

**AL-MASALIH AL-MURSALAH AND THE WESTERN THEORIES  
OF PUBLIC INTEREST**

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<b>Abstract</b>	<p><i>This study critically analyzes and compares the concept of al-masalih al-mursalah (public interest) in Islamic law (Shariah) with the Western theory of public interest. The objective is to explore the fundamental differences between these two perspectives by examining both primary Islamic sources, such as the Qur'an and Sunnah, and Western theoretical frameworks. The methodology employed includes qualitative analysis, using textual interpretation of the objectives and principles of Shari'ah (Maqasid al-Shari'ah) and Western philosophical writings on public interest. Islamic jurisprudence highlights maslahah as a guiding principle when there are no explicit rulings from the Qur'an or Sunnah, focusing on the protection of religion, life, intellect, lineage, and property. In contrast, Western public interest theory is grounded in community values and social ties. The findings reveal significant differences, with Islamic public interest being intrinsically tied to divine law, while Western public interest is often driven by societal consensus and utilitarian considerations. The study concludes by emphasizing the distinct nature of public interest within Islamic governance, where the maqasid framework plays a central role in shaping public policy decisions.</i></p> <p><b>Keywords:</b> <i>al-Masalih al-Mursalah, Public, Interest, Maqasid, Western.</i></p>
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**INTRODUCTION**

*Usul al-Fiqh*, the foundational framework of Islamic jurisprudence, serves as the methodology through which Islamic legal rulings are derived from the primary sources of *Shari'ah*: the Qur'an and Sunnah (Purwati & Komalla, 2023). It encompasses various principles and tools that guide scholars in interpreting and applying Islamic law to new situations. Among these principles is *Masalih al-Mursalah*, which refers to considerations of public interest that are not explicitly mentioned in the primary texts but are deemed beneficial for the community.

The strength of *Masalih al-Mursalah* within *Usul al-Fiqh* lies in its flexibility and adaptability, allowing Islamic law to address contemporary issues and societal needs while remaining faithful to its core objectives. This principle according to Imam Al-Ghazali in his book "Al-Mustasfa min 'Ilm al-Usul" - A comprehensive work on the principles of Islamic jurisprudence, discussing various methodologies including *Masalih al-Mursalah*, is to ensure

that the *Shari'ah* remains relevant and just, promoting the welfare of the community by considering the broader implications of legal rulings.

It was an Islamic viewpoint, that every nation was sent a messenger and a guide. While the main objectives of these messengers have always remained to promote justice among the creatures. Either between them and their creator or between them themselves. Sometimes even within them and their environment, Allah S.W.T mentioned in the Glorious Quran:

﴿وَلِكُلِّ أُمَّةٍ رَّسُولٌ فَإِذَا جَاءَ رَسُولُهُمْ قُضِيَ بَيْنَهُمْ بِالْقِسْطِ وَهُمْ لَا يُظْلَمُونَ﴾

Meaning: "And for every *Ummah* (a community or a nation), there is a Messenger; when their Messenger comes, the matter will be judged between them with justice, and they will not be wronged." (al-Quran. Yunus: 47) (Muhammad Taqiuddin & Muhammad Muhsin, 1996).

The primary source of Islamic Law (*Shari'ah*) for every Muslim is the *Qur'an* and *Sunnah*, which are also the prime background of the *Shari'ah* for every Muslim. However, as life goes on, humans continue to experience some dynamism in several aspects of life, for which the canonical texts from the Holy Qur'an or *Sunnah* do not take a permissive or prohibitive position. To now keep promoting justice between the humans, after the demise of the prophet S.A.W.

The companions and the Islamic scholars have been making tremendous contributions on the Islamic rulings, in what we today express as; the consensus of scholars (*Ijma'a*), analogy rulings or reasoning (*Qiyas*), juristic discretion (*Istihsan*), the presumption of continuity (*Istishab*), customs of the people (*al-Urf*), preventing an act which can lead to evil (*Sadd al Dhara'i*), and rulings based on the public interest or benefit (*Masalih al Mursala*).

Which all also got its origin from the saying of the prophet S.A.W; "Do not inflict injury, nor repay one injury by another" (*La darar wala dirar*) (Hadith. Ibn Majah. *Bab Man Bana Fi Haqqihi*. No 2431). This indicates the importance of always considering what will benefit humans and negate any acts of injury.

