THE IMPACT OF MAQASID AL SHARIAH (OBJECTIVES OF ISLAMIC SHARIAH) TO OBTAIN LEGAL PROTECTION OF HUMANS; A COMPARATIVE AND ANALYTICAL STUDY OF THE QATARI LAWS

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ABSTRACT

Objective: This study is to raise the question about the extent to which legal protection for human being security is achieved from the perspective of the Qatari Law and to illustrate the impact of Maqasid al-Sharia of human being soul protection in regulating this right as a legislative text in Qatari Law and Constitution.

Theoretical framework: The study has reviewed the Holy Quran and the texts of Hadith as primary sources. Whereas, different national and international reports, laws, and acts and predominantly the legal provisions of the Permanent Constitution of Qatar have been referred to as secondary sources for review.

Method: The study has adopted analytical and comparative approaches to compare the legal provisions to explore consonances and dissonances.

Results and conclusion: The present study concludes that there may be convergences between the Sharia laws and the Qatari laws concerning the protection of human lives and money. The disposition of human organs, only in the greater interests of humans is the mere permissibility in the Qatari law which is congruent to the Sharia laws. Moreover, it has been stipulated that the laws related to the procedures of arriving and living in Qatar and the employees are aligned with the Islamic legal system wherein, it has assured that they are given freedom to have living and work in the country with the social justice system.

Originality/value: The study has substantiative its review on the Islamic scholarship as well as the Qatari legal provisions to provide comparative and critical appreciation. This study offers the Islamic versus Qatari perspective regarding the protection of human lives.

Keywords: Maqasid al-Sharia (objectives of Islamic Sharia), security, safety, self-preservation, physical integrity, Qatari Law.

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RESUMO

Objectivo: Este estudo visa levantar a questão sobre até que ponto a protecção legal para a segurança do ser humano é alcançada a partir da perspectiva da Lei do Qatar e ilustrar o impacto de Maqasid al-Sharia na protecção da alma do ser humano na regulação deste direito como um direito. texto legislativo na Lei e Constituição do Catar.

Enquadramento teórico: O estudo revisou o Alcorão Sagrado e os textos de Hadith como fontes primárias. Considerando que diferentes relatórios, leis e atos nacionais e internacionais e predominantemente as disposições legais da Constituição Permanente do Qatar foram referidos como fontes secundárias para revisão.

Método: O estudo adotou abordagens analíticas e comparativas para comparar os dispositivos legais para explorar consonâncias e dissonâncias.

Resultados e conclusão: O presente estudo conclui que pode haver convergências entre as leis da Sharia e as leis do Catar no que diz respeito à protecção de vidas humanas e dinheiro. A disposição de órgãos humanos, apenas no interesse maior dos seres humanos, é a mera permissibilidade na lei do Qatar, que é congruente com as leis da Sharia. Além disso, foi estipulado que as leis relacionadas com os procedimentos de chegada e residência no Qatar e os funcionários estão alinhados com o sistema jurídico islâmico, no qual é garantido que lhes é dada liberdade para viver e trabalhar no país com o social sistema de justiça.

Originalidade/valor: O estudo fundamenta sua revisão sobre os estudos islânicos, bem como sobre as disposições legais do Catar para fornecer uma apreciação comparativa e crítica. Este estudo oferece a perspectiva islâmica versus catariana em relação à protecção de vidas humanas.

Palavras-chave: Maqasid al-Sharia (objetivos da Sharia Islâmica), segurança, proteção, autopreservação, integridade física, Lei do Catar.

1 INTRODUCTION

Maqasid al-Sharia (objectives of Islamic Sharia) is destined for the highest fulfillment of humankind in this world and the hereafter, sooner or later; the interests of people in this world are everything including their benefit, favor, goodness, happiness, and comfort, and everything helping them to avoid harm and damage and discard of mischief (fasad), sooner or later. On the other hand, the interests of people in the Hereafter are to attain the pleasure of Allah the Almighty in Paradise and survive Allah's torment and wrath in Hellfire. It should be noted that every Islamic rule (Al-ahkam al-sharia) has been revealed for the fulfillment of some good (maslaha), avoidance of some mischief (mafsadah), or both (Peletz, 2020). There is no good (maslaha) in this world and the hereafter that the Legislator (Allah “Mighty & Majestic”) has not considered and created
relevant provisions ensuring its creation and preservation. The Legislator the Almighty has identified, warned against, and guided people to ward off and avoid every mischief (mafsadah), in this world and the hereafter, sooner or later. The purpose of self-preservation has been put forward as one of Maqasid al-Sharia (Moten, 2021), where there is an indication of the harmony and consistency between Sharia and Qatari Law, which translated the purpose of self-preservation as enacted in Qatar’s Constitution for all to enjoy without discrimination. Notably, the Vision 2030 of Qatar is destined to form an egalitarian society, acting upon the laws of the land to ensure the protection of rights and dissemination of freedoms. Ethical and religious values have been specified as fundamental characteristics of a society that is abundant with rich cultural and customary practices where traditions and cultural distinctness can flourish and be protected. Further, this society signifies a sense of security and equality of opportunity.

