

Islamic Governance: A Linguistic and Conceptual Study of the term (*al-Siyāsah al-Shar'īyah*)

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Abstract

This article includes a linguistic and conceptual study of the term *siyāsah*, which is often translated as 'governance' or 'policy', by examining its origins and development within Islamic legal thought. This will commence with a study of the definition of the term *siyāsah*, its types, conditions and the debate surrounding its origins. The article will then focus on ascertaining a meaning of Islamic Governance, identifying its integral parts and defining each of these components. The article will then propose a comprehensive definition of *siyāsah* and will discuss the importance for reviving it within the current discourse.

Introduction

Governance based on justice is integral to Islam. The Qur'an for example is emphatic on organizing human affairs with justice by ordering humankind to be upholders of justice: 'you who believe! **be upholders of justice, bearing witness for God alone**, even against yourselves or your parents and relatives. Whether they are rich or poor, God is well able to look after them. **Do not follow your own desires and deviate from the truth**. If you twist or turn away, God is aware of what you do. (4:135)'. It is a hallmark of Islamic legislation that its *raison d'être* is defined as establishing justice: 'We sent Our Messengers with the Clear Signs and **sent down the Book and the Balance with them so that humankind might establish justice**. (57: 25)'. Thus, the objectives and aims of Islamic legislation are intimately linked with justice causing Islamic scholars to see it as uniquely poised to address human needs.¹ Not only is the Islamic legislation – that is the shariah – defined by justice, but the administrative or regulatory policy and decisions – *siyāsah* – is also guided by justice.

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Law and justice must be coterminous within a system to ensure fairness and progression in society; failure of which leads to individual and communal detriment.²

Today, the term ‘Islamic Governance’, or its Arabic equivalent *al-siyāsah al-shar‘iyyah*, is used more frequently than ever before. Within half a second, Google found nearly 1,260,000 entries of the term when it is placed in between inverted commas.³ This number indicates not only the increasing popularity of the term but also the myriad of uses among scholars and non-specialists.

The term ‘Islamic Governance’ (*siyāsah*) although not exactly a contested term among Muslim scholars; nevertheless, is used differently by non-specialists and specialists alike. Sometimes, a particular meaning is preferred based on a commonly acquired usage or one that is based on a lack of exacting research. Moreover, the term is used more than ever before and the figures for the search entries in major search engines like Google, as mentioned above, are enormous. In order to disambiguate the term, a need for defining it becomes extremely important.

Indeed, a mere theoretical or stipulated definition would fail to capture what Islamic Governance fully encapsulates. However, a good practical example will be able to show the impact, role and function of Islamic Governance so as to illustrate what arises as a consequence of adhering to it. A good example in this regard is the rule of ‘Umar ibn ‘Abd al- ‘Azīz, the Caliph famous for his just and fair rule.⁴ ‘Umar ibn ‘Abd al- ‘Azīz ruled a state that stretched from the River Sind and China in the East to the Atlantic Ocean and the Pyrenees mountains in the West, and from the Arabian Sea and the Great African Desert in the South to the Taurus mountains in the North, with an area of 19 million square kilometres, at a time when there was no electricity and none of the modern means of transport or telecommunication technologies. Yet through the implementation of Islamic Governance, he was able to provide services for his subjects that one may argue are even lacking in some parts of the world today, despite the availability of technical facilities. Any citizen or resident for example who wished to put his complaint directly to the Caliph was given free travel, with all expenses paid. Remuneration was given to everyone who endeavoured to establish rights and remove injustice. He said:

‘Whoever comes here for a purpose through which God will set right a private or public affair of this faith shall have between one hundred and three hundred dinars, in accordance with what they intend of good work and the effort they undertake. May God bless everyone who does not shrink from undertaking a travel which leads to that God will give some people their rights’.⁵

In addition, he ordered his provincial governors to build rest houses along travel routes, and whoever passes by these were entitled to free hospitality for one day and night, with care for their mounts. Whoever was unwell was entitled to free hospitality for two days and nights. Those who were stranded, unable to continue to travel were given what would ensure that they got safely to their destinations.⁶ Arguably, good management is more important than ever before – even the time of ‘Umar ibn ‘Abd al- ‘Azīz. The absence of sound management in our times of advanced technology is more serious than the absence of technology during ‘Umar ibn ‘Abd al- ‘Azīz time. Today we cannot return to normal life without the technology needed for industry and production to meet the requirements of essential living. There can be no technological progress without the major managerial establishments. Informatics and modern technology were not what produced the great change that affected all areas. Greatly important as these are, they are merely the product of sound management. The difference between advanced and less advanced countries today simply mirrors the difference between good and bad management. In human history, it is rare that new concepts that make great impact are able to take root so fast as happened with the managerial concepts. Within less than 150 years, management was able to bring about a great development in the social and economic structures of advanced countries throughout the world. They were also able to establish a new global economic system and new rules for participation in this global economy by other countries.⁷

The role management plays today in the making of states is the same that Islamic Governance played in building the structure of the Muslim state. Therefore, we say that it is rare in human history that new concepts with very great impact develop so fast as was the case of Islamic Governance in the Muslim state. Within less than a century, Islamic Governance was able to change the social and economic structure of the Medina proto-state and transform it into a political superpower and the world’s most advanced state at the time. It produced a global system that was unique and established new foundations for the fair state. This is what made the people

of Samarkand willingly embrace Islam and request the army that conquered their country to stay.⁸ Arguably, today, Muslims are in greater need for the fulfilment of the role which Islamic Governance fulfils both in management and action on behalf of oneself and others. The search for a new model that meets modern requirements and challenges faced by a government system of a genuinely Muslim state and reflects the essence, means and objectives of management in Islam begins with a renewal of action in accordance with Islamic Governance to fulfil people's legitimate interests outlined by Islam.