### **THE CONCEPT OF MASALIH AL-MURSALAH**

The term "*al-Masalih al-Mursalah*" as indicated, is a combination of two Arabic words *al-Masalih* and *al-Mursalah*. Which literally means "The Public Interest" the word *Masalih* is taken from the root word *salaha* or *saluha* which is to be good, to repair, or to improve a situation. The concept *Istislah* is a method mostly employed by the Muslim jurists in solve issues that find not answered in the primary Islamic scriptures (Quran and *Sunnah*) ("*Istislah/Maslahah mursalah*," 2014).

*Maslahah* here could also mean benefit or interest while *Istislah* involves the acquisition of benefit and repulsion of harm, for the public benefit or interest which could either be based on economical, legal procedures or in the medical context, etc. Al-Imam Ghazali (505H/1112AD) in his book *Al Mustasfa min ilm Al Usul*, explained the concept of *maslahah* "as the benefits that are intended by Allah S.W.T for all mankind, in order to preserve and protect their religion, life, intellect, lineage, and property, which also refers to as the objectives of the Islamic law or (*maqasid as-shari'ah*) (*Al Mustasfa min ilm Al Usul*, 1112AD).

This means that whatever ensures the protection of these five things mentioned are beneficial (*maslahah*), and whatever will cause any harm to either of them is harmful (*mafsadah*). Likewise, to remove harm in any human situation is also referred to as *maslahah*" (Laludin, 2019). Though the term "*al-masalih al-mursalah*" could be used differently by the Muslim scholars and the jurists in a different context, for some it is referred to as applying suitability (*al-munasib al-mursal*), while for others it's the act of seeking the better or what is beneficial to the community (*istislah*) or inferring (*istidlal*).

Even though the terms may look different, in reality, they all also have the same objective (Mtupah, 1990). In the Oxford Dictionary of Islam, the term *Maslahah al-mursalah* was

defined as a public interest form the basis of Islamic law, according to necessity and particular circumstances. Which consists of prohibiting or permitting something based on whether it serves the public's benefit or welfare (OISO, n.d).

In a nutshell, *Maslahah al-mursalah* is defined as a consideration that is proper and harmonious with the decrees of Allah to secure a benefit and prevent harm to the public, mostly in a situation where the *Shari'ah* did not provide a clear indication as to the validity or otherwise. Western scholars on the other hand provide various interpretations of "public interest," reflecting their distinct political and philosophical traditions.

Anthony Downs defines it as government actions that maximize societal benefits, although he acknowledges that its precise meaning often varies based on context (Downs, 1962). Thomas Hobbes, in his social contract theory, suggests that public interest arises from individuals' collective self-interest, positing that humans are inherently self-centered and seek governance to ensure order and protect their personal welfare (Friend, 2023).

The Enlightenment era brought a focus on individual and community welfare, with the concept of public interest adapting to reflect evolving social and economic priorities (Alexander, 2002). Unlike the Islamic framework that ties public interest to divine will, Western approaches often ground it in societal consensus, utilitarian ideals, and pragmatic governance.

### **The Theory of *Maslahah Al-Mursalah***

The general Muslim perspective has been that Allah S.W.T has made all His rulings (*Hukum*) in the best way to fit the lives of all His creations, through the general principles and guidance in the Quran and the teachings of the prophets and messengers (*Alayhim Salatu wa Salam*). Similarly, Allah S.W.T also left out some details of things in some situations to be discovered by the people themselves through observation and the use of common sense.

This is to say that Allah S.W.T has already dealt with all primary issues of human life in general and has only left some secondary ones to be tackled by the humans themselves "as a mercy to them and not through forgetfulness or failure." Allah S.W.T says in the Glorious Qur'an:

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَسْأَلُوا عَنَ أَشْيَاءَ إِن تُبَدَ لَكُمْ تَسْؤُكُمْ وَإِن تَسْأَلُوا عَنْهَا حِينَ يُنَزَّلَ الْقُرْآنُ تُبَدَ لَكُمْ عَفَا اللَّهُ عَنْهَا وَاللَّهُ غَفُورٌ حَلِيمٌ﴾

Meaning: "O you who believe! Ask not about things which, if made plain to you, may cause you trouble. But if you ask about them while the Qur'an is being revealed, it will be made plain to you, Allah has forgiven that, and Allah is Oft-forgiving, Most Forbearing. Some people before you did ask such questions, and on that account, they became disbelievers" (al-Quran. Al-Ma'idah: 101).