The existence of human rights cannot be generalized in the context of Islam but the rights have been propagated by every religion or social order to protect humans. However, the context and dimensions of every religion can be differently interpreted which usually leads to misconception and inadequate deconstruction of ideas and laws that affect the basis and implementation of human rights and provide the opportunity for the anti-rights movement to propagate against the particular religion (Muhammed, 2021). Individual freedom alludes to the authority to make decisions without any dictation and coercive action. Not only the protection of human embodiment but also the freedom to express is permissible in Islam as an inviolable right that is universally applicable without any division based on faith, race, color, and gender (Bidin & Norshah, 2020). In addition, vivid rules are present in the Islamic code of law that delineate permissible actions to deal with the matters of organ transplant and donation as part of biomedical ethics or Shariah maximus of necessity. It does not allow these activities as they are deadly for the life and health of the donor. However, it is allowed upon death as a donation and when to donate double organs for saving the life of another person such as donating kidneys, skin, cornea, intestine, and bone marrow (Dayan et al., 2021). Since philosophical contributions of the objectives of Shariah are vivid to define and craft a constitutional framework of universal rights (Ponniah, 2022), this paper aims to review the impact of the objectives of Shariah on the Qatari laws concerning the protection of human beings’ security especially the right of self-preservation.
This research paper examines the problem related to the extent to which legal protection of human security is achieved as a universal right in the light of Qatari Law. It explores the impact of the objectives of Shariah (Maqasid al Shariah) regarding self-preservation to exercise this right as per the legislative text in the Qatari Constitution. The findings of this study will be a blueprint for the legislators, legal researchers and practitioners, constitutionalists, and students to analyze the convergences and divergences of the Shariah law and Qatari laws concerning protecting human security and self-preservation.

2 THEORETICAL FRAMEWORK

This study presents a comparative analysis of the Maqasid Al Shariah and elucidates its role in Islamic Jurisprudence. Maqasid Al Sharia represents a conceptual framework that embodies the essential objectives or goals of Islamic laws. These objectives encompass safeguarding life, religion, intellect, progeny, and property which have evolved throughout Islamic history. Grasping the historical development and evolution of Maqasid Al-Sharia is key to comprehending its influence on contemporary legal systems. The study also delves into the Constitutional provisions of Qatar which is a blend of Islamic principles and modern legal norms. These laws have been drawn from various sources of laws, incorporating Islamic jurisprudence and anchored in the nation's cultural and legal traditions.

3 METHODOLOGY

The study has analyzed the primary legal sources of Islam such as the Holy Quran and texts of Hadith. The secondary data of this study included different national and international reports, laws, and acts and predominantly the legal provisions of the Permanent Constitution of Qatar. The study intended to compare these legal provisions to explore consonances and dissonances, which exits to come up with many results. The research question has been answered by dividing the paper into two sections, in the first section, the ways of protecting human security in the static state of Qatari Law and Sharia are examined. The second section is devoted to studying the signs of protection of human security in the dynamic state of Qatari Law and Sharia.
4 RESULTS AND DISCUSSION

4.1 PROTECTION OF HUMAN SECURITY IN THE STATIC STATE IN QATARI LAW AND SHARIA

Rights protecting human security in the static state are a bill of rights that protects human beings' moral or physical integrity. However, it is a widely acknowledged fact that safeguarding the rights of humans is a prerogative of all states and is not a matter of merely the internal affairs of states (Ilchyshyn et al., 2023).

Typically, human rights are called General Rights because they are established for all without discrimination, where none may claim such rights only for themselves. They have also been called Personal Rights by Fiqh (scholars); as they are related to the constituent elements of individual and social material and moral aspects of human personality (Abdulhay, 1970). They are also called Natural or Human Rights because they are imposed by human nature and established for an individual as a human (Abdel Moneim Faraj Al-Sada, 1978). Since the purpose of Self-Preservation is embodied in the preservation of human life and security, the Qatari Legislator has, like other legislators in other countries, endeavored to ensure keeping the human body from harm, as will be made clear in the following two subsections:

4.2 RIGHTS PROTECTING HUMAN BEING PHYSICAL INTEGRITY

The human being physical integrity is to protect the human body against any violation. Legal protection of a human is described as purely an act and responsibility of the authorities concerned where a state has to facilitate its citizens to carry out arbitrary actions (Husen et al., 2023).

Given the significance of legal protection, special attention has been paid to the Constitution of Qatar (Official Gazette, Issue (6), Date of Publication 08/06/2005, p.7), on the matters of the legal protection of the human body. Article 37 of the Constitution states that the home, privacy, family affairs, and correspondence of individuals are protected under the Constitution, thereby any infringement or defamation is not permissible. In addition, Article 40 stipulates that all the punishments for crimes will be as specified by the law where no retrospective effect of the law will be applicable. This law implies that punishments are not subjected to be transferred and cannot be compensated as they are personal to the perpetrator. However, determining punishment merely as per the law is one of the main objectives of Shariah which has the chief aim of...
saving the human soul from destruction. In Sharia, this Article corresponds to the rule that says, "In principle everything is permissible." Such constitutional texts achieve the highest standards of the constitutional protection of humans, as the constitution guarantees that human privacy and dignity are sacrosanct. This is shown by the prohibition of interference with people's business and the inviolability of their dignity, family life, property, and communication that cannot be demeaned. Although, when it is necessary to deviate from this prohibition, it must be done following the legal provisions and legal manner described within. Article 325 of the Penal Code of Qatar (No. 11 of 2004) provides for deterrent penalties for whoever violates the sanctity of the human body by stating that:

Whoever threatens to hurt someone or to damage their wealth or reputation, or to hurt someone and distort the reputation or wealth of someone in whom they have a vested interest, whether the threat is orally or in writing or through acts intended to hurt someone or distort the reputation and wealth by coercing the victim to commit or omit an act, shall be liable to imprisonment of a term not exceeding three years in prison and a fine not exceeding ten thousand Qatari Riyals (10.000QR), or one of these two penalties.

