Nature of Public Interest: Dichotomy between Muslims and Non-Muslims Thought**

### **Essay Abstract**

Leading a comfortable life on this planet with few problems and worries is one of the aims and objective of human since the dawn of history. Defining and then achieving that prosperous and comfortable life has been the subject of intense discussion among philosophers and religious scholars since the dawn of history. In order to investigate whether the contemporary economic system better serves the wellbeing of the general population (public interest), then it is very important to know that what the public interest itself actually means? To accomplish this task, we started this essay with an examination of the idea of public interest from both Muslims and non-Muslims writers. After the emergence of enlightenment self-interest got prominence due to which public interest among non-Muslims writers is considered as a rule or concept serving to present something as suitable for long term approval or acceptance according to changing circumstances. In contrast Muslim writers think that public interest refers to the fulfilment of the objective of the Sharia which lies in safeguarding their faith (Din/Religion), their human self (Nafs), their intellect (Aql), their posterity (Nasl) and their wealth (Maal). There will be violence and corruption without these five basics purposes of Sharia.

In Quran it is reported that mankind from Prophet Adam to Prophet Noah were one single community (ummah) and were possessor of the true one religion of the unity of God. During Prophet Noah time self-admiration and clash of interest emerged which resulted in formulating different ideologies and civilizations. In finding the truth, God has left men's moral, intellectual and social development to their reason, aided by Prophetic guidance<sup>1</sup>.

## 1. Introduction:

Living a prosperous and comfortable life with few problems and worries is one of the aims and objective of human on this planet. Describing<sup>2</sup> and then accomplishing a prosperous and comfortable life has been the subject of debate among philosophers and intellectuals since the dawn of history. A large extent of philosophy, ethics, theology, economics and politics shed some light on the ideology of the good life. It is a well-known fact that human being is a social animal which cannot live an isolated life without the community. If there is harmony of interest between individual and community then there will be peace and prosperity, but problems arises when there are conflict of interest between the individual and society. In any society there is a natural tension between the interests of individuals and the interest of the group as a whole. There is a conflict between what individuals want and what serves their interests and what is needed for the welfare, safety and security of the entire group.

In case of conflict in harmonizing the interest of society against the interest of the individual person remain one of the prominent and burning issue among followers of various religions, philosophers and social scientists. Discovering and then implementing the ideology which serves the interest of the entire community (Public Interest) is one of the prime and basic objectives of any society. Famous US congress man, Micky Edward explained that it is universal fact that mankind irrespective of their race, creed and religion will never oppose the enhancement of public interest, but on the other side disagreement exists, that what comprises and includes in the idea of the welfare of the general public (public interests)<sup>3</sup>.

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<sup>1</sup> Quran 10, 19

<sup>2</sup> William Strouss, "Neo-Liberalism and the Public Interest : The Case for Social Democracy" (Frankline Pierce University, 2015).

<sup>3</sup> Mickey Edwards, "What Is the Common Good? The Case for Transcending Partisanship," *Daedalus* 142, no. 2 (2013): 84–94, doi:10.1162/DAED\_a\_00205.

In the contemporary world, there are a variety of theories on government and a variety of political philosophies each claiming that they are serving the public interest. Each offers its view on how it is that government is to hold and exercise power over individuals. Each operates within a more general view of how it is that society ought to be regulated. Everyone is claiming that their theory is an “Ideal Model”, and the government must act according to that model. One of the ways in which governments must act is to resolve the conflicts that arise in every society between the interests that individuals have in their own welfare and happiness and the interest that the group as a whole has in its welfare.

In this regard various ideological experiments were conducted in the western hemisphere. Academic pundits<sup>4</sup>, then believes that history is a dialogue between societies, in which those with grave internal contradictions fail and are replaced by those who manage to overcome those contradictions. The Roman empire ultimately collapsed because it established the universal legal equality of all man but without recognizing their rights and inner human dignity. Similarly, the moral corruption<sup>5</sup> of the Catholic Church replaced Christianity with secular thoughts. Because of widespread corruption and extreme violence, even religious leaders realized that social harmony require principles, without invoking controversial and conflicting religious principles. More recently the collapse of USSR economy and the triumph of liberalism over Marxism in the cold war is propagated as the end-point of history and final form of mankind ideological evolution<sup>6</sup>. It is also believed that liberalism satisfied all the previous ideological contradictions available in the competitor’s ideologies except Islam. It was openly acknowledged that in the contemporary world only Islam has offered a theocratic state as an alternative to both liberalism and Marxism.

In order to know whether this advanced state of mankind ideological evolution (liberalism) or Islam better provides the greatest benefits to the greatest numbers then it is very important to know that what are the thing which is necessary for the benefit of human wellbeing (Public Interest)? For this purpose, the next section will shed some light on the idea of public interest as elucidated by the non-Muslims writers. Section three will document the idea of public interest as explained by Muslim scholars, followed by brief conclusion in the last section.

## **2. Public Interest among the Non-Muslims Thought:**

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<sup>4</sup> Francis Fukuyama, *THE END OF HISTORY AND THE LAST MAN* (New York: The Free Press, 1992).

<sup>5</sup> Asad Zaman, “Not Just Europe,” *The News International*, October 24, 2008, <https://www.thenews.com.pk/archive/print/141548-not-just-europe>.