The Prophet S.A.W also reported having said: "...And Allah S.W.T has kept silent over some things as a mercy to you without forgetting them, so do not ask about them" (Hadith. al-Bukhari. *Kitab al-Manthurat wa al-Milh*. No. 1832). In practice, the issue of *Maslahah* will only arise when a matter does not have clear and direct rulings from either the Quran or *Sunnah* and when the issue also requires a solution to allow humans to preserve and protect either of the five objectives of the Islamic laws (*Maqasid As-Shari'ah*), which are: Religion, Life, Intellect, Linage, and Property.

This involves all issues of the *shari'ah* ruling that either authorizes a matter or a practice because of its benefits to the general public (*Maslahah Al-Mursalah*) or prohibits the matter because of its negative consequences to the public (*Maslahah Al-Mafsadah*). The inception of the concept of *Maslahah*, which is also a by-product of *Ijtihad*, as mentioned by some scholars, could be traced back to the time of the prophet's companions (*Salatu-lahi wa Salamuhu Alahim*).

When they were faced with new situations or issues that are not previously mentioned or elaborated in the Quran and *Sunnah*, this will normally make them apply the philosophy of

“enjoining of the better good and forbidding of the evil” (*Al- Amr Bil-Ma'ruf Wa-Nahi 'Anil Munkar*), which gave birth to the new *Shari'ah* legal methodology called the *Maslahah* (Abd Razak, 2019).

For instance, there is no ruling in the Qur'an and the *Sunnah* on what a woman whose husband is missing or disappeared, for her waiting period. But when the first incident happened during the time of the companions (*Salatu-lahi wa Salamuhu Alahim*), they have to formulate rulings for it, with the implementation of the *al-masalih al-mursalah* (Muda & Mohd, 2017). Likewise, the compilation of the Holy Quran in a bonded book form we have today was done by the companions, in order to prevent confusion amongst the then-Muslims *Ummah* and the later generation and to also protect the fabrication of the verses by irresponsible parties (Mattson, 2012).

With the given facts, it's now clear that the theory of *al-masalih al-mursalah* is only applicable to injunctions that were not clearly decreed in the Qur'an or the *Sunnah*. Otherwise, the injunction from the Qur'an or *Sunnah* should always be given preference over the theories. This is simply because the injunction is from the Supreme Creator, whereas the theories are from the creations, and any decrees presented in the Qur'an and *Sunnah* are always found to be more beneficial to the human life and should be given more preference, as Allah S.W.T made mention in the Glorious Qur'an:

﴿...وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ...﴾

Meaning: “And Allah S.W.T has imposed no difficulties on you in religion” (al-Quran. Hajj: 78).

The Prophet S.A.W is also reported to have said in his tradition “When I command you to do something from Allah S.W.T, always do it according to your ability” (Hadith. al-Bukhari. *Kitab al-Mutafarriqat*. No. 156). Lastly, this is to say that the theory of *al-masalih al-mursalah* is only restricted and applicable within matters which have neither been dealt with in the main origins of the *Shari'ah* nor dealt with in the Qur'an and *Sunnah*. These matters are also to be formulated genuinely and generally judged by the *mujtahid* (Zahrah, n.d.).

It should also be clear that the theory of *al-masalih al-mursalah* does not stand alone as an independent method of decision-making in *Shari'ah*. It always serves as supplementary tools in helping the interpretation of a *mujtahid* in the process of judging or giving Islamic rulings to cases that are not clearly or directly decreed in the Quran or *Sunnah*.

## **THE WESTERN THEORY OF PUBLIC INTEREST**

Just like the Muslim views of the *Maslahah al-mursalah*, the term public interest was initially defined from the western viewpoint, as anything that affects the rights, health, or finances of the public at large. The concept also encompasses diverse interpretations rooted in philosophical, economic, political, and social frameworks. At its core, public interest is broadly understood as encompassing actions, policies, or decisions that benefit the majority or serve the common good. Initially defined as anything affecting the rights, health, or finances of the public at large (The Gale Group, 2008), public interest remains a contested and dynamic idea, adapting to changes in societal structures and governance paradigms.

### **Philosophical Foundations of Public Interest**

The formal meaning of public interest often ties it to government actions that ensure public welfare. Philosophers like Jeremy Bentham in his book “An Introduction to the Principles of Morals and Legislation” associate public interest with the utilitarian principle of “the greatest happiness for the greatest number” (Bentham, 1970). Bentham argues that public interest should guide legislation and governance, balancing collective well-being against individual liberty.