Therefore, it can be said that the protection of human physical integrity is not only limited to being protected against violations by others but also extends to protecting human physical integrity against the right holder by preventing the latter from the disposition of the human body. Based on the above, such two ways of protecting the human physical integrity against others or the right holder are as follows:

4.3 PROTECTION OF THE HUMAN PHYSICAL INTEGRITY AGAINST OTHER

Providing legal protection for the basic rights of humans from any violations by others is the objective of the legal protection of human physical integrity (Boyle, 2007). Accordingly, the legality of basic rights is derived from Article 52 of the Constitution which specifies that an individual that is a resident of Qatar legally, is conferred with basic rights. This right requires that every human being enjoys the right to a living that is not subjected to partiality to the safety and life of his/her body. One of the most important signs of this protection is that others may not expose a person to killing, wounding, or getting beaten.

One of the verses revealed in the matter of preserving human health and safety from harm and human dignity and honor is where Allah the Almighty says: "And do not
kill yourselves, for Allah is Merciful towards you” (Surah an-Nisa: 29), "and do not throw yourselves with your own hands into destruction”, and "And we ordained for them therein a life for a life, an eye for an eye, a nose for a nose, an ear for an ear, a tooth for a tooth, and wounds is legal retribution (Qur’an 5:45)." All such verses prohibit violating the human body by killing and harming, the human or others, where Allah the Almighty also says: " We have honored the sons of Adam” (Surah Al-Ma'idah: 45), and this honoring includes all of that. One of the five necessary Maqasid al-Sharia that shall be preserved is the protection of the human physical integrity in Sharia means the preservation of the human soul, i.e., the human self, which is intended for finding, creation, preservation, and care. Islam has legislated preservation, protection, and inviolability of the human soul, eating, drinking, clothing, and housing, imposed qisas (retaliation in kind), Diyyat (monetary compensation), Al-Kaffarah (expiation of sin which refers to a special sanction to compensate for the offense or sin), and prohibited abortion and infanticide. Islam has legislated rulings to protect the human being’s soul; accordingly, required pregnancy and prenatal care, granted pregnant and breastfeeding women Rukhsa (permission) to relieve them and take account of their condition, and then developed provisions for children starting from birth in naming, guardianship, bringing up, discipline, halal food, and education until puberty.

To protect the human soul, Islam has prohibited suicide, which violates the human soul, and enacted laws about the taking of a limb or an organ (qisas-e ozv), life (qisas-e nafs), and qisas for injuries. On one hand, these laws are meant to protect and keep the human soul in the best of stature created by Allah the Almighty on the one hand, and the Quranic revelation specifies the rationale behind enacting qisas as " And there is for you in legal retribution [saving of] life, O you [people] of understanding, that you may become righteous (Surah al-Baqarah: 179)” Allah the Almighty has praised the righteous who forgives and then does well declaring: " Who spend [in the cause of Allāh] during ease and hardship and who restrain anger and who pardon the people - and Allāh loves the doers of good” (Surah Ali 'Imran: 134).

There are divine legislative and ameliorative provisions for self-preservation and full preservation of the human soul, taking full care of the human body, and considering a healthy body and physical strength to be a feature characterizing people. Prophet Muhammad (PBUH) said: " A strong believer is better and is more lovable to Allah than a weak believer, and it is good in everyone, (but) cherish that which gives you benefit (in
Islam has demanded keeping away from everything involving certain destruction of the body, imminent danger, or expected harm, prohibited everything harming, weakening, or reducing the power of the body, taken all measures for the preservation of life, made efforts in life preservation and safety, taken care of the perfection of attributes and the body, prohibited eating pork, dead meat, and blood; because they harm the body and are spoiled. It has warned against diseases; especially contagious diseases, and has emphasized seeking medical treatment (tadāwi), permitted adornment, demanded moderation in eating, spending, drinking, and other lawful things denied hunger strikes for the sake of asceticism and austerity, and forbade celibacy in worshiping as it exhausts the body (Jihad Mahmoud Abdel-Mobdi, 2011). Moreover, it forbade continuous fast (al-Wisal), prevented perpetual fast, made Taklīf (assignment) to the best of people's ability, and made Rukhsa (permission or license) in worshiping and provisions lawful fearing hardship and suffering (Jihad Mahmoud Abdel-Mobdi, 2011).

It should be noted that Sharia Jurists have stated the principle of "Physical well-being takes precedence over religious well-being." Islam has developed a sound method for regulating different instincts, diverse tendencies, and various emotions, and made sure they are in balance, without an instinct taking over other instincts; hence, the human falls into bad patterns and becomes perverted, or controlled and distracted from mental, psychological and spiritual aspects by passions and desires; disrupting the system of the human and life (Abu Bakr Al-Akhzoumi, 1985).

The existence of such protection of the human body or soul entails the following:

- A physician may not touch the patient's body except after obtaining the patient's consent because the human body is sacrosanct, and may not be a subject of any agreement, except for the sake of maintenance or preservation, in a way that touching is to be a violation of the sanctity or chastity of the human body. In application of this principle, a physician may not undertake surgery on a patient...
without their consent, unless their health condition prevents obtaining this consent.

- No one may be compelled to undergo medical experiments: The general rule states that no one may be compelled to undergo medical experiments (Ismail Ghanim, 1966), unless:
  a) They have a direct personal interest in experimenting.
  b) The chances of success of the experiment are highly reliable in practice (Hamdy Abdel Rahman, 1975).

In case of violating human life or body by others, this violation shall constitute a criminal offense, the perpetrator will be treated with prescribed punishment as per the Criminal Code. In case of claiming compensation, it will be applied in line with the procedure defined by the Civil Code.