Islamic Governance broadly involves the knowledge and action needed to develop and build the identity of the state and its necessary managerial establishments. However, it is important to arrive at a more precise and scholarly definition of the term based on legal precepts from within Islamic legal theory (known as *Uṣūl al-Fiqh*), considering the views and formulations of the leading jurists as well.

The Question

We may describe the issue under consideration by stating the following principal question: Is it possible to formulate definitions for the essential elements of Islamic Governance, or *al-siyāsah al-shar' iyyah*, so as to formulate a comprehensive definition of such governance? Such a definition should follow a clear logical methodology allowing the incorporation of the various definitions of Islamic Governance, so that these definitions will become mutually complementary. Thus, the definition will draw, or be close to drawing, a demarcation line for Islamic Governance, consistent with its distinctive characteristics and objectives.

Methodology

This is a descriptive research which relies on selective induction, using a sufficient number of academic sources addressing this subject. It will use the techniques of analysis that rely on deductive evidence, according to the types and constituents of the definition and their conditions, as well as the areas of debate. As such, it will be a linguistic, logical and legal study. The study will use all this to set a full demarcation line of the term 'Islamic Governance', or an approximation.

The Plan

The study includes an introduction, three sections and a conclusion. The three sections will be presented in the following order:

- Definition of the Arabic term *siyāsah*, translated as ‘governance’, and whether it is borrowed or foreign term and a definition of the terms “*sharī‘ah*” and “*‘shar‘iyyah*”, which is translated as ‘Islamic’.
- Types of definition and its conditions
- The limits of the term Islamic Governance, i.e. the definition, and what the debate is about.

Finally, the study will set out its findings and conclusion.

Definition of the Term *Siyāsah* and its Origins

Definition of the term *siyāsah*, and whether it is borrowed from a different language and a definition of the terms *sharī‘ah* and *shar‘iyyah*

The Shāfi‘ite jurist Sayf al-Dīn Al-Āmidī (d. 631 AH, 1234 CE) remarked:

‘Everyone who attempts to study a particular branch of knowledge must first comprehend its meaning, by establishing its limits or its form, so that he is clear on what he is after’.⁹

Another Shāfi‘ite jurist Al-Isnawī (d. 772 AH, 1371 CE) remarked:

‘It must be clear that it is not possible to engage in a particular discipline unless one has a clear idea of that discipline, which is gained from [understanding] definitions’.¹⁰

With these observations and remarks in mind, we shall speak in detail about the definition of the term *siyāsah*, or governance, and will be brief in defining *sharī‘ah*, as it is already clear and well-known within the Islamic legal literature.

Definition of *Siyāsah*

The word “*siyāsah*” is the infinitive of the verb *sāsa* = ساس from the root *s / w / s /*. However, some linguists suggest that its root is *s / ya / s /*. The classical and contemporary lexicons record a number of different meanings based on the context in which the word is used.¹¹ These meanings include:

- A person’s characteristics, as in the word *sūs* when used in saying: ‘Fine expression is part of his character’, or ‘generosity is her main characteristic’.
- To be in command, meaning to assume the leadership of a community able to give commands and prohibitions.
- To try both being in charge and subject to a higher authority.
- The actions taken by governors in relation to their subjects.
- Facilitating things by the ruler for the people to do and implement.
- To undertake something so as to put it on a sound basis. This has become associated in modern times by working for the state internally and externally. *siyāsah* means to put people on the right course, guiding them along the way that ensures their safety in this life and the next. When it is undertaken by prophets, it applies to all people in their private and public life, and when it is by rulers and kings, it applies to all in their public life only. Thus, *siyāsah* in this sense approximates civil governance – the management of people’s affairs on the values of justice and clear order. It overlaps with practical wisdom and called wise governance. Aristotle’s book *Politics* which he wrote for Alexander, explains the areas addressed by this branch of knowledge.¹²

Looking briefly at these linguistic usages of term *siyāsah*, and being cognisant that ‘knowing something is part of having a concept of it’ a question arises: what concept of *siyāsah* is formed by anyone who reflects carefully on these definitions? One conceptualisation is that of someone who is in charge of affairs and is responsible for setting things right, with some related objectives such as putting things under control and in proper shape so that they would look fair to people and would serve their interests.