Similarly, John Rawls' concept of "justice as fairness" integrates public interest into the design of just societal institutions, emphasizing equality and the redistribution of resources to ensure the welfare of the least advantaged (Rawls, 1971). According to Anthony Downs, an American economist who also specializes in public policy and public administration, he stated that the term public interest has no clear definition because it is so fundamental, but those who use it always have a notion of what it means and can communicate their thoughts to others.

But he provides a basic definition of the term public interest as those government actions that are of most benefit to the whole society (Downs, 1962). Importantly, public interest reflects a utilitarian ethos, evolving with societal values and emphasizing benefits to the community at large over individual gains.

### **Public Interest in Political and Social Views**

From a political perspective, public interest has often been viewed as an expression of majority rule or as a guiding principle for governmental authority. But with time as well as with the practice of the changing political and economic conditions about planning, public interest has moved through various transformations and raised awareness to various aspects. The emergence of enlightenment brought a shift in the meaning of public interest, to focus more on self-interest, rather than the community interest (Alexander, 2002).

Enlightenment or the Age of Reason was a philosophical movement that took place primarily in Europe and, later, in North America, during the late 17th and early 18th centuries (Hayat & Muhammad Shafiai, 2019). This age has caused a change in the concept of public interest, according to the changes brought about by the era of enlightenment. Thomas Hobbes (1651), in his modern social contract theory, introduced the idea that humans by nature are unavoidably egocentric, that all human beings follow only that which they perceive to be in their own individually considered best interests.

They respond automatically by being drawn to what they want and repelled to that which they are averse. Everything we do is motivated solely by the desire to better our situations and satisfy as many of our own, individually considered desires as possible. We are infinitely appetitive and only genuinely concerned with ourselves. Socially, public interest is rooted in community values and the maintenance of societal ties.

This perspective highlights collective welfare, mutual responsibilities, and the integration of diverse voices into decision-making processes. Douglass (1980), in his book "The Common Good and the Public Interest", critiques the focus on individualism and advocates for a balance between individual rights and community needs to achieve a cohesive society.

### **Economic Dimensions of Public Interest**

Economically, public interest often intersects with market regulations, resource distribution, and economic equity. Governments frequently invoke public interest to justify interventions in the economy, such as taxation, subsidies, and welfare programs. Scholars like John Kenneth Galbraith argue in "The Affluent Society" that addressing public interest requires balancing private affluence with public needs, including investment in infrastructure, education, and social services.

Economic policies framed as serving the public interest often aim to reduce inequality, ensure fair competition, and promote sustainable development (Galbraith, 1998). In summary, the Western theory of public interest could be seen as a multifaceted concept shaped by philosophical, social, economic, and political considerations. While public interest in Western thought generally prioritizes collective welfare, its application and interpretation vary widely.

Philosophers like Bentham and Rawls emphasize utility and fairness, while political theorists like Hobbes highlight the role of governance in mediating individual self-interest. Social and economic views add further dimensions, focusing on community values and

equitable resource distribution. Together, these perspectives illustrate that public interest remains a flexible, context-dependent idea central to governance and societal development.

### **THE DIFFERENCE BETWEEN *MASALIH AL-MURSALAH* AND THE WESTERN PUBLIC INTEREST**

Here it should be pointed out that there are great differences between the nature of the theory of *al-masalih al-mursalah* from the Islamic law perspective and the theory of the public interest as propounded by the western writers. As mentioned earlier, in Islamic law or from *Shari'ah* point of view, the public interest is or should be determined by the highest degree in seeking the pleasures of Allah S.W.T, through fulfilling His commandments and performing virtuous deeds.

Any action which meets the approval and satisfaction of the will of Allah or any rule or judgment that is just and unbiased which could be applied or executed to all people without any reservations could be referred to as *al-masalih al-mursalah* or public interest from the Islamic law. Thus, *al-masalih al-mursalah* or the public interest from the Islamic law are expected to be practiced by the Islamic Government.

In Islam, the sublime good lies with Allah S.W.T and not with human beings and so is the case with the specification of evil. For instance, if most people are in favor of wine and demand a policy or rule to be enacted for its manufacture so that the tax from it can be obtained to meet the running costs of health and social services in a community. This will not be considered as public interest in the Islamic law simply because it is opposed to the commandment of Allah S.W.T, and against His will and pleasure (Mtupah, 1990).