<sup>6</sup> Francis Fukuyama, “The End of History,” *Center For The National Interests* 16 (1989): 3–18, <http://www.jstor.org/stable/24027184>.

Public interest existed and were widely discussed among the European writers since the dawn of history. In old time the idea of public interest<sup>7</sup> has been associated with the state. Res publica in Latin language is used for the state while republic is used for the public affairs or public things. In the Plato's republic, this concept was associated with non-democratic (non-autocratic) types of states. During the middle ages, the concept continued its journey with republican elective governments. It existed on one side in short lived revolutionary polities either in the form of Roman Commune or Florentine Republic, while on the other side it existed in the long-lasting oligarchic city states of Venice and Hanseatic ports. Through the era of Renaissance, the concept of public interest was associated with republican states such as the Cromwell's Commonwealth in England and in the Staaten of the Netherlands. In contrast with the polities based either on feudalism or the divine right of king, here the emphasis of the public interest is on public, representing the state as more or less inclusive of the whole community.

With the passage of time as well as with the practice of changing political and economic conditions about planning, public interest have moved through various transformation and raised awareness to various aspects. The emergence of enlightenment<sup>8</sup> brought a shift in the meaning of the public interest, to focus more on self- interest, rather than the community interest. Enlightenment or the Age of Reason<sup>9</sup> was a philosophical movement that took place primarily in Europe and, later, in North America, during the late 17<sup>th</sup> and early 18<sup>th</sup> century. Its participants thought they were illuminating human intellect and culture after the "dark" Middle Ages. Characteristics of the Enlightenment include the rise of concepts such as reason, liberty and the scientific method. Enlightenment philosophers suspected the role of religion (especially the powerful Catholic Church) as well as monarchies and hereditary aristocracy. Accomplishment in the area of science and technology also encouraged the enlightenment<sup>10</sup> thinkers that the application of the scientific methods in all areas of human thought would lead to a radical improvement in human condition. All social problems such as wars, famines, disease, and misery were due to traditions and superstition (that is, Christianity). Opposing traditional establishment, encouraging fresh and innovative ways of thinking, and subjecting all ideas to the iron test of reason would lead to the improvement of the human race, and to moral progress.

After the emergence of enlightenment, Thomas Hobbes through social contract theory<sup>11</sup> explained the moral rules that will governs relation among peoples in the modern era. Although social contract theory is as old as

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<sup>7</sup> E. R. Alexander, "The Public Interest in Planning: From Legitimation to Substantive Plan Evaluation," *Planning Theory* 1, no. 3 (2002): 226–49, doi:10.1177/147309520200100303.

<sup>8</sup> Ibid.

<sup>9</sup> Jessie Szalay, "What Was the Enlightenment?," *Live Science*, 2016, doi:10.1353/ecy.2015.0022.

<sup>10</sup> Asad Zaman, "The Dark Side of the Enlightenment Project," *The News International*, May 12, 2008, doi:10.3138/tjt.15.2.139.

<sup>11</sup> James Fieser Louis P. Pojman, *Ethics Discovering Right and Wrong*, Seventh (Cengage Learning, 2011) P64.

philosophy is itself but in the recent past, it was redesigned according to the changes brought about by era of enlightenment. Thomas Hobbes<sup>12</sup>(1651), in his philosophical master piece Leviathan argued that that the sovereign's power stem from the obedience of the ruled, and the public interest is accomplished whenever the sovereign provided peace and prosperity. Hobbes in his modern social contract theory introduced the idea that humans by nature are unavoidably self-interested. All human being follows only what they perceive to be in their own individually considered best interests. They respond automatically by being drawn to that which they desire and repelled by that to which they are averse. Everything we do is motivated solely by the desire to better our own situations, and satisfy as many of our own, individually considered desires as possible. We are infinitely appetitive and only genuinely concerned with our own selves. Not only human being is exclusively self-interested, but they are reasonable as well. They have in them the rational capacity to pursue their desires as efficiently and maximally as possible. From these premises of human nature, Hobbes goes on to the State of Nature. For Hobbes, the state of nature is characterized by the "war of every man against every man," a constant and violent condition of competition in which everyone has a natural right to everything, regardless of the interests of others. Existence in the state of nature is famously described as, "solitary, poor, nasty, brutish, and short." The only laws that exist in the state of nature (the laws of nature) are not covenants forged between people but principles based on self-preservation. In the state of nature, everyone tries his best for obtaining peace, as far as he has hope of obtaining it; and when he cannot obtain it, that he may seek and use all helps and advantages of war. In the absence of a higher authority to resolve, everyone fears and mistrusts everyone else, and there can be no justice, commerce, or culture. That unsustainable condition comes to an end when individuals agree to relinquish their natural rights to everything and to transfer their self-sovereignty to a higher civil authority, or Leviathan. For Hobbes, the authority of the sovereign is absolute, in the sense that no authority is above the sovereign and that its will is law. That, however, does not mean that the power of the sovereign is all-encompassing: subjects remain free to act as they please in cases in which the sovereign is silent (in other words, when the law does not address the action concerned). The social contract allows individuals to leave the state of nature and enter civil society, but the former remains a threat and returns as soon as governmental power collapses. Because the power of Leviathan is uncontested, however, its collapse is very unlikely and occurs only when it is no longer able to protect its subjects. According to this argument, morality, politics, society, and everything that comes along with it, all of which Hobbes calls 'commodious living' are purely conventional. Prior to the establishment of the basic social contract, according to which men agree to live together and the contract to embody a Sovereign with absolute authority, nothing is immoral or unjust, anything goes. Society came into being only after the establishment of social contract theory in which people are assumed that they will hold on to their promises, cooperate with one another and so on. The Social Contract

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<sup>12</sup> Celeste Friend, "Social Contract Theory," Internet Encyclopedia of Philosophy, 2015, <http://www.iep.utm.edu/soc-cont/>.

theory is the most fundamental source which serves the interest of any society. The choice of the general public is either to abide by the terms of the contract or return to the state of nature. In social contract theory it is believed that public interest is only achieved whenever people en masse agree to behave morally.