Whoever is dedicated to the achievement of such objectives is assigned a position of leadership over them. He is required to look after people's interests as governors and rulers do. He is likely to gain experience and develop his know-how and management, because he will have gained experience, being a manager and receiving advice. To more precisely sum up, *siyāsah* has three components: (a) authority, (b) practice and (c) continuity. Authority means being in charge and able to command and forbid. The second is to practically assume the authority and look into the finer elements of what is under consideration. The third is the continuity which makes all this a skill enabling the one who is in charge to put in place certain rules and controls for the exercise of authority and looking after people's affairs. This cannot be imagined applying to a single matter or to occur intermittently. This distinction between authority and the practical and continuous exercise of such authority is expressed by Abū Hilāl al- 'Askarī:

‘There is a difference between saying *yasūduhum* and *yasūsum*. The first, which is derived from authority, means that ‘he is in charge of their affairs’, while the second, derived from *siyāsah*, means that he looks into the details of their affairs’. He also said: ‘The difference between *siyāsah* and *tadbīr*, i.e. management, is that the first denotes continuous management. A single *tadbīr* or management cannot be called *siyāsah*. We may say that every *siyāsah* involves management, but not every management is *siyāsah*’.¹³

Is *siyāsah* a foreign word?

According to some scholars, the term *siyāsah* is a foreign word. For instance, al-Maqrīzī (d. 845 AH, 1441 CE) remarked that:

‘*siyāsah* is of two types: the first is fairness, aiming to do justice and reclaim rights from those who are in the wrong. As such, it is part of Islamic rules, whether people know it or not. The other type is unfair governance, and Islam forbids it. What people in our times say about it is irrelevant. The word comes from Moghul origin, and it is originally *yasah*, but the people of Egypt added an ‘s’ at the beginning and used it with the Arabic definite article. This is how people with little knowledge came to think that it is an Arabic word, but the truth is just as I have said’.¹⁴

Another example, is Yūsuf ibn Taghri Bardī (d. 874 AH, 1470 CE) who stated:

‘King al-Zāhir (may God bestow mercy on him) followed the practice of Tartar kings and the majority of the rules established by Genghis Khan in *yasaq* which means ‘putting in order’ and *tora* which is a Turkic word meaning ‘method’. Originally *yasaq* is composed of two words: *si* the Persian word meaning ‘three’ and *ysa* which is Turkic meaning ‘in order’.

Thus, it is akin to saying ‘the three sets of orders’.¹⁵ The Ottoman scholar Ibn Kamāl Pāshā (d. 940 AH, 1534 CE) states the same explanation as Ibn Taghri Bardī.¹⁶

Critical examination of borrowing claims

Several scholars have argued that the claim that *siyāsah* is an imported word is without foundation. On this, al-Khafājī (d. 1069 AH, 1659 CE) commented: ‘To claim that it is a borrowed word is without foundation, taken from statements by those whose views are discarded’.¹⁷ Abd al-āl Aḥmad Atwah (d. 1415 AH, 1995) said:

‘This claim is wrong and without foundation, because the word is a sound Arabic word, and it occurs in hadiths and in old poetry... Moreover, all language books that focus on borrowed words do not mention it, citing only its meaning in Arabic. This confirms that it is an Arabic word’.¹⁸

Other historians have argued the same. However, although it is clear that there is historical evidence for both views presented by Arab-Muslim historians for the origins of the term *siyāsah*, the question arises as to which view appears more plausible? The proponents for the Arabic etymological origins of the word seem to have the support from early primary source materials like the Prophetic hadith and as well as pre-modern and modern Arabic poetry across time.

Evidence for the Origins of the term

Dr Mahmud ‘Ukasha asserts that the term *siyāsah* goes back to pre-Islamic days. He refers to Dr Lu’ay Baḥrī who asserted that the Arab poet, al-

Khansā' is considered the first Arab that used the term in a political context. She describes her tribe's leaders as having managed their affairs with intelligence and talent, ensuring that their tribe did not suffer injustice and Dr Baḥrī suggests that what was meant by the term in that context is to be able to defend yourself. Then the term *siyāsah* went through some changes in its usage and the Qur'an did not use the term and there was a hadith attributed to the Prophet in which the term was used meaning to manage and to be in charge of the affairs of others.

As the above from Dr Baḥrī seems to suggest that the term *siyāsah* was not used by the early Arabs (other than the case of al-Khansā'), Dr 'Ukasha asserts that the aforementioned argument does not prove that the early Arabs did not use the term as its non-documentation before al-Khansā' should not assumed to indicate its non-existence as it may existed but was not documented. Also, he indicated that there are other instances in Arabic poetry, in both the pre-Islamic and early Islamic periods, where the term occurs. Moreover, he mentions that early Muslim scholars gave their works political titles. Furthermore, the very subject of politics and governance is discussed in dedicated chapters in many literary and Islamic books which were written before the time when the Mongols invaded the Muslim world and embraced Islam. He, therefore, concludes that this would almost certainly establish the word being of Arabic origin. Furthermore, 'Ukasha reminds us that early lexicons such as al-Khalīl's *al- 'Ayn* and books of linguistics do not claim that the word was borrowed. From all of the above he concludes that the word *siyāsah* is an Arabic word which means management and governance with wisdom as well as leading the community'.¹⁹

Others have made either the same or similar arguments. For example, Fu'ād 'Abd al-Mun'im asserts that Arabic treatises and lexicons do not mention anything about it being an arabised word. They only give an account of its meanings. This suggests that it is an Arabic word and not an arabised one.