Another clear distinct of the theory of *al-masalih al-mursalah* or public interest from the *Shari'ah* point of view is that the theory of *al-masalih al-mursalah* will always be based and considered on either of the five fundamentals of human existence or the components of the five objectives of the Islamic law (*maqasid as-shari'ah*) (Kamali, 2008), which are identified as follows:

#### **Protection of Religion**

The first and most important human value that must be protected by all Muslims' ruling government is their religion. The protection of religion can also start from the basic of the five pillars of Islam, which are: to guide and allowed the people to believe in the oneness of Allah S.W.T (*Shahada*), to enable them to perform their five daily prayers (*Salat*), to collect or tax from their rich and gives alms to their needy (*Zakat*), to enable them to perform their fasting, especially during the month of Ramadan (*Sawm*), and to also allow them to perform pilgrimage to Mecca (*Hajj*) if they are willing to do so.

Perfuming all these rites will certainly increase the *Iman* of the people, and will, therefore, be a shield to protect them from committing sins or becoming apostate and indulging in any activity that will obliterate the nation. Allah S.W.T says in the Quran:

﴿اتْلُ مَا أُوحِيَ إِلَيْكَ مِنَ الْكِتَابِ وَأَقِمِ الصَّلَاةَ ۖ إِنَّ الصَّلَاةَ تَنْهَىٰ عَنِ الْفَحْشَاءِ وَالْمُنْكَرِ ۗ وَلَذِكْرُ اللَّهِ أَكْبَرُ ۗ وَاللَّهُ يَعْلَمُ مَا تَصْنَعُونَ﴾

Meaning: *Indeed, prayer prohibits immorality and wrongdoing, and the remembrance of Allah is greater. And Allah knows that which you do.* (al-Quran. al-Ankabut: 45).

#### **Protection of Life**

The life of all humans on earth is essential and valuable. Therefore, it must be protected in all circumstances, and in this respect, there is no difference between the life of the rich and poor, between the leader and the subordinates, Muslims and non-Muslims, protecting everyone's life

is equally important and obligatory in every Islamic government. To protect the life of every human on earth, Islamic rulings (*Shari'ah*) have enacted severe punishment for anyone who kills another, and the punishment for he who kills an innocent human being is also the death penalty. Allah S.W.T says in the Quran:

﴿وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ ۗ وَمَنْ قُتِلَ مَظْلُومًا فَقَدْ جَعَلْنَا لَوْلِيهِ سُلْطَانًا فَلَا يَسْرِفُ فِي الْقَتْلِ ۗ إِنَّهُ كَانَ مَنْصُورًا﴾

Meaning: "And do not kill anyone which Allah has forbidden, except for a just cause. And whoever is killed (intentionally with hostility and oppression and not by mistake), We have given his heir the authority [(to demand Qisas, Law of Equality in punishment or to forgive, or to take diya (blood-money)]. But let him not exceed limits in the matter of taking life (i.e., he should not kill except the killer only). Verily, he is helped (by the Islamic law)" (al-Quran. Al-Isra: 33).

### Protection of Intellect

Intellect is one of our greatest gifts of Allah S.W.T for all humans; human beings are given intellect by Allah S.W.T to differentiate them from other worldly creatures. So, it is the responsibility of all Islamic governments to protect and maintain the intellect of their people by providing them schools to teach and remind them of both their worldly and spiritual knowledge.

This means anything that will cause any effect on the intellect is also prohibited in Islamic law (*Shari'ah*), and this is all in order to protect and not to harm oneself or others in society. Allah S.W.T also puts a big emphasis on the importance of acquiring knowledge that the first revelations in the Holy Qur'an were on seeking knowledge. Allah S.W.T says:

﴿اقْرَأْ بِاسْمِ رَبِّكَ الَّذِي خَلَقَ خَلَقَ الْإِنْسَانَ مِنْ عَلَقٍ ۚ اقْرَأْ وَرَبُّكَ الْأَكْرَمُ الَّذِي عَلَّمَ بِالْقَلَمِ ۗ عَلَّمَ الْإِنْسَانَ مَا لَمْ يَعْلَمْ﴾

Meaning: "Read! In the Name of your Lord Who has created (all that exists). He has created man from a clot (a piece of thick coagulated blood). Read! And your Lord is the Most Generous. Who has taught (the writing) by the pen. He has taught man that which he knew not" (al-Quran. Al-Alaq: 1-5).