More recently in academic and philosophical debate, Public Interest as an ideal received a full airing in the second half of the twentieth century. Instead of clarifying the ambiguities surrounding the definition, Wolfson<sup>13</sup> suspected the very existence of public interest. It was then concluded that there no such thing as public and community interest at all. In fact, the public interest is believed as a noble lie, a myth or untruth of religious nature propagated by elite to provide social harmony or to advance a secret agenda. It was concluded that this noble lie is no longer required. On the doubtful side of the issue some scholars noticed that it is impossible to exactly know what the public interest is while others believed that it was adopted in order to deceive. Disagreement exists not only on the meaning of public interest, but it is also believed that which specific actions should be treated as fruitful and which should be not? For public interests what are the manner to differentiate between fruitful and harmful actions.

Similarly, sociologist<sup>14</sup> also noticed the non-existence of the idea of public interest. In a conflict model of society, it is believed that societies are composed of different groups with different and even conflicting interests. It seems to some writers that there is no such thing which link everything together. In other words, there are no supervenient interests which are common in the entire society. It is then believed that there is no such thing as public interest, but rather there are number of different and competing interests.

In political philosophy Cordoba opined that in the libertarian-liberal<sup>15</sup> situation there is no place for the idea of public interest. These scholars established their philosophical suppositions on the doctrine of natural law. According to the doctrine of natural law, the rights of man are the rights which are not established by human will, but by nature. They therefore pre-date the formation of any social group and this philosophical construct is the basis of the contention that the public powers have the obligation not to interfere in the private sphere. In other words, the only state interventions that can be considered just are those which safeguard individual rights. This approach is based on negative rights. The state, therefore, must protect those individual rights regardless of any consideration of collective wellbeing. Although some planning professional and theorists are trying their

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<sup>13</sup> Adam Wolfson, "Public Interest Lost?," *Daedalus*, no. Fall (2007): 20–29.

<sup>14</sup> Huw Thomas, *Values and Planning, Values and Planning*, 1st ed. (Routledge, 1994), doi:1856283062.

<sup>15</sup> Manuel Benanet F de Cordoba, "Public Interest in Political Philosophy. A Necessary Ethical and Regulatory Concept for Territorial Planning," *Boletín de La Asociación de Geógrafos Españoles* 53 (2010): 381–86, <https://dialnet.unirioja.es/descarga/articulo/3321108/2.pdf>.

best to defend and shed some light on the idea of public interest, but according to Moroni<sup>16</sup>, this old-fashioned idea is extremely unacceptable. Numerous planning theorists and practitioners make tremendous effort to endorse and defend the idea of public interest, still there is possibility of its extinction. Ambiguous interpretation by the planning and political theorist could be the reason for the non-existence of the idea of public interest.

Even though several writers and philosophers have denied the existence of public interest in a variety of arguments, but there are many Americans<sup>17</sup> as well as Anglo-Saxon traditions who considers selfishness as a bad thing and hence shed some light on the existence of public interest. These scholars consider selfishness as a nuisance and believes that it is something which stand in the way of effective administration. It is believed that the major function of the state is to mitigate the harmful impact of egoism. In medieval as well as in classical periods, scholars were usually concerned to enhance the character of its citizens. In the contemporary world the influential segments in American and English societies viewed human being as invariably selfish and therefore tried to implement some restriction on its freedom. It is further elaborated that the only aim and objective of the state is to establish rules and regulations for restricting the inborn misbehaviour of human character.

Although many scholars deny the very existence of public interest, but there are some exceptions including Jill Grant which acknowledge its existence. Grant<sup>18</sup> elucidated that planners have the competence and capability to identify the existence of public interest. Therefore, in the presence of various ambiguity, considerable effort has been formulated to accommodate and integrate the meaning of the public interest within the idea and activity of planning. During the planning process and then justifying public policy, "Public interest" is then defined<sup>19</sup> as a rule or concept serving to present something as suitable for long term approval or acceptance. It has no general, unchanging, descriptive meaning applicable to all policy decisions, but a nonarbitrary descriptive meaning can be determined for it in a particular case. This descriptive meaning is properly found through reasoned discourse which attempts to relate the anticipated effects of a policy to community values and to test that relation by formal principles. We can conclude that the concept is neither a vacuous phrase nor a verbal device useful only for propaganda purposes. It performs a function in political discourse, and it has a logic which, if taken seriously, will influence the kinds of policies adopted and rejected and the character of the political process utilized to adopt and reject those policies.

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<sup>16</sup> Stefano Moroni, "Towards a Reconstruction of the Public Interest Criterion," *Planning Theory* 3, no. 2 (2004): 151–71, doi:10.1177/1473095204044779.