Below will be a short survey of the use of the word *siyāsah*.

***Siyāsah* in the Qur'an**

Although the term *siyāsah* itself is not used in the Qur'an, words with political and governance connotations are frequently used. Qur'anic verses

incorporate the most important principles of governance and systems. The early Caliphs, rulers and provincial governors, as well as military commanders, paid particular attention to these verses and derived from them core rules and principles to implement and regulate society with. The effects of such regulation led to an elevated civilisation. Qur'anic verses that refer to political matters and the rules applicable to them, without mentioning the term *siyāsah* include the following:

- *ḥukm*, i.e. judgement, rule or wisdom. This word occurs more than 90 times in the Qur'an, as in: **'On these did We bestow revelation, wisdom and prophethood. If this generation were to deny this truth, We have certainly entrusted it to others who will never deny it'** (6: 89) and **'John! Hold fast to the book with all your strength. We granted him wisdom while he was still a youth'** (19: 12). In both these instances the Arabic word translated as 'wisdom' is *ḥukm*, which in modern parlance means 'government' or 'ruling'.
- *ḥikmah*, i.e. wisdom. The Qur'an states: **'They routed them, by God's will. David slew Goliath, and God bestowed on him the kingdom and wisdom, and taught him whatever He willed. Had it not been for the fact that God repels one group of people by another, the earth would have been utterly corrupted. God is limitless in His bounty to all the worlds'** (2: 251).
- *Khilāfah*, i.e. man's position as vicegerent in charge of the earth. The Qur'an relates: **'Your Lord said to the angels, "I am appointing a vicegerent on earth". They said, "Will You appoint on it someone who would spread corruption and shed blood, whereas we celebrate Your praises and extol Your holiness?" He said, "I surely know that of which you have no knowledge"'** (2: 30).
- *Mulk*, i.e. kingdom. This word occurs more than 100 times in the Qur'an including: **'Say: Lord, Sovereign of all dominion, You grant dominion to whom You will and take dominion away from whom You will. You exalt whom You will and abase whom You will. In Your hand is all that is good. You are able to do all things'**. (3: 26) **'Their Prophet said to them, "God has appointed Saul [Lut] to be your king". They said, "How can he have the kingship over us when we are better entitled to it than he is? Besides, he has not been given abundance of wealth". He said, "God has chosen him in preference to you, and**

endowed him abundantly with knowledge and physical stature. God grants His dominion to whom He will. He is munificent, all-knowing” (2: 247).

- *Wilāyah*, i.e. authority. This is a synonym of the position of a prince, a sultan or a governor over an area. The Qur'an states: 'why should you not fight in the cause of God and the utterly helpless men, women and children who are crying, **'Our Lord! Deliver us from this land whose people are oppressors, and send forth to us, out of Your grace, a protector, and send us one that will help us'** (4: 75).
- *Bay'ah*, i.e. pledge of allegiance. The Qur'an states: **'Those who pledge their allegiance to you are actually pledging their allegiance to God: God's hand is over their hands. He who breaks his pledge does so to his own detriment; but to the one who fulfils his pledge to Him, God will grant a rich reward'**. (48: 10)
- *Ahd*, i.e. pledge or promise. The Qur'an commands: **'Do not come near the property of an orphan before he comes of age, except with the best of intentions. Be true to all your promises, for you will be called to account for all that you promise'** (17: 34).
- *Shir'ah wa Minhāj* which indicates what is used as the basis of judgements among Muslims The Qur'an asserts: **'And to you We have revealed the Book, setting forth the truth, confirming the Scriptures which had already been revealed before it and superseding them. Judge, then, between them in accordance with what God has revealed and do not follow their vain desires, forsaking thereby the truth that has come to you. To every one of you We have given a code of law and a way of life. Had God so willed, He could have made you all one community; but (it is His wish) to test you by means of that which He has bestowed on you. Vie, then, with one another in doing good works. To God you shall all return. He will then make you understand all that over which you now differ'** (5: 48).

It was such political precepts and values that underlined the regulatory and administrative policies that the Prophet's companions applied to their governance of the Muslim community and other nations under their rule establishing fairness and rights for all.²⁰

***Siyāsah* in the Prophet's Sunnah**

A derivative of the word *siyāsah* is mentioned in a Prophetic narration. Abū Ḥāzim reports: 'I frequently sat with Abū Hurayrah for five years and I heard him quoting from God's messenger (peace be upon him): 'The Children of Israel were governed by prophets: when a Prophet died, he was succeeded by another prophet. But there will be no prophet after I am gone. There will be many caliphs'. People asked: 'What do you command us to do?' He said: 'Honour your pledges to them in their respective order. Give them their rights because God will question them about what He has entrusted to them'.²¹ Commentators have elucidated on the political significance of this hadith. Some of these are given below:

The Andalusian scholar from ceuta Qādī Iyāḍ (d. 544 AH, 1150 CE) commenting on this narration said: 'That they were governed by prophets means that a prophet used to manage their affairs. *Siyāsah* means to manage things and determine how they are done'.²² Another Andalusian scholar al-Qurṭubī (d. 656 AH, 1258 CE) explained the narration as prophets were sent to set things right and discard whatever was distorted.²³