Allah S.W.T will elevate the status of humans according to their knowledge, as He mentioned in the following verses of the Qur'an:

﴿... قُلْ هَلْ يَسْتَوِي الَّذِينَ يَعْلَمُونَ وَالَّذِينَ لَا يَعْلَمُونَ ۗ إِنَّمَا يَتَذَكَّرُ أُولُو الْأَلْبَابِ﴾

Meaning: "Say: 'Are those who know equal to those who know not?' It is only men of understanding who will remember (i.e. get a lesson from Allâh's Signs and Verses)" (al-Quran. az-Zumar: 9).

﴿...يَرْفَعُ اللَّهُ الَّذِينَ آمَنُوا مِنْكُمْ وَالَّذِينَ أُوتُوا الْعِلْمَ دَرَجَاتٍ ۗ وَاللَّهُ بِمَا تَعْمَلُونَ خَبِيرٌ﴾

Meaning: Allâh will exalt in degree those of you who believe, and those who have been granted knowledge. And Allâh is Well-Acquainted with what you do" (al-Quran. Mujadila: 11).

So, to protect human intellect in an Islamic society, the government must also prevent any act that can lead to the loss or damage of the human intellect. Allah S.W.T says in another place in the Quran:

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رِجْسٌ مِّنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ﴾

Meaning: "O you who believe! Intoxicants (all kinds of alcoholic drinks), and gambling, and Al-Ansâb1, and Al-Azlâm (arrows for seeking luck or decision) are an abomination of Shaitan's

*(Satan) handiwork. So, avoid (strictly all) that (abomination) in order that you may be successful.”* (al-Quran. Al-Ma’ida: 90).

### Protection of Lineage

Another essential element in the life of a person is his or her dignity or lineage, Islamic Society is always expected to protect the dignity of the people. This lesson can be seen from the dealings and in many covenants of the prophet Muhammad S.A.W with the people of *Madyan (Madinatul Munawara)* at first when he arrived in it, and even with some of the neighboring non-Islamic community during his time. Allah S.W.T says in the Quran:

﴿إِلَّا الَّذِينَ عَاهَدْتُمْ مِنَ الْمُشْرِكِينَ ثُمَّ لَمْ يَنْفُصُواكُمْ شَيْئًا وَلَا يَضَاهِرُوا عَلَيْكُمْ أَحَدًا فَأَتُوا إِلَيْهِمْ عَهْدَهُمْ إِلَىٰ مُدَّتِهِمْ ۗ إِنَّ اللَّهَ يُحِبُّ الْمُتَّقِينَ﴾

Meaning: “Except those of the *Mushrikûn* (see V.2:105) with whom you have a treaty, and who have not subsequently failed you in aught, nor have supported anyone against you. To fulfill their treaty to them for the end of their term. Surely Allâh loves Al-Mattaqûn (the pious - See V.2:2)” (al-Quran. at-Taubah: 4).

Islam is also concerned about the human lineage and emphasizes the importance of protecting it with dignity. Protection of lineage can be traced to marriage in Islam; therefore, the Islam law (*Shari’ah*) prohibits fornication because a child given birth to through fornication is mostly denied a reputable lineage and dignity in the society. Allah S.W.T says in the Quran:

﴿وَلَا تَقْرَبُوا الزَّوْجَ إِنَّهُ كَانَ فَاحِشَةً وَسَاءَ سَبِيلًا﴾

Meaning: “And do not approach unlawful sexual intercourse. Indeed, it is ever an immorality, and it leads to evil as a way” (al-Quran. Al-Isra: 32).

### Protection of Property

Lastly, the protection of one’s and other’s property is very important base on the Islamic rulings. Acquiring a property is one of the necessities of mankind, everyone has his/her property and would like to have all the necessary protection and security for it. So, it is the responsibility of the Islamic government to protect the property of the people, based on Islam law (*Shari’ah*). With the order that no one should transgress and acquire the property of others without legitimate reasons and proper contract, and no one should also spend his/her wealth wastefully. Allah S.W.T says in the Quran:

﴿وَلَا تَأْكُلُوا أَمْوَالِكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْخِلُوا بِهَا إِلَىٰ الْحُكَّامِ لِيَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ﴾

Meaning: “And eat up not one another’s property unjustly (in any illegal way e.g., stealing, robbing, deceiving, etc.), nor give bribery to the rulers (judges before presenting your cases) that you may knowingly eat up a part of the property of others sinfully” (Surah Al-Baqarah verse 188).