<sup>17</sup> Peter J. Steinberger, "Calhoun's Concept of the Public Interest: A Clarification," *Polity* 13, no. 3 (1981): 410–24, doi:10.2307/3234618.

<sup>18</sup> Jill Grant, "Rethinking the Public Interest as a Planning Concept," *Plan Canada* 45, no. 2 (2005): 48–50.

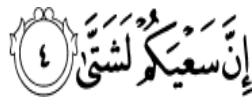
<sup>19</sup> Richard E Flathman, *The Public Interest, An Essay Concerning the Normative Discourse of Politics* (John Wiley & Sons, 1966).



It is further elaborated that the public interest requires policies based on knowledge rather than prefabricated ideological accounts of social reality. And they unabashedly endorsed Walter Lippmann's definition<sup>20</sup>: "The public interest may be presumed to be what men would choose if they saw clearly, thought rationally, acted disinterestedly and benevolently". Seeing clearly meant realistically assessing basic facts and structures, undistorted by passion, hope, or preconception. Thinking rationally meant understanding both instrumental relations and substantive relations. Instrumental relations involve that if I do X, the likely consequence will be Y while in case of substantive relations is that in which a specific outcome A is more urgent/ important, than B. Acting disinterestedly meant giving no more weight to one's own interests (or to the interests of one's family, tribe, coreligionists, or fellow partisans) than to the interests of others, while acting benevolently meant affirmatively caring about meeting others' needs and concerns.

### 3. Public Interest (Maqasid Al-Sharia) in Muslim Thought:

It is observed that there exist vast differences among the humans in terms of their nature and objectives. These differences may broadly be divided into two major categories which are either good or evil. How does this diversity<sup>21</sup> of human goals impact on the organization of economic activity? How can we co-ordinate efforts taking this diversity into account? Since time immemorial these questions have been the subject of a deep investigation among philosophers and intellectuals. The Noble Quran highlighted this reality in the following verse:



Surely your efforts are directed towards various ends<sup>22</sup>.

In the Noble Quran the word "Kum" in Arabic language has been interpreted<sup>23</sup> in several ways but majority of the interpreter is of the opinion that it refers to the whole of humanity. Similarly, the word "Sae" means to pace at a speed faster than walking but slower than running. People often pace up and down when they have an urgent or important matter to deal with. Allah (SWT) used this word to describe Firaun/Pharoah when he was

<sup>20</sup> William A Galston, "An Old Debate Renewed: The Politics of The Public Interest," *Daedalus*, no. Fall (2007): 10–19.

<sup>21</sup> Asad Zaman, "Contrasts between Islamic and Economic Views of Incentives," *Journal of Islamic Economics, Banking and Finance*, 2011, 8, [https://www.academia.edu/2750769/Contrasts\\_between\\_Islamic\\_and\\_Economic\\_Views\\_of\\_Incentives](https://www.academia.edu/2750769/Contrasts_between_Islamic_and_Economic_Views_of_Incentives).

<sup>22</sup> Quran 92:4

<sup>23</sup> "Tafseer Surah Al Layl 92," accessed March 3, 2019, <https://tafseerstudy.wordpress.com/juzz-amma/92-al-layl/>.


spacing up and down stressed out with trying to find a way to counter Musa’s growing influence<sup>24</sup>. Allah (SWT) is essentially saying that the concerns of the peoples are that they are running in both a religious and non-religious manner. The concerns of human being are diverse and contradictory in the same way the night and the day and the male and the female are. In a religious sense for example, the Muslims are making efforts for the establishment of the religion/Deen and the non-Muslims are making efforts in the opposite direction to harm the teachings of the religion/Deen. In this world everyone has different concerns, problems and responsibilities which push them in different directions. In the Noble Quran, there are two words used for different and diversified things. The word “Mukhtalif” is used to describe two wholly and originally different things. Shatta however is for something that was once whole but subsequently was separated into different entities. The Noble Quran highlighted this in the following manner:

“Another sign for them is the night; when We withdraw the daylight from it, and behold they are in darkness<sup>25</sup>.”

Allah (swt) describes that day as being snatched or pulled from the night almost as if the day is broken away from the night. Similarly, the first woman Hawwa was broken away from Adam (as) and mankind was originally upon the way of Islam and Adam (as) until that way got shattered into different paths. Humanity is meant to be a united nation whose efforts are one and the same. Yet, just like night and day, male and female come together to become a whole so too do the opposite efforts of the Muslims and non-Muslims come together to fulfil a greater plan. This changes the way we look at the Seerah of the messenger (saw). If the two opposite efforts of the Muslims trying to further the cause of Islam and the disbelievers trying to oppose it did not come together then the verses instructing people to be patience and the verses instructing the believers to make hijra for example would not have come down. All the efforts and struggles in the life of the messenger (saw) are not the result of a one directional effort on the part of the believers but rather it is in addition to the opposing effort of the disbelievers. So, although the people are divided (shatta) in their motives and ideologies, they are all under the One main plan of Allah (swt).