The Damascene jurist Sharaf al-Dīn al-Nawawī (d. 677 AH, 1279 CE) comments: 'This means that their prophets were in charge of their affairs just like rulers and governors do with their people. *siyāsah* means to manage things in a way that sets it right'.²⁴ The Egyptian hadith specialist Ibn Ḥajar al-ʿAsqalānī (d. 852 AH, 1448 CE) deduces from this hadith that the community must have someone to manage its affairs and set it on the right course, ensuring that justice is restored to whoever is unfairly treated'.²⁵

The polymath Jalāl al-Dīn Al-Suyūṭī a student of Ibn Ḥajar (d. 911 AH, 1506 CE) commented: 'Governed by their prophets means that prophets managed their affairs'.²⁶ In the commentary on Ibn Mājah's *Sunan*, he continues:

'Governed by their prophets is derived from *siyāsah* which means to be at the head of the community and to ensure discipline. This is not contrary to the story of Saul, as he was a king, not a prophet. Their prophet at the time was Samuel. Kings were subordinate to prophets, and when they were commanded, they obeyed. This

means that *siyāsah* really belonged to their prophets and a king would be the prophet's deputy'.²⁷

Another contemporary Egyptian polymath Badr al-Dīn Al-' Aynī (d. 864 AH, 1460 CE) states:

'Governed by prophets means that prophets managed their affairs just as rulers and governors do. *siyāsah* means to manage something so as to put it right. It was the case that when corruption spread among them, God sent them a prophet to remove corruption, manage their affairs and discard whatever alteration they introduced into the rules of the Torah'.²⁸

Dr Fu'ād concisely concludes that all this means that linguistically and, in the Sunnah, *siyāsah* means to manage something and set it right with whatever is needed of commandments, prohibition, administration, reform and education'.²⁹

What is consistent with the Prophet's Sunnah is that *siyāsah* which means the management of the affairs of the community so as to serve their interests in both this life and the life to come was part of the work of prophets and that kings were subordinate to prophets during the prophets' lifetime and to the knowledge they leave behind after they die. Kings inherited the overall authority from prophets, while scholars inherited knowledge. Both types of inheritance may combine, as happened during the period of the rightly-guided Caliphs, but in most cases, they do not.

In Arabic prose

Derivations from the term *siyāsah* were used by Arabs in the early Islamic period. The caliph 'Umar ibn al-Khaṭṭāb is attributed as stating:

'By the Lord of the Ka'bah, I know when the Arabs will come to ruin: it is when their **affairs are managed** by ones who were not companions of the Prophet (peace be upon him) and did not live through the pre-Islamic period of ignorance'.³⁰

There are several other examples of statements by companions of the Prophet and early Muslims, using the term *siyāsah* or its derivatives in the sense of managing people's affairs.³¹ My conclusion therefore is that the

word *siyāsah* is a genuine Arabic word, due to the fact that it occurs in old Arabic poetry and in the speech of Arabs who are well accepted as a linguistic reference. In all such usage, it clearly signifies some aspects of what we mean by *siyāsah*. Also, it occurs in an authentic hadith by the Prophet. Furthermore, it is entered in major Arabic lexicons that are dedicated to transmitting the Arabic language and expunge it from alien elements, and finally, *siyāsah* uses an Arabic metre. Every word that indicates a profession or trade takes the same metre, such as the words *imārah*, i.e. leadership, *qiyādah*, i.e. command, *jibāyah*, i.e. collection of money, etc. All these indicate deeds and use the same metre.

Definition of *Sharī'ah*

Linguistically speaking, *sharī'ah* or *shar'* means to make clear and apparent. Lexicons record that to say 'God *shara'* a something' means that He has made it a way to follow. *Sharī'ah* means to be ordered to remain a servant of God. It is also said that it means 'a way of religion'. *Shir'ah* is another word meaning the same as *sharī'ah*.³² The first is used in the Qur'anic verse: '**To every one of you We have given a code of law and a way of life**' (5: 48). It is translated in this instance as 'code of law'. In an Islamic context, the Qur'an states: '**And now We have set you on a clear way of religion; so follow it, and do not follow the desires of those who do not know [the truth]**' (45: 18). The Arabic text of this verse uses the word *sharī'ah* to mean 'a clear way of religion'. The cognates *shar'* and *tashrī'* mean whatever rulings are enacted.³³ It is reported that the senior companion in knowledge Ibn 'Abbās explained the words 'code of law' in the above quoted verse (5:48) as meaning 'a method or a way'.³⁴ Ibn Taymiyyah, who discussed the concept of law and governance extensively, explained these variations to mean:

'Each of the words *sharī'ah*, *shar'* or *shir'ah* incorporates all that God has legislated of beliefs and actions'. He also said: 'The *sharī'ah* is indeed God's book and the Sunnah of His messenger, as well as what the early generations of the Muslim community followed of beliefs, practices, worship, actions, policies, rulings, governorship and gifts... The essence of *sharī'ah* is to follow God's messengers and obey them. Rebellion is to abandon obedience to God's messengers. To obey them is God's religion.'³⁵