4.4 PROTECTION OF THE HUMAN PHYSICAL INTEGRITY

Human beings have not been conferred with the universal right to live and the right to security merely for their interests at individual levels but for achieving the common goal of coexistence peacefully with a sense of social security so that everyone can play a role in building this society. The right to life relates to self-preservation, as it is one of the first basic and the most essential rights after which all other rights begin; when applied, the remaining rights are applied, and when not applied, the rights become useless (Ahmed Ben Bella, 1938). Accordingly, contemporary charters have been concluded affirming the right to life. For instance, the Universal Declaration of Human Rights comprises Article 3 which deliberates these quintessential rights (Assembly UN General, 1948). Another example is the International Covenant on Civil and Political Rights wherein Article 6 (1) has termed the right to life as an inherent right for humans (Degener & Koster-Dreese, 1995). Similarly, in the religious context, the Universal Islamic Declaration of Human Rights has also ratified Article 1(a) which confers upon the right to living while referring to human life as inviolable and sacrosanct. It emphasizes protecting human life by making maximum efforts and condemns any effort to harm or end human life following the Qur'anic revelation "That is why We ordained for the Children of Israel that whoever takes a life—unless as a punishment for murder or mischief in the land—it will be as if they killed all of humanity; and whoever saves a life, it will be as if they saved all of humanity. ‘Although’ Our messengers already came to
them with clear proofs, many of them still transgressed afterward through the land” (Surah Al-Ma’idah: 32). This sanctity shall not be snatched away except by the authority and procedures recognized by Sharia (The Universal Declaration of Human Rights in Islam, 1981).

In the matters, Prophet Muhammad (PBUH) said: "All things of a Muslim are inviolable for his brother in faith: his blood, his wealth, and his honor” (This is part of a Hadith related by Muslim (16/ 120 No. 2564), Ibn Majah (2/ 1298), Abu Dawud and At-Tirmidhi (See: Nuzhat al-Muttaqin, 1/ 251, Al Fath Al Kabeer, 2/ 322), Narrated by Abu Hurairah (RA). Also, in his last sermon, he said "Allah has made sacred upon you the blood, wealth and honor of each other, just as the sacredness of this day of yours in this land of yours in this month of yours (This is part of a Hadith related by al-Bukhari; narrated by Ibn 'Umar (6/ 2490), Abū Bakra (1/ 37, 52 No. 67, 105), and related by Muslim, narrated by Jabir bin Abdullah (RA) (8/ 182 No. 1218). Above all, Islam has awarded protection to human life at the stage where the human was not born and was present in the form of a fetus (Bashir, 2011). Therefore, every Muslim must defend this right and take any necessary means to guarantee such right, including food, medication, security, and non-deviance. Several Al-ahkam al-sharia (Islamic rules) are based thereon, including:

a) Prohibition of taking away lives: except for Shari’ah prescribed reasons; as the right to life is preserved and sacred in definitive and irrefutable texts, according to the two previously-mentioned Hadiths and Allah the Almighty's saying: " That is why We ordained for the Children of Israel that whoever takes a life—unless as a punishment for murder or mischief in the land—it will be as if they killed all of humanity; and whoever saves a life, it will be as if they saved all of humanity” (Surah Al-Ma'idah: 32).

b) Prohibition of suicide: Life does not belong to a human, but it is a God-given gift, and the soul is a trust in the hands of and may not be violated by a human. Therefore, Islam has regarded suicide as a heinous crime, and those who suicide, commit one of the greatest sins. by Abu Hurairah (RA) narrated that the Prophet (PBUH) said: "Whoever purposely throws himself from a mountain and kills himself, will be in the (Hell) Fire falling into it and abiding therein perpetually forever; and whoever drinks poison and kills himself with it, he will be carrying his poison in his hand and drinking it in the (Hell) Fire wherein he will
abide eternally forever; and whoever kills himself with an iron weapon, will be carrying that weapon in his hand and stabbing his `Abdomen with it in the (Hell) Fire wherein he will abide eternally forever” (Related by al-Bukhari (5778), Muslim (109), Al-Tirmidhi (2043) his text, Al-Nasa’i (1965), and Ahmed (7448). These are the references from the Quranic revelation where these excerpts signify a preventive measure to stave off the trend of self-imposed affliction on humans if suicide was allowed for a person himself then killing others had become easier for others.

In Qatar, more focus was given to ensuring human rights in 2002 when the government formed a National Human Rights Committee that was assigned the portfolio assuring human rights in the country. The principles adopted by this committee were parallel to the provisions enacted by Paris Principles under the auspicious of the United Nations General Assembly in 1993.

In this regard, it is worth noting that Qatari Penal Law No. 11 of 2004 criminalizes attempted or instigated suicide according to Article 304, which states: “Whoever attempted to commit suicide by using or taking any ac towards the commission of such offense shall be punished with imprisonment for a term not exceeding six months and/ a fine not exceeding three thousand Qatari Riyals (QR 3.000).” In addition, Article 305 (1) has established a seven-year imprisonment for one who abets someone in committing suicide.

4.5 RULING ON A PERSON’S DISPOSAL OF BODY PARTS

Muslim Jurists (Fuqahā) have had two perspectives on this matter:

Firstly, some scholars believe that life does not belong to a human, but is a God-given gift; accordingly, humans shall not kill or destroy themselves, cause harm to their bodies, or ask a person to endanger them. In this regard, some Jurists say: "There is no right of any kind or form that does not belong, in terms of origin, to Allah the Almighty", and "Every one of Al-ahkam al-sharia (Islamic rules) is not without the right of Allah" (Ibrāhīm 1994).

Secondly, some jurists accept the idea of a human's ownership of their body, but it is different from ownership of things. Therefore, a person does not have the right to dispose of the body as per personal intention, rather it is forbidden for the human to do actions harmful to his body, such as suicide; as Sharia limits human actions within
specific controls and interests. Accordingly, if a person's life is in danger; because of kidney disease, another person may donate to this person one of his two kidneys. This group of jurists does not conclude from a human's ownership of the body, the right of this person to endanger his dignity, rather they say that the very ownership of the body by the human is indicative of human dignity, but a human may not benefit from this ownership illegal (Ramadan Al-Bouti, 1994a).