Among these diversified aims and objectives, humans can rise higher than the angels and be worse than the beasts. The vast potentials buried within each human being is highlighted in the Noble Quran:

ثُمَّ رَدَدْنَاهُ أَسْفَلَ سَافِلِينَ



<sup>24</sup> Quran 79: 22

<sup>25</sup> Quran 36: 37

Then We reduced him into the lowest of the low.<sup>26</sup>

In this verse Allah (SWT) tells us that He created man in the best fashion and then due to the evil of his actions human being lowered him/her to the lowest of the low. So this is not a flaw in Allah's creation that this human slave went to the lowest of the low. Allah (SWT) purposely mentioned Himself lowering this human because if He did not then people might think that Allah's creation was not really perfect. There are a number of opinions regarding what being the lowest of the low really is. One opinion is that reaching the lowest of the low is reaching old age. Animals can still carry out certain jobs for their owners and even take care of themselves when they are old but men cannot and so they're lower than even animals in old age. Another opinion is that it refers to the weakness of those who used to be strong in body and mind. However, others say that in the context of this surah one cannot really say that it is the physical creation of the human being referred to. Rather it is his moral and ethical makeup which made him high in the first place. The soul is what made him high and so it does not make sense to mention the weakness of the body.

There are many words in the Arabic language for turning away but Radad specifically is used here because it means to reject something on the basis that it is unacceptable. Allah (SWT) rejected man because he did something unacceptable after being created in the best possible fashion. Asfal as-Safileen is the Lowest of the Low and the word Asfal means the lowest and is the antonym of the word Ala, which means the highest. Allah (SWT) used both words in the following ayah, and made the word of those who disbelieved the lowest, while the word of Allah – that is the highest. And Allah is Exalted in Might and Wise<sup>27</sup>. Sifla is used for low or nasty people that you don't want to associate with. It does not refer to low in terms of class or wealth but rather in terms of morals and behaviour. Allah (SWT) created man above everything else so much so that the angels had to do Sajda/prostrated to Adam (AS),

“And We have certainly honoured the children of Adam and carried them on the land and sea and provided for them good things and preferred them over much of what We have created, with [definite] preference<sup>28</sup>”.

So, the human is higher on the earth and everything else is beneath us and at our service. Now Allah (SWT) says that because of man's unacceptable behaviour he was made the lowest of the low and even lower than the things he was designed to be higher than. Humans were supposed to worship Allah (SWT) yet they end up worshipping things that are lower than humans when they reject Allah (SWT). Therefore, they bring themselves to be lower than things which are inherently low. Modern thought has said that humans are like animals, yet

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<sup>26</sup> Quran 95: 5

<sup>27</sup> Quran 9:40

<sup>28</sup> Quran 17:70

mankind has consistently shown through the ages that he can often be lower than even animals. Animals will usually only attack other animals when they are hungry or in danger. If they have full stomachs, they are not likely to attack. However, the human being is such a creation that he will continue to attack, steal, rob and cheat despite having wealth simply because of his greed. Mankind can engage in horrific and degrading deeds that animals would never do such as war, rape, genocide and oppression and so man becomes lower than animals. Other interpreters of the Noble Quran say that this verse is talking about hellfire where people will be when they sin. If Allah (SWT) has honoured the human being and he has lowered himself to the lowest of the low in morals and behaviour, then Allah (SWT) will throw him into the lowest parts of the hellfire.

The word Thumma is used to put a gap between things and its use here illustrates that there was a long gap between the time that man was created in the best fashion and when he was reduced to be the lowest of the low. Some scholars have said that when Allah (SWT) first created man and they took the covenant from Him they were high but then when they came to the earth they were lowered. Another opinion is that when humans come out of the womb, they are decent and on the fitrah but when they became older, they became lowered and diverted from the fitrah due to their sins. Others say that when the message first came to the Muslims, they were upright but then when they were tested, they lowered themselves. The Thumma also indicates that Allah (SWT) will give people time to redeem themselves when they sin before punishing them. How do we reconcile this ayah of mankind being created in the best form with other Ayaat in the Quran which mention that man is weak and flawed. The answer is that Allah (SWT) created man in a balance of body and spirit. When there is an imbalance in this then the flaws of mankind manifest themselves. **This imbalance can occur whenever there are differences between the interest of individual against the interest of society, which can cause their spiritual connection to Allah (SWT) to suffer.** But when there is a balance of spiritual worship to Allah and permissible worldly matters, man gets strong and in the most upright position. When these two components are balanced, mankind is made the highest of the high but when imbalanced he/she is lowered.

For bringing a balance in individual deeds and actions as well as bringing harmony in its relationship with the interest of society (entire humanity), Muslims take guidance from Sharia<sup>29</sup>. For adherents of Islam, Shariah governs every aspect of daily life and provides a moral and legal framework for Muslims. It does not separate religion from daily life, nor religion from politics, nor politics from morals, nor morals from the state. The higher purposes (or maqasid) of the Shariah is to promote the good, to benefit human beings, and to protect them from evil. The purpose of Sharia, on one hand, is to enhance the wellbeing and happiness (Public Interest) of mankind on this earth while on the other hand it is believed as the absolute obedience to the commandment

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<sup>29</sup> Ghulam (2016)

of the Creator of this universe (Allah/God). Shah Waliullah<sup>30</sup>, explained this reality with the help of an example that in case of emergence of an epidemic a boss appointed a physician for curing their slaves. All those slaves who obeyed the advice of the physician on the one hand will get cured, while on the other hand it is also considered as the obedience of their Master. In a similar manner observing the Islamic law (Sharia) on one hand is beneficial for their lives on this earth (Public Interest), while on the other hand this obedience will receive a reward in the form of entering Heaven. Through revelation on illiterate Prophet Muhammad (SAW), God has commanded beneficial and harmful code for perfection in human lives, but at the same time granted freedom of action to know whether he/she adopts this code as the actual basis for his benefit in their life on this earth.