The need for the term 'Islamic Governance'

It was reported that Abū Bakr appointed 'Umar ibn al-Khaṭṭāb as a judge in Madinah. 'Umar held this position for a whole year without having a single dispute put to him. He never sat to look into a case and make a judgement. Therefore, he requested Abū Bakr to relieve him of the task. Abū Bakr said: 'Is it because making judgement is hard that you are seeking relief?' 'Umar replied:

'No. It is that I am not needed in this community of believers. They all know their rights, and none asks for more. All know their duties, and none falls short in attending to it. Everyone loves for his brother what he loves for oneself. When any of them is absent, they enquire after him; whoever is ill is visited; and whoever is poor is helped. When any is in need, help is forthcoming, and when any suffers loss, they console and help him. Their religion is to be sincere to all, and their moral constitution is to enjoin what is right and forbid what is wrong. What will they quarrel about? What dispute do they have?'³⁶

In such a society, it is not possible to imagine a fair method of governance which is not part of *sharī'ah* or separate from it. Therefore, there was no need to have a term like 'Islamic Governance'. Ibn Taymiyyah on this stated:

'The *sharī'ah* incorporates every authority and action that sets religious and worldly matters on the right course. The *sharī'ah* consists of God's Book, the Sunnah of His messenger as well as what the early generations of the Muslim community followed of beliefs, practices, worship, actions, policies, rulings, governorship and gifts'.³⁷

Ibn Taymiyyah's renowned student Ibn Qayyim al-Jawziyyah explained the nature of governance:

'Governance based on justice is part of Islam. Whoever is conversant with Islam and knows its perfection, justice, wide scope and how it serves people's interests, to the extent that they cannot set their affairs right without it, will know that justice is an essential part of Islamic Governance. Whoever is fully aware of its

objectives and nature realizes that there is no need for any other policy of governance'.³⁸

It was asserted that throughout Islamic history, the early Caliphs, rulers and governors considered that governance must be based on the *sharī'ah* and that there was no need for any other type of policy or governance. This continued until such a time when scholars lacked specialised and exacting knowledge of the method of governance and statecraft delineated by the Prophet Muhammad and the rightly-guided Caliphs who succeeded him. Many things occurred which were not optimally addressed by scholars and judges leading to serious oversights and misapplications of the law. In addition, power was often assumed by governors and rulers who did not have sufficient knowledge in the method of governance set by the Prophet Muhammad and the rightly-guided Caliphs. They governed according to some methods that did not align with the value rubrics of the Qur'an and the Sunnah. Thus, there emerged a divergence between governance and *sharī'ah*. This divergence meant they were conceptualised as distinct institutions such that one party would call on the other to put their dispute to the *sharī'ah* and the other preferred the government policy. One ruler ruled according to the *sharī'ah* and another had his own method of governance. Thus, there arose the need to redress the divergence so that governance would not depart from *sharī'ah* but be re-harmonised with it. Ibn Taymiyyah spoke about this change in governance and explained the reasons that led to it:

‘The starting point of this error is that the Kufan scholars fell short in their understanding of the method of governance followed by God’s messenger (peace be upon him) and his rightly-guided successors. It is confirmed in the *Ṣaḥīḥ* anthologies of traditions that he said: ‘The Children of Israel were governed by prophets: when a Prophet died, he was succeeded by another prophet. But there will be no prophet after I am gone. There will be many caliphs’. People asked: ‘What do you command us to do?’ He said: ‘Honour your pledges to them in their respective order. Give them their rights because God will question them about what He has entrusted to them’. By the time the Abbasids were the caliphs and they needed to manage people’s affairs, some of the scholars of Iraq were appointed judges. Their knowledge was not sufficient to pursue a method of governance based on justice; and thus, they needed to establish a government department to look into complaints of injustice. They separated

political power from the implementation of the *sharī'ah*. The situation further deteriorated in many Muslim provinces, so that people started to speak about *sharī'ah* and governance as separate things. One party would call on the other to refer to the *sharī'ah* while the other wanted to refer to the government policy. One ruler ruled according to the *sharī'ah* and another had his own way of governance. What caused this was that those who claimed to follow the *sharī'ah* did not have sufficient knowledge of the Sunnah. Many things occurred and when they ruled on these, they might have caused rights to be squandered and legislation to be ignored. This might have led to bloodshed, confiscation of property and the violation of what is prohibited. Those who preferred a policy of governance followed some methods that do not adhere to the Qur'an and the Sunnah. The best among them were those who tried hard to establish justice, without having personal views, while many ruled according to their own personal preferences, favoured those who were powerful or those who could bribe them, etc.³⁹