Therefore, this group of Fuqahā believes that human actions are constrained by the limits of Sharia. For example, a human does not have the right to lose face and dignity, and may not divulge their secrets and expose their sins; under the pretext of having the right of this divulgation or exposition, but all of these matters are constrained by the limits of Sharia. This view has been supported by the opinion of some Fuqahā that the human right to dispose of his/her body is conditioned upon not leading the human to death, neither with certainty nor suspicion, and causing no harm to the origin of life, but rather remaining safe and stable, this human action within this restriction is the right of the servants, or more precisely: the right of the servant prevails over the right of God (Ramadan al-Bouti, 1994b).

We conclude that Fuqahā has addressed the issue of the extent to which a human may dispose of one of his/her organs from the perspective of dividing the organs into two types: the first type of organs cannot be regenerated; meaning that it is completely removed from the human body, such as kidneys, eyes, and lungs, and there is another type of organs that can be regenerated; meaning that it is removed from the human body and can be renewed. Concerning the first type, some Fuqahā are of the view that a human may not dispose of organs of the first type at all, and their sale is unlawful (Ala' al-Din abu Bakr Massoud al Kasini, Bada'i' al-Sana'i’ fi Tartib al-Shara'i’, 3011). They have justified this unlawfulness as stated in Bada'i’: “All parts of the human being are respected and honored, and there is no dignity nor respect in trivializing the human being by sale or purchase”. The reason for this unlawfulness given by the Hanbali is that such organs are useless, where Ibn Qudamah says: "It is forbidden to sell a severed organ because it is useless” (Al-Mughni By Ibn Qudamah, n.d.).

The second type of organs, which can be regenerated or renewed, has been divided by Fuqahā into three types; useful organs such as mother's milk and human blood, useless organs such as tears and spit, and a final type of useful organs not having the same Islamic ruling (Hukm Shar'i) as the first type, such as women's hair.
Article (10) Para. 1 of Qatari Law (15) enacted in 2015 aimed to enact necessary provisions of Human Organs Transfer and Transplantation provides (Official Gazette, Issue (16), Date of Publication 30/09/2015. P.15): "It is unlawful to deal in any organ, part, tissue or cell of the human body by way of sale or purchase or for a compensation of whatever nature, and it is unlawful to call for, advertise, promote or mediate in such a deal". Accordingly, except as stipulated in Article 5 of the aforesaid Law of a person with full legal capacity donating his organs or cells to his relatives or others, when necessary, a human may not dispose of his/her body or any of his/her organs.

Legal jurists have stated two types of organs: inseparable organs from the human body as their separation causes harm to the human, and separable organs causing no harm to the human body (Nour Hamed Alrhoom Alhajay, 2010). It has been made lawful by Fiqh for a person to dispose of his organs of this last type; as they will cause no harm being separated from the human body. A human may dispose of the following organs by sale: human hair by being cut and sold to make a wig, mother's milk, and human blood, as well as by donating one of his kidneys. However, the process of disposal must take place according to legal provisions as stated in the Qatari laws concerned (Article 5 of Qatari Law No. (15). Notably, no organ of the human body may be disposed of in a way different from public directives or standards. For instance, if an individual makes a deal with another person to gouge his eyes out to evade military service, then this deal is void as violating public order (Ismail Ghanim, 1966).

4.6 RIGHTS PROTECTING HUMAN MORAL INTEGRITY

Human ethical or moral integrity is of great importance. According to Quranic revelations, killing a person is equal to killing humanity in its entirety. Similarly, saving a life is tantamount to saving mankind (Surah Al-Ma‘idah: 32). Beyond the right to life, in the religion Islam, it was the first movement when human rights were not only provided to living human beings but also their corpora were also honored and it was made unlawful to disgrace the dead body of a human or any of the organs. This status of sanctity is universally applicable regardless of any division based on faith, color, race, nationality, and tribe. It reinstates to ensure that corpus is moved with due formality respect and honor. "When one of you shrouds his brother, he should use a shroud of good quality” (Narrated by Muslim, Abu Dawud, At-Tirmidhi, and Al-Nasa‘i). Nakedness and body defects shall be covered: "Don't abuse the dead, because they have reached the result of
what they forwarded” (Narrated by Al-Bukhari in his Sahih, in the chapter on what is forbidden from insulting the dead (2/104).

Thus, legislations in Qatar are aligned with the Quranic revelation about the sanctity and dignity of humans, the right to life, and self-reservation. The laws of the country protect the properties, homes, and belongings of everyone.

Recently, as a result of the emergence of the Internet, the Qatari Legislator assures legal protection and privacy of personal information and data. For this purpose, Law No. 13 of 2016 Concerning Privacy and Protection of Personal Data has been legislated (Rashed, Tarek Gomaa El Sayed, 2017). The country has also enacted legislation to protect the intellectual belonging of humans as it has implemented Patent Law by Decree No. 20 in 2006 (Abou El Farag, Mohamed Salem. (2014) that aimed to protect innovation and the rights of innovators. Further in 2010, to safeguard the industrial designs and models (Abou El-Farag et al., 2021), Law No. 10 was passed. Further, to preserve the rights of authors, copyrights, and neighboring rights, Law No. 7 of 2002 is part of the Qatari legislative framework.

Alluding to Article 37 of the Qatari constitution is completely aligned with the Islamic provisions that advocate individuals’ rights to live safely at their homes as stated in Surah al-Nur (Surah al-Nur: 27 – 29). This verse establishes the inviolability of the house and the right of the individual to enjoy this inviolability therein, away from the interference and curiosity of others.