Life on this earth is a test of human behavioral freedom until death. It is a test of God/Allah to evaluate who is better in his deeds and action for himself and for the entire humanity in order to determine the final destiny which is either Heaven or Hell<sup>31</sup>.

Muslims believes that life did not begin at birth<sup>32</sup>, but a long time before that. Before even the creation of the first man. It began when God created the souls of everyone who would ever exist and asked them,

"Am I not your Lord?" They all replied, "Yea<sup>33</sup>."

God decreed for each soul a time on earth so that He might try them. Then, after the completion of their appointed terms, He would judge them and send them to their eternal destinations: either one of endless bliss, or one of everlasting grief. This life then, is a journey that presents to its wayfarers/travellers various paths. Only one of these paths is clear and straight which is the Sharia.

Literally, Sharia means the route towards the watering-place<sup>34</sup>, and in the context of Islam it refers to a path toward the religion. In a broader sense, based primarily on the Quran and the traditions of the Prophet Muhammad (SAW), Shariah refers to the teachings, guidelines and rulings that direct a Muslim's life in terms of his/her worship of God and relations with other human beings. In modern times, shariah has come to be regarded by many Muslims as a legal code and the implementation of which is thought to be fundamental to the establishment of an Islamic society or state. In its common usage, Shariah refers to commands, prohibitions, guidance and principles that God has addressed to mankind concerning to their conduct in this world and salvation in the next. The basic purpose of this and all other divine guidance is to enable man to forsake the

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<sup>30</sup> M Saeed Ahmad (2015)

<sup>31</sup> Quran 67:2

<sup>32</sup> Faraz Rabbani, "The Philosophy of Sharia," *BBC*, 2009, [http://www.bbc.co.uk/religion/religions/islam/beliefs/sharia\\_1.shtml](http://www.bbc.co.uk/religion/religions/islam/beliefs/sharia_1.shtml).

<sup>33</sup> Quran 7: 172

<sup>34</sup> Mohammad Hashim Kamali, *Shariah Law An Introduction* (Oxford: Oneworld Oxford, 2008), [www.oneworld-publications.com](http://www.oneworld-publications.com).

dictates of hawa, that is, the unhindered lust and appetite to evil; to lead him to righteousness and truth; to make him upright and worthy of assuming the divine trust of Khalifah, the vicegerent of God in the earth. Man is thus entrusted with the responsibility to establish justice and good governance in accordance with the guidelines of Shariah. Sharia is a path in religion, while religion is thus the larger entity and Shariah only a part. Its source of reference, its objectives and values are a part of mainstream Islam.

Shariah is also used in the Quran in contradistinction to hawa, or caprice (a sudden desire), especially of those who have no knowledge. Hawa thus stands at the opposite pole of Shariah, and the latter is designed to discipline the former and tell the believer that his conduct in society cannot be left to the vagaries of hawa. Hawa is tantamount to lawlessness and deviation from correct guidance. It is in this sense that the Quran has warned the people, on no less than twenty-five occasions, of the evil consequences of indulgence in their desires and the hold that it can have on their hearts and minds. The Quran thus declares:

And since they cannot respond to this thy challenge, know that they are following only their own likes and dislikes: and who could be more astray than he who follows [but] his own likes and dislikes without any guidance from God? Verily, God does not grace with His guidance people who are given to evildoing! <sup>35</sup>

Since the urge to follow one's desire is natural in human beings, there is a need for definitive guidance which the Shariah seeks to provide. To control human desires and prevent its evil influence is at once the function and objective of the Shariah of Islam.

For more than 1000 years on different occasions, Muslims scholars started to highlight the purpose and importance of Sharia<sup>36</sup>. Imam al-Juwayni (d 478/1185) said: "The aims of Shariah are nothing but the interests of the entire humanity." Imam al-Ghazali (d 505/1111) discussed al-maqasid under the principle of the public interest. Imam al-Tufi (d 716/1316) defined public good as the way that fulfils the objectives of the teachings of God and His Prophet, and that public interest may be taken as even more important than what we might understand from textual proof based on Islamic revealed knowledge of the Noble Quran or the Sunna.

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<sup>35</sup> Quran 28:50

<sup>36</sup> Mohammed Ali Al-Bar and Hassan Chamsi-Pasha, *Contemporary Bioethics: Islamic Perspective, Contemporary Bioethics: Islamic Perspective* (Springer open, 2015), doi:10.1007/978-3-319-18428-9.

In the twelfth century Abu Hamid al-Ghazali<sup>37</sup> (d. 1111) explained that the objective of Sharia is to promote the public interest of the entire humanity, which lies in safeguarding their faith (din/religion), their human self (nafs), their intellect (aql), their posterity (nasl) and their wealth (mal). Izz al-Din Abd al-Salam's (d. 1261) in *Qawaid ul-Ahkam* or "legal maxims" expanded and broadened the discussion of maqasid in terms of promoting benefit and preventing harm. Ibn Taymiyyah further expanded and broadened the list of Maqasid-Al-Sharia by including the fulfilment of contracts, preservation of kinship ties, honouring the rights of one's neighbours, sincerity, trustworthiness and moral purity. The work of al-Shatibi, however, made a more profound contribution to the theory of maqasid by focusing on the concept of maslaha (public interest) as an approach to overcoming the rigidity imposed by literalism and Qiyas (analogical reasoning). The Maqasid theory of al-Shatibi is based on an inductive reading of the Quran in order to identify the higher objectives, intent and purpose of the Qur'anic verses, which are understood to preserve human interests in both this world and the next.