Thus, a dichotomy occurred between knowledge of the method of governance instituted by the Prophet Muhammad, his immediate successors and scholars on the one hand and the implementation of this method of governance on the other. This created a need for a specialised scholar who could deduce from religious texts, the Prophet's implementation and the actions of the rightly-guided Caliphs a proper method that could redress this type of deficiency. This must have a name or description to identify it and distinguish it from the *sharī'ah* proper. This need led to a distinction of meanings understood by people when the term *sharī'ah* was mentioned. Ibn Taymiyyah further clarifies that in people's understanding, the word *shar'* came to have three distinct meanings: the revealed *shar'*, the interpreted *shar'* and the altered *shar'*. The revealed *shar'* referred to what was authentically reported from the Prophet of the Qur'an and the Sunnah. This must be followed and implemented by all people in all generations. He indicates that the most pious people are the ones who follow with most diligence, and whoever rejects this *shar'*, or criticises it, or allows anyone else to violate it must be asked to repent. The interpreted *shar'* refers to the rulings scholars have formulated through *ijtihād*, i.e. scholarly discretion. Ibn Taymiyyah asserts that if one follows the views of a recognised leading scholar, this is acceptable but there is no obligation to follow the views of any particular scholar. The altered *shar'* refers to the fabricated hadiths, false interpretations and other types of

deviation that have been introduced into Islamic law even though they do not belong to it. He asserts that this includes all judgement that is contrary to what God has revealed, and it is not permissible for anyone to follow this type. He states that a judge bases his judgement on what appears to him to be true, but God is the one who knows everyone's innermost thoughts. A judgement by anyone does not alter the facts. He quotes an authentic hadith in which the Prophet says: 'You put your disputes to me, and some of you may have sounder argument than others. I may judge for a person on the basis of what I hear him say. If my judgement gives someone what by right belongs to his brother, he must not take it. I am only giving him a piece of fire'.⁴⁰⁴¹

The term *siyāsah* evolved similar to the term *sharī'ah* in people's discourse, as it came to mean several things, some of which are legitimate, and others are not. Hence, it was necessary to distinguish between them. Muslim scholars were highly skilled in defining the objectives of the *sharī'ah* for the establishment of justice, ensuring people's interests and prevention of harm in society. Therefore, whatever helps to achieve these objectives formed part of the *shar'* and the *sharī'ah* even though it is not explicitly mentioned in divine revelation. In this context, they said that governance is of two types: unjust, and this is forbidden, and just involving enforcing what is right and taking it from any usurper. This is a most important and useful fundamental principle.⁴² Thus, fair and just governance came to be known as Islamic Governance, and this was their objective.

Types and Conditions of a Definition

What is meant by the right definition?

When governance is described as 'Islamic', this implies that the action of governance is right or in accordance with the textual sources and principles of Islam. For something to be right (*ṣaḥīḥ*) means that it produces the right effect and leads to the intended result. According to the Ḥanafī legal School, its opposite is 'flawed' (*fāsid*), which means faulty in essence and description. A faulty thing may be right in essence and faulty in description. According to the majority of scholars, they are both the same and they signify something that does not produce the right effect and does not lead to the intended result.⁴³

'Right' is of different types: 1) Rational, which means that from the rational point of view something may or may not exist; 2) Normal, which means that the possibility of a particular thing being in existence or not is based on the normal state of things. It is described as normally right or normally false;⁴⁴ and 3) Religious, which implies that an action is religiously acceptable, or approved.⁴⁵ Every permissible action is said to be 'religiously valid' or 'religiously permitted'. Thus, the broad meaning of the term 'religiously right' means that it is perfectly permissible for a Muslim to do whatever the description applies to.

Al-Subkī said: 'To be right means that what has two ways should be in agreement with Islamic law'.⁴⁶ He explained this by saying: 'in agreement means fully consistent with it'. Thus, the comprehensive meaning of being right means: 'An action that may be done in two ways should be in full agreement with the way determined by Islamic law'.⁴⁷

A government action is either in agreement with the rubrics of Islamic law or contrary to it. Therefore, governance is of two types: either unjust, which is forbidden by Islam, or just which means that it conforms to what is right and rejects what is false (*bāṭil*) and flawed (*fāsid*). This is part of Islam, whether it is known or unknown to people.⁴⁸

When we describe something as part of Islamic Governance, we mean that it is right from the Islamic point of view and that the action itself fulfills all that is necessary to be in agreement with what the law stipulates. Such agreement applies to what is of essence, condition and the absence of any legal hindrances ('*adam al-māni*').⁴⁹

Therefore, an action of governance has essential elements and definite qualities. It cannot be considered right from the Islamic point of view unless it fulfils them all. These elements are its constituents (*arkān*), conditions (*shurūf*) and absence of what may prevent it ('*adam al-mawāni*').⁵⁰

Definition: its essentials, conditions and hindrances

As an action, Islamic Governance has its essential elements, conditions and impediments. These are the same as the essentials, conditions and hindrances of any action. To give details:

Essentials	Conditions	Hindrances
Actor	Conditions applicable to the actor	Hindrances applicable to the actor
Action	Conditions applicable to the action	Hindrances applicable to the action
Outcome	Conditions applicable to the outcome	Hindrances applicable to the outcome

Pre-modern jurists used the term ‘Islamic Governance’ in various ways, which led to different definitions. The basic reason for such differences is the fact that Islamic Governance applies to many areas and can be implemented by various authorities. Some scholars limit Islamic Governance to a specified set of actions, such as mandatory legal (*ḥudūd*), discretionary (*taʿzīr*) and retaliatory punishments (*qiṣās*). Others consider it to be the prerogative of the head of state and whoever exercises such authority whether in a direct or devolved capacity. Others still, such as Ibn Taymiyyah, Ibn al-Qayyim, Ibn Khaldūn and Ibn ʿAqīl, apply it to all actions in all spheres of organised life. One relevant question, however, is what area is precisely intended in the first place? Is it the actor who determines the act of governance, or the outcome of governance? Thus, determining the scope of the term’s application is extremely important.