4.7 PROTECTION OF HUMAN SECURITY IN THE DYNAMIC STATE OF QATARI LAW AND SHARIA RIGHTS RELATED TO PERSONAL ACTIVITY

Rights related to personal activity aim to ensure the exercise of activities and normal life by each human in society. Hence, they are called civil liberties; as they are given to a person versus another; including, the right to mobility, liberty of work, right to assembly, religious freedom, right to speak, freedom of thought, and freedom of marriage and found a family. Moreover, under Article 18 of the Qatari constitution, the society of Qatar has been characterized to have equality, ethical standards, freedom, and compassion where private properties are sacrosanct and except necessary legal obligations are to be performed for the common good (Center for Legal and Judicial Studies, Ministry of Justice, p. 91; Article 2 of Qatari Law No. (13) of 1988). The following section aims to address the role of objectives of sharia through the regulations of the Qatari legislators.
4.8 THE PROTECTION IN THE FIELD OF ECONOMIC ACTIVITIES

This protection includes three areas; the government-owned pledges for providing economic freedom, initiating comprehensive economic development, and encouraging foreign investment, as shown in detail below:

4.8.1 The State Guarantees Freedom of Economic Enterprise

Article 28 of the constitution guarantees economic freedom based on the prevalence of social justice and well-adjusted collaboration between public and private entities and activities for a harmonized development in the social and economic spheres that is crucial for common welfare optimal production, rise in lifestyle, and equality of opportunity for all. Accordingly, Qatar has enacted laws to regulate economic enterprise and achieve cooperation and partnership between government and private sectors, by issuing Law No. (12) about Regulating Partnerships between Government and Private Sectors in 2020. Generally speaking, the state is involved in traditional economic development that lies on the free-market principle and laissez-faire where the role of the state is to protect its territory and the interests of its citizenry nationally and internationally (Ahmed Farid and Mohamed Abdel Moneim, 1999). A guarantee which is provided by Sharia for the state to be involved in an economic enterprise is that the state adheres to all legislation, principles, rules, and rulings stated in Sharia. It implied a limited role of the authority concerned to make autocratic decisions and individuals have been given the prerogative to invoke Sharia if any dispute and the judiciary has a major and independent role in adjudicating conflicts and disputes that may arise between the State and citizens (Khudayrat, 2020).

4.8.2 The State Ensures Comprehensive Economic Development

The Legislator has enacted Law No. 27 of the 2006 Promulgating Trade Law, which is in line with the comprehensive economic development goals that the State seeks to achieve and for the state's legislation to keep pace with global developments prevailing in the commercial field. This Law governs legal and commercial obligations, specifying how they arise, how they expire, their regulations, impacts, specifications, and methods of proof. It also governs and determines merchants, the conditions for their acquisition of this capacity, and their obligations in this regard. These merchants include natural and
legal persons, represented by commercial companies (Mohamed Salem Abou El Farag and Moatasem El-Gheriani, 2013).

The importance of commercial companies organized in Qatar is shown in Law No. 11 of 2015 promulgating the Commercial Companies Law “through the process of collecting and investing capital appropriate for this purpose by legal means, in the circle of legality, and then reaping good profits, as well as through the key role played by companies in investing and exploiting funds in commercial, industrial, and agricultural projects, making them companies of interest to the state, by subjecting them to a flexible institutional system and advanced legal provisions, for the benefit of their shareholders and the national economy” (Salah Zeen El Deen et al., 2020). To protect competition and prevent monopolistic practices, the Qatari Legislator issued Law No. 19 enacted in 2006 about the Protection of Competition and the Prevention of Monopolistic Practices (Official Gazette, Issue (9), Date of Publication 10/10/2006. p.131). This Law aims to prohibit many forms of behaviors of individuals in the business community, including:

- Anti-competitive agreements. An example thereof is competitors' agreement in the market to raise prices to the detriment of the consumer, some competitors' agreement to severely reduce prices to the detriment of and try to drive their competitors out of the market, or competitors' agreement on spatial boundaries over which each of them exercises their control. Criminalization also includes punitive measures that competitors take to compel their competitors to comply with such monopolistic agreements.
- Attempts to create a monopoly situation in the market by illegal means.
- Abuse of a monopoly situation. In this case, the monopoly situation is a natural result of free competition in the market; however, a merchant tries to take advantage of the situation by achieving a monopoly in another market or monopolistic profits or preventing competitors from entering the market by means that corrupt the competitive market system itself.

4.8.3 The State Encourages Foreign Investment

The constitution of Qatar has reinstated the investment opportunities in Article (31) and stipulated to formulate the necessary investment regulatory framework for providing a conducive environment for investment as a state's prerogative. Along with it, a new investment law, Law No. 1 of 2019 has been added for encouraging and regulating
investment from foreigners to boost economic activities (Published in the Official Gazette, Issue (2), date of publication 24-01-2019). This enactment comprises judicial guarantees for protecting foreign capital and incentives in the form of allocating land for investment. It also includes tax exemptions and waiver of import duties with some binding regulatory controls. The process of arbitration and other sources for conflict resolution have been made easy.

4.9 PROTECTION OF FREEDOM OF WORK

There are many forms of this protection, whether in the labor law, special complementary laws thereof, or Sharia.