﴿وَأْتِ ذَا الْقُرْبَىٰ حَقَّهُ وَالْمِسْكِينَ وَابْنَ السَّبِيلِ وَلَا تَبْذُرْ تَبْذِيرًا﴾

And in another chapter, He said; “And give the relative his/her right, and [also] the poor and the traveler, and do not spend wastefully” (al-Quran. Al-Isra: 26).

This means that whatever ensures the protection of these five things is beneficial (*maslahah*), and whatever could cause any harm to either of the five things is harmful (*mafsadah*). Likewise, to remove the harm is also *maslahah*” (Laldin, 2006; Laludin, 2019). While in the western theory of public interest, the government ruling and practice are mostly based and considered on the community values and social ties (Mtupah, 1990).

In summary, to highlight the key differences between the Islamic concept of *Masalih al-Mursalah* (public interest) and the Western notion of public interest. Below are the main distinctions:

### **Foundation and Source**

While the Islamic *Masalih al-Mursalah* is rooted in divine law (Shari'ah), and it is intrinsically tied to the commands and pleasure of Allah (S.W.T). Public interest is determined based on the objectives of Islamic law (Maqasid as-Shari'ah), which prioritize the protection of religion, life, intellect, lineage, and property. Decisions are guided by principles derived from the Qur'an, Sunnah, and Islamic legal methodologies.

The Western Public Interest on the other hand is based on human-centered perspectives, it is determined by societal consensus, utilitarian principles, and majority rule. Public interest in Western thought is largely secular, evolving with cultural, political, and economic contexts without reliance on divine guidance.

### **Moral and Ethical Standards**

While the Islamic *Masalih al-Mursalah* actions are judged based on their alignment with Islamic ethical and moral principles. Even if the majority supports an action, it is not considered public interest if it contradicts divine commandments (e.g., the prohibition of alcohol). The Western public interest in morality and ethics are often subject to social and cultural norms, which can change over time. Actions are deemed in the public interest if they align with prevailing societal values or maximize collective utility, even if they conflict with traditional moral frameworks.

### **Purpose and Scope**

While the Islamic *Masalih al-Mursalah* focuses on achieving eternal well-being and justice by ensuring adherence to divine law. Its purpose transcends immediate societal needs and seeks the holistic betterment of individuals and society within an Islamic framework. The Western public interest primarily addresses temporal concerns like public health, safety, economic prosperity, and social order. It is more pragmatic, aiming to resolve immediate societal challenges and improve collective living conditions.

### **Application and Limits**

While the Islamic *Masalih al-Mursalah* applied only in situations where explicit rulings are absent in the Qur'an or Sunnah. It serves as a supplementary tool for Islamic jurists (*mujtahids*) to make decisions while ensuring conformity to the principles of *Shari'ah*. Western public interest broadly applied in governance, lawmaking, and public policy. It is not restricted to specific situations and often encompasses areas like education, defense, and economic planning.

### **Individual vs. Community Focus**

While the Islamic *Masalih al-Mursalah* balances individual, and community needs but prioritizes the collective well-being within the framework of Maqasid as-Shari'ah. Decisions aim to benefit humanity while maintaining spiritual alignment with Islamic principles. Western public interest is often influenced by individualistic and utilitarian ideologies, particularly in liberal democracies. Public interest is frequently equated with the greatest good for the greatest number, even if it compromises minority rights or ethical considerations.

In a nutshell, the fundamental difference lies in the source and guiding principles: *Masalih al-Mursalah* is theologically driven and seeks harmony with divine law, while Western public interest is anthropocentric, adapting to societal changes and human reasoning. Islamic

governance emphasizes eternal welfare and divine accountability, whereas Western approaches prioritize immediate societal needs and majority preferences.

## CONCLUSION

In summary, this study has successfully narrated the differences between the concept of *al-masalih al-mursalah* from the Islamic law (*Shari'ah*) perspective and the western view of the public interest. The study begins with a detailed concept of the term *masalih al-mursalah* and explains what is meant by the theory of *masalih al-mursalah* from the Islamic view. The previous and contemporary Western theory on public interest was also discoursed and followed by the distinctions between the *Shari'ah* view of *masalih al-mursalah* or public interest and the public perspective of the concept.