In the contemporary world Asyraf Wajdi<sup>38</sup> documented that Shariah is a system of ethics and values covering all aspects of human life including personal, social, political, economic, and intellectual. Its manners as well as its major means of adjusting to change cannot be separated or isolated from Islam's basic beliefs and its teaching, values, and objectives. To understand the Shariah, one needs to comprehend its objectives, which allow flexibility, dynamism, and creativity in social policy. Generally, Shariah is established on benefiting the individual and the community, and its laws are designed to protect these benefits and facilitate the improvement and perfection of human life in this world and hereafter. The Shariah's uppermost objectives rest within the concepts of compassion (kind-heartedness, benevolence) and guidance, which seek to establish justice, eliminate prejudice, and alleviate hardship by promoting cooperation and mutual support within the family and society at large. Both of these concepts are manifested by realizing the public interest that Islamic scholars have generally considered to be the Shariah's all-pervasive value and objective that is, for all intents and purposes, synonymous with compassion. Maqasid- Al-Sharia sometimes implies the same meaning as Maslaha, and scholars have used these two terms almost interchangeably.

From a linguistic perspective, Maslaha is a noun of the verb Salaha, which signifies something which is genuine, sincere, right, and good. In a rational and reasoned sense, it signifies a source for achieving a goal or

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<sup>37</sup> Halim Rane, "The Relevance of a Maqasid Approach for Political Islam Post Arab Revolutions.," *Journal of Law & Religion (Journal of Law & Religion)* 28, no. 2 (2013): 489–520, <http://search.ebscohost.com/login.aspx?direct=true&db=aph&AN=89380007&site=ehost-live>.

<sup>38</sup> Asyraf Wajdi Dusuki And Nurdianawati Irwanai Abdullah, "Maqasid Al-Shari`ah, Maslahah, and Corporate Social Responsibility Asyraf," *The American Journal of Islamic Social Sciences* 24, no. 1 (2005): 21, <http://irep.iium.edu.my/2209/>.

an event which is good or for good<sup>39</sup>. Literally it is then concluded as something of benefit, advantage, prosperity, or success and the antithesis of which is harmful or Mufسادah (devilish). Eliminating Mufسادah is also considered as Maslaha.

Maslahah is a juristic device used in Islamic legal theory to promote the public good and prevent social evil or corruption. Its plural Masalih means “welfare, interest, or benefit.” Literally, Maslahah is defined as seeking benefit and repelling harm. Sometimes Maslahah and Manfaah (benefit or utility) are used interchangeably but however, Manfaah is not synonym with Maslahah. Muslim jurists defined Maslaha as seeking benefit and repelling harm, as directed by God or the Shariah.

### **Classification and Types of Maslaha:**

Based on its consequences, strength and utilities, Al-Shawkani<sup>40</sup> divided the “objective of Sharia/Masalih into three broad categories. These types of Maslaha are the Necessity/ Daruriyat, Complementary/Hajiyat and Embellishments/Tehsinyaat.

#### **a. Necessity/Indispensible/Daruriat:**

Maslaha daruriyyah is that type of Maslahah which are located at the height above the Maslaha Hajiiyya, and Maslaha Tehsinya. This type of Maslaha is of utmost importance to the existence to human life and society. In Islam it is considered as the public interests of entire human being upon whom people essentially depend. It is composed of maintaining and preserving five things which are preserving and maintaining religion (Hifz-al-din), life (Hifz-al-Nafs), wisdom/intellect (Hifz-al-aql), decendent/progeny (Hifz-al-nasl) and wealth (Hifz-al-mal). Anything that is deleterious to the above should be avoided, and anything that will preserve the above is meritorious and should be done. In the absence of these things the continuity of mundane life is impossible.<sup>41</sup> The above-mentioned categories are called the five basic needs of utmost importance (Daruriyyat khamsah). These five basic needs of maqasid al-shariah have an important role in legislation under Islamic law. All these essentials are interlinked and in case of new legislation according to shariah these five things cannot be ignored under any circumstances. According to Mohammad Hashim Kamali<sup>42</sup>, these elements are by

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<sup>39</sup> Al-Hilali, saad al-sin Musaid. 2004. *Al-Maharat al-Usuliyyah wa Atharuha fi al-Nudj wa al-Tajdid al-Fiqhi*. Majlis al-Nashr al-ilmi. Jamia al-Kuwait.

<sup>40</sup> Al-shawkani. 1979. *Irshad al-Fuhul ila Tahqiq al-Haqq min ilm al-Usul*. Beirut, Dar al-Marifah.

<sup>41</sup> Al-Shatibi, Abi Ishaq Ibrahim bin Musa. 1395H. *al-Muwafaqat fi Usul al-Shariah*. Mesir, Maktabah al-Tijariyyah.