Protection of worker rights in the Qatari Labor Law

The Qatari Legislator has enacted Law No. 4 of 2004 on the proclamation of Labor Law, which includes many rights and privileges based on equality in rights and duties between the worker and the employer, for example: (1)

- Protection of the juvenile: As per Article 86, an individual aged less than 16 years is a juvenile who cannot be employed for work.
- Article 87 states that:
- The consent of the guardian or father of a juvenile is required along with the departmental permission to employ a juvenile.
- The case of a juvenile who is a student in Qatar requires the consent of the Minister of Education and Higher Education.
- Juveniles cannot be worked at a place where potential danger exists to their physical strengths and morals without the approval of the Minister (Decree No. 15/ 2005).

4.9.1 Health and Well-being of Juvenile

Paying attention to the health and medical care of the juvenile has been made compulsory under Article 88 which states that before joining any workplace, the medical board will examine overall health concerning the worker's suitability for the work to be performed. The employer has been made legally bound to perform this function every year (Law No. 4 of 2004).
4.9.2 Working Hours/ Time

In the light of Articles 89 and 90 at the time of sunset and sunrise, on holidays, and more than the designated working hours are 6 hours per day. It has been included in the roles of the employer to document the official schedule to make it part of the record as per Article 92. Whereas, Article 93 elucidates the protection of Qatari female workers, who are guaranteed by law many privileges according to international standards and, at the same time, strictly adhered to by employers. It implies equality of remuneration of female and male workers with the provision of equal opportunity for promotion and training. Article 94 pinpoints limitations, type, and schedule of work for female workers as they are not entitled to work at hazardous places in line with the directives of the Decision of Minister. Time has been restricted for women as they cannot work at night between 10 p.m. and 7 a.m. (Belknani, Faouzi Bin Ahmed & Ghazal, Mohammad Ammar (n.d.).

a) The rules of individual or collective labor dispute settlement, (Ali, 2017), The legislator enacted Law No. 18 in 2020 which modified some of the clauses of Labor Law No. 14 of 2004. It modified Article 115 which established the formation of a Labor Dispute Settlement Committee at the Ministerial level to resolve commercial conflicts.

b) Manifestations of Protection of worker rights in the Special and complementary laws of the Qatari Labor Law

c) Abolition of the sponsorship system or Kafala: The Qatari Legislator has always considered the human rights of the expatriate worker by abolishing the sponsorship system under Law No. 21 of 2015 which regulates the matters about entry and exit of expatriates and laws about their residents by Decree-Law No. (19) of 2020. Articles 21 and 23 define the condition of job switch for expatriate workers as they can get a new job despite the contract upon the approval of the employer and the Ministry of Labor and Social Affairs. However, an expatriate can work other than jobs at different organizations by getting the approval of the employer.

d) In any case, the approval of the Ministry of Labor and Social Affairs shall be required for the categories prescribed by the abovementioned provisions of the Labor

e) Code (Law No. 1 of 2017).
f) The legislator has enacted Law No. 15 of 2017 concerning Domestic Workers, which offers legal protection for domestic workers as stated in ILO Convention No. (189). Article 1 states that a domestic worker natural person who carries out domestic work, under the employer's management and supervision, in return for a wage such as a driver, governess, cook, gardener, or worker in a similar occupation. The Legislator has provided them with a suitable work environment that guarantees them many rights against the employer (Belknani, 2014), for example, the maximum hours of work shall not exceed ten hours a day, they shall be entitled to a paid weekly rest holiday, a three-week annual leave, and entitled for every year spent in service, to paid annual holidays, whose duration is three weeks.

4.9.3 Protection of Worker Rights in Sharia

Islam has taken care of and guaranteed the worker the right to care and a decent life based on social justice among all workers, and the elimination of injustice, especially in estimating wages (Zaid Mahmoud al-Akayla, 2013). Islam has protected wages and given the worker his/ her full wages (Surah Al-Ma'idah: 1). The legality of the Ijarah contract (employment in law) is stated in the primary sources of law in Islam where it has been asserted that among people some occupy higher ranks and are entitled to command work to others (Surah Az-Zukhruf: 32). Similarly, in the light of Hadith, it has been instructed to pay the wages of the workers as the fulfillment of the contract (Related by Ibn Majah, Sunan Ibn Majah, the Chapters on Pawning, Chapter: Wages Of Workers (2/816) No. (2443) and Sunan al-Kubra lil Bayhaqi, Kitab Al-Ijarah, Chapter: The sin of him who withholds the wages of employee (6/200) No. (11659). If the Ijarah contract is concluded having its elements and conditions fulfilled, then it is valid, its ruling i.e., legal effect applies once concluded, which is:

- Ownership, alienability, and paying the rent by the lessee are proven to benefit the lessor.
- The proof of ownership of the lessor is the rent; the value paid by the lessee since concluding the contract.

This ownership considers that, as time goes on, the leased property stays intact in the possession of the lessee, and the lessor owns a part of the rent for the received benefit at that time. If the full benefit of it is received, or the period of the lease has expired, the
lessor owns the full rent, even if the lessee didn't benefit from the leased property, as long as it is intact in his/her possession. However, if the commodities are destroyed at the disposal of the purchaser, he will be entitled to compensate for the damage. If the leased property is damaged after paying or being able to pay a part of the rent: if this part is normally profitable, the lessor owns the corresponding amount of the rent, as if a lessee leases a car to drive somewhere, and the car broke down before reaching the destination, then lessee shall only pay for the distance traveled, if lessee may continue traveling with no hardship from the place where the car broke down, or if the lessee wants to lease that place.