The *Shari'ah* implication of *Maslahah* only arises when a matter does not have clear and direct rulings from either the Quran or *Sunnah* and when the issue also requires a solution to allow mankind to preserve and protect his Religion, Life, Intellect, Lineage, and Property (*Maqasid As-Shari'ah*). Lastly, it could also be noticed that the western theory of public interest is mostly based on the community values and social ties, while the Islamic perspective of the theory of *al-masalih al-mursalah* is always based on Allah S.W.T commands in preserving the above five mentioned fundamentals of human existence (*Maqasid As-Shari'ah*).

## REFERENCES

- Al-Bukhari, M. I. I. (1986). *The translation of the meanings of Sahih Al-Bukhari*. Kazi Publications.
- Bentham, J. (1970). *An Introduction to the Principles of Morals and Legislation (1789)*, ed. by J. H Burns and HLA Hart, London.
- Galbraith, J. K. (1998). *The affluent society*. Houghton Mifflin Harcourt.
- Kamali, M. H. (2008). *Maqasid al-Shariah made simple (Vol. 13)*. International Institute of Islamic Thought (IIIT).
- Laldin, M. A. (2006). *Islamic law: An introduction*. International Islamic University Malaysia.
- Mattson, I. (2012). *The story of the Qur'an: its history and place in Muslim life*. John Wiley & Sons.
- Muhammad Taqiuddin, H. & Muhammad Muhsin, K. (Trans). (1996). *Interpretation of the Meaning of the Noble Qur'an in the English Language*. Kingdom of Saudi Arabia: Darussalam Publisher and Distributors.
- Rawls, J. (1971). *A Theory of Justice*. Cambridge (Mass.): Harvard University Press. *Rawls A Theory of Justice*.
- The Gale Group, I. (2008). *Legal definition of Public Interest*. West's Encyclopedia of American Law. Edition 2. <https://legal-dictionary.thefreedictionary.com/Public+Interest>

## Journal

- Abd Razak, A. H. (2020). Multiple Sharia'board directorship: a Maslahah (public interest) perspective. *Journal of Islamic Marketing*, 11(3), 745-764.
- Alexander, E. R. (2002). The public interest in planning: From legitimation to substantive plan evaluation. *Planning Theory*, 1(3), 226-249.
- Douglass, B. (1980). The common good and the public interest. *Political Theory*, 8(1), 103-117.
- Downs, A. (1962). The public interest: Its meaning in a democracy. *Social Research*, 29 (1), 1-36.
- Hayat, A. & Muhammad, S., Muhammad, H. (2019). The nature of Public Interest in Muslim and Non-Muslim writers. *MPRA*, 94153.
- Laludin, H. (2019). Al-Maslahah (public interest) with special reference to Al-Imam Al-Ghazali. *Jurnal Syariah*, 14(2), 103-120.

Purwati, S., & Komalla, S. (2023). The Application of Ushul al-Fiqh (Principles of Islamic Jurisprudence) in Sharia Economics: Theoretical Review. *Journal of Economic Studies*, 7(2), 1-15.

### **Thesis**

Mtupah, J. M. O. (1990). *The theory of al-masalih al-mursalah in Islamic law*. Edinburgh Research Archive. PhD Thesis, University of Edinburgh. <http://hdl.handle.net/1842/19169>

### **Website**

Friend, C. (2023). Social Contract Theory. In Internet Encyclopedia of Philosophy. <https://iep.utm.edu/soc-cont/> (accessed on 22/10/2022)

OISO. (n.d.). Maslahah - Oxford Islamic Studies Online. <http://www.oxfordislamicstudies.com/article/opr/t125/e1459> (accessed on 13 July 2020)

Hafizul Mukhlis (2014). Istislah Maslahah mursalah. In SlideShare <https://www.slideshare.net/slideshow/maslahah-mursalah-34370113/34370113> (accessed on 10 October 2024)

Zahrah, M. A. (n.d.). The fundamental principles of imam Malik's fiqh. In [www.iium.edu.my](http://www.iium.edu.my). [https://www.iium.edu.my/deed/lawbase/maliki\\_fiqh/index.html](https://www.iium.edu.my/deed/lawbase/maliki_fiqh/index.html) (accessed on 22/10/2022)

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