<sup>42</sup> Wael B Hallaq, *The Impossible State, Islam, Politics and Modernity's Moral Predicament*, (New York: Columbia University Press, 2013).



definition absolutely necessary for the proper functioning of a person's religious and everyday affairs to the extent that their destruction and collapse would precipitate chaos and the collapse of social order. Thus, protecting them reflects the effective way of preserving the Shariah, as outlined in its objectives.

**b. The Complementary/Needed Things (Maslahah Hajiyyah):**

This maslahah supplement only Maslahah Al- Daruriyyah and are needed to remove difficulty and hardship and for the procurement of ease and convenience in life. It is distinct from Maslahah Al- Daruriyyah, because its unavailability does not cause disturbance in social life. Its non-observance only results in hardship or inconvenience contrary to chaos. It is therefore logically required to remove difficulties and hardship from all human activities, whether in the form of religious worship, customs, muamalat (business) and crime.<sup>43</sup>

**c. The Embellishment/Recommended (Maslahah tahsiniyyah):**

This type of Maslahah is localized below the level of Maslahah Daruriyyah and Maslahah Hajiyyah. It is associated with something which promotes refinement and perfection in the customs and conduct of peoples at all social interaction. Al-Shatibi has defined it as "practices that are carried out in the best manners, complying with standard of good morality, and is free from things, disapproved by a person of sound mind. As a whole, it constitutes part of noble morality".<sup>44</sup> Its acclimatization and conformity to the premier customs and bypassing of certain traditions and habits which are loathed by people of ordinary prudence. An example of such habit and transactions (Muamalat), is to restrict the sale of faeces. In other word this means that a noble person would dissuade himself from such sale. In a same manner, the sale of surfeit water and grass is discouraged for the same logic, because it mirrors avarice and individualism which is loathed by the Muslims.<sup>45</sup> The importance and basis of this classification in fact provides a criterion to remove conflicts between different classes in society. For instance, in the event of clash among these three classes, Daruriyyah would be given the first priority followed by Hajiyyah and then Tahsiniyyah.

Within the range of usul al-fiqh and from the view point of availability of textual authority, Maslahah<sup>46</sup> are then divided in three broad categories which is known as Masalih- Al-Mutabarah, Masalih Al-Mulgha and Masalih

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<sup>43</sup>Al- Ayub, Muhammad Saad. 1998. *Maqasid al-Shariah al-Islamiyyah wa Alaqatuhu bi al- Adillah al-Shariyyah*. Riyad, Dar al-Hijrah.

<sup>44</sup> Al-Shatibi, Abi Ishaq Ibrahim bin Musa. 1395H. *al-Muwafaqat fi Usul al-Shariah*. Mesir, Maktabah al-Tijariyyah.

<sup>45</sup> Al- Ayub, Muhammad Saad. 1998. *Maqasid al-Shariah al-Islamiyyah wa Alaqatuhu bi al- Adillah al-Shariyyah*. Riyad, Dar al-Hijrah.

<sup>46</sup> Tawfiq Al-mubarak and Noor Mohammad Osmani, "Applications of Maqasid Al- Shariah and Maslahah in Islamic Banking Practices : An Analysis," in *International Seminar on Islamic Finance in India, 4 - 6 October 2010, Kochi, India*, 2010, 1-17, [irep.iium.edu.my/id/document/8752](http://irep.iium.edu.my/id/document/8752).

Al-Mursalah. Maslahah Al-Mutabarah is that Maslaha which the Law Giver has expressly upheld and enacted a law for its realisation. Similarly, Masalih which are rejected outright are referred to as Al-Masalih al-Mulghat, and the masalih which are neither accredited nor denied of, are considered as Al-Masalih al-Mursalah.

#### **4. Conclusion:**

Among the non-Muslim writers specifically in the global north public interest got prominence during the appearance of democracy in the Roman empire. At that time public interest has been associated with the states by keeping the benefit of whole community. After the emergence of enlightenment scholars concentrated more on self-interest within the jurisdiction of a specific nation rather than the interests of society. The shift in benefit from community to self-centredness brought a confusion due to which large number of scholars even denied the very existence of public interest and considered it as a noble lie of religious or political nature. Other believed on its existence and defined it as a rule or concept serving to present something as suitable for long term approval or acceptance. It is considered that public interest has no general, agreed upon descriptive meaning applicable to all policy decisions. Rather than it is believed that public interest has nonarbitrary descriptive meaning which can be determined in a case by case situation.

In contrast to the individualistic pursuit of self-interest who emphasises on dissolving societies, Islam has prescribed an all-time applicable rules and regulations in the form of guidance, commands, prohibitions and principles. The only aim and purpose of Sharia (Maqasid Al Sharia) is to create a one single whole community of human family (Ummat), in which there is no place for enmity and which unify human hearts in love and affections. Islamic jurisprudence incorporates, public interest an important element, here in this world and hereafter. Public interest is the main driving force and fundamental entity in its rules and regulations. Public interest that is Maqasid Al Sharia in Arabic language regulates all activities and transactions in a manner that is favourable to attainment of human welfare here and hereafter worlds. Public interest on one hand is prime element in the Islamic law, while on the other hand, it plays a vital role in the course of legislation.

In the next essay I will discuss the evolution and the morality of neoliberalism. I will then proceed to show that neoliberalism is extremely harmful and hence does not serve the public interest.