The Ijarah contract may only be valid in the stuff that may be prepared and used by the lessee keeping the property safe in place for its owner, and Ijarah may not be for depreciation of property. Ijarah is valid only under two conditions: paying the wage and describing the work, if one of them is unknown, then Ijarah is invalid. In this circumstance, the fair, not nominal, wage shall be paid, unless it is less than the fair wage; because the worker has accepted that (Ikhtiyar li-talil al-Mukhtar (2/ 57), and An-natf fi ’l-fatawa by Al-Sughdi (2/ 558). Ijarah shall have two forms for a specific work, herein, the wage is to be paid when the work is completed if the work shall be completed to fit the purpose, and if the work fits the purpose even if not completed, then the wage has to be paid according to the work completed, and if Ijarah is for a specific time, then the wage shall be paid in the agreed time, whether used or not, and the wage has to be paid off according to the elapsed time( Al-Muhit al-Burhani fi-l-fiqh an-nu’mani by Ibn Maza (7/ 586), Al-Mughni by Ibn Qudamah (5/ 321), and An-natf fi ’l-fatawa by Al-Sughdi (2/ 559). Wage variation by the type of workers; al-ajir al-khas (private worker) and al-ajir al-mushtarak (shared worker).

a) Al-ajir al-khas is a worker hired on a contractual basis to perform some tasks only by one party, working for one person. When a worker is hired for a month for service or otherwise; deserves the wage just for coming, even if it doesn't work for the benefits the employer provides.

b) Al-air al-mushtarak is a worker who offers his/her services to many clients, e.g., the dyer and the carpenter, as the subject of the contract is either work or its effect, and the wage is not payable, thus, this worker may work for others, a shared worker. This worker is not entitled to the wage unless it works, because the wage is not payable under the contract, and the wage is a trust; once received
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There are two types of al-ajir al-mushtarak:
- Type 1: a worker that has the right not to hand over the work unless the wage is paid, his/her work or wage has a long-term effect, e.g., the tailor makes clothing, the weaver, the dyer, etc.
- Type 2: a worker that shall hand over the work, his/her work isn't a property, hasn't a long-term effect, his/her wage hasn't a long-term effect in his/her work (An-natf fi 'l-fatawa by Al-Sughdi (2/ 562).

If the wage is payable under the same contract, it may not be delayed unless the worker agrees thereto, and the Hadith requires that the wage is payable after completing the work, because the sweat is secreted by working, and the contract holder can't take the benefit as it occurs step by step, and it is an exchange contract, equality is a must, hence, the wage isn't payable under the same contract, if the contracted work is fulfilled, the worker deserves the wage, according to equality, and if the worker requires the wage to be paid in advance, then the worker agrees to waive his right to delay payment, it is waived. Having completed the contracted work, the Ijarah contract expires: if Ijarah is for a specific work, it expires when the work is completed, and if Ijarah is for a specific time, it expires with the lapse of that time. If the lessee uses the leased property after the expiry of Ijarah, he/she shall pay the fair wage, in return for the benefit received after fulfilling the contract, and the lessee is responsible for the leased property, because of the violation by using it without a contract.

If a land plot is rented for a period for cultivation, and till the expiry, the goal was not achieved, the person shall pay a fair wage for the period of leasing the land plot after the expiration of the Ijarah contract, and shall not be responsible for the leased land plot, because he/she hasn't violated the contract while using it (Systematic Jurisprudence According to The Doctrine of Imam Shafi'i (6/ 157). If the lessee receives the leased property, he/she shall pay the rent, even if he/she doesn't use it, as giving the benefit is not possible, the rented property will be given back to be able to take the benefit. If the leased property is taken from the lessee, the latter shall not pay the rent, because he/she cannot use it anymore, as Ijarah becomes invalid and the benefit is taken step by step as
shown, if the leased property is taken before the expiry of Ijarah contract, the lessee shall not pay the rent for such period (Surah Az-Zukhruf: 32.)

5 CONCLUSION

This research has attempted to highlight the impact of the five Maqasid al-Sharia (the objectives of Sharia) in general, and the preservation of soul and money in particular, in ensuring the rights of individuals in Qatar. As illustrated in the study, the Permanent Constitution of the State of Qatar has stipulated and considered these Maqasid al-Sharia to be superior to the ordinary law and non-derogate. Accordingly, the Qatari Legislator must establish these Maqasid al-Sharia in the laws that it enacts. The study concludes that there are convergences between Qatari law and Sharia. The right to life and the safety of the human body is not established for the interest of the human being only, but also for the general interest of people to protect the security, and social peace and for society members to play their role in building this society. The legal protection of human physical integrity is the preservation of the human right to life and the safety of the body from any violation by others. No organ of the human body may be disposed of following the procedures opposite to public order or morals. Ensuring respect and protection for human moral integrity, including, the right to private and family life, the right to the safety of one's image, the right to honor and consideration, the right to respect human dignity, the right to the inviolability of the home, and right to the protection of one's name and copyright. Every society member has the right to the inviolability of living secretly in their homes. Ensuring practicing human activity and normal life in society. The State of Qatar has guaranteed liberty of economic enterprise, social justice, harmony, and cooperation among all strata of life. The state's intervention in economic activity is conditional on its adherence to all legislation, principles, rules, and provisions that the Sharia brought. The State of Qatar issued some laws that contributed to the achievement of comprehensive economic development. In 2006, the Trade Law and the Law on Protecting Competition and Preventing Monopolistic Practices were issued, and in 2015 the Commercial Companies Law was issued. In the field of encouraging foreign investment, Law No. 1 was issued in 2019 overseeing the investment of foreign capital. One of the manifestations of the legislator’s protection of freedom of work was the issuance of Labor Law No. 2004, which includes many rights and privileges based on equality in rights and duties between the worker and the employer. Likewise, the abolition
of the sponsorship system according to the law defining the procedures about arrival and living in Qatar and finally the employees’ law in homes that provide them with the right to decent work. Islam cared for the workers and guaranteed them the care and rights that guarantee them a decent life with social justice among all workers, and the elimination of injustice, especially in estimating wages.

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