Is the actor the main concern of the term Islamic Governance? Some scholars attach actions of governance to the actor as the essential and defining aspect. Their definition of Islamic Governance reflects this attachment:

‘It is the action the ruler takes in order to fulfil a benefit he seeks...’;⁵¹

‘What the ruler does in service of the people’s interests...’;⁵²

‘The ruler’s management of the affairs of his subjects...’;⁵³

‘Management of public affairs in the Muslim state by the learned people in power...’;⁵⁴

‘Every action taken by governors with the aim of the preservation of people’s benefits...’⁵⁵

‘The implementation of the objectives of *sharī'ah* by the Commander of the Faithful (*amīr al-mu'minīn*);⁵⁶

Equally, other scholars considered the outcome or effects as being the main concern of the term Islamic Governance. These scholars link actions of governance to the effects of the governance. Their definitions bear this connection:

‘Islamic Governance means confirmed laws’;⁵⁷

‘Islamic Governance means the rulings by the governor that are part of Islamic law’;⁵⁸

‘Islamic Governance is the total sum of right government and just governance aiming at setting things right for the ruler and the ruled’;⁵⁹

‘Islamic Governance is the authority to enact the necessary legislation to manage state affairs’;⁶⁰

‘It is the law that aims to ensure the observation of morality and achievement of benefits and setting things in proper order’.⁶¹

Finally, the main concern of the term Islamic Governance may be the action itself. A number of scholars attach actions of governance to the action itself. The definitions as a result of this connection include:

‘Governance is setting the affairs of the community right and managing their affairs by acting in accordance with their wishes’;⁶²

‘Governance means such actions that are meant to help people to be closer to piety and farther from corruption, even though such actions are not enacted by the Prophet or stated in divine revelations’;⁶³

‘Governance means taking care of the community, gently and harshly, so as to put it on the right course’;⁶⁴

‘Taking care of, managing and preserving the affairs of the community, internally and externally, in accordance with Islamic law’;⁶⁵

‘Looking at matters with the aim of setting them right, or managing community affairs according to existing circumstances’;⁶⁶

‘Islamic Governance means acting most wisely in public matters in a way that is not contrary to what God’s messenger delivered, even though there is no particular evidence for each action’;⁶⁷

‘Islamic Governance is a practical method of managing the affairs of the community internally and externally’.⁶⁸

These definitions refer to the reality of actions of governance and that they represent a scholarly and practical method of implementing Islamic law in society in service of the interests of the community.

We have attempted in this section to explain the essentials of Islamic Governance, the actor, the action and the outcome. As it is well-known, an essential element is part of the object, or it is the object itself. This means that each of these essentials is considered a part of Islamic Governance. Each includes a direct or indirect matter, and a class or special quality or manifestation.

When legal scholars of the formative period and beyond undertook to define a particular discipline, some of them would isolate one of its meanings, which they considered to be most important, so as to make it the basis of the definition. They would not negate other meanings or aspects of the discipline. Another scholar may isolate a different meaning and define the discipline on that basis. Hence, we may have several definitions of the same discipline, each highlighting a particular meaning or aspect of it. If the meanings implied in such a discipline or subject include contradictory facts, they would limit themselves to general description. Some may give up their effort to define it because of the conflict between its aspects. Others may opt for other aspects of definition if they find the real limit hard to demarcate.

We note the different trends of defining Islamic Governance, with some definitions linked to the actor who enacts or implements; others linked to

the outcome of such governance, while others still make the link with the actual action of governance on its own. This is the strongest of all three essentials. However, all definitions converge on one key action of governance which is to further the community's recognized benefits (*maṣlaḥa*).⁶⁹ Since benefit is an open matter and a total issue that includes different types of detailed benefits, some new and others renewed, yet they are many and countless, it cannot be confined to a particular type on its own. Indeed, benefit is relative and differs according to situations and the circumstances applicable to each situation. Hence, it acquires a comprehensive character.⁷⁰

The important point is that the main objective in defining any essential constituent of an action is focused on that constituent in particular, not on other essential constituents. This does not mean that other essentials are ignored or left out of the definition. The difference is concerned with the function of any particular essential in the definition and the explanation of the interrelation between the essential constituents in the definition, according to what is verbally stated and what is implied and understood. To define an essential constituent means that this constituent is verbally stated in the definition while the other essentials are not, but yet understood. In defining any actor, the aim is to give that actor further explanation and clarity. The same applies to defining any action or its outcome. The aim is always better explanation and greater clarity. Thus, each aspect is distinguished from the others, and the different definitions may be combined without giving greater weight to any. This is the better option according to the fundamental rule: 'Recourse to giving preference to one alternative is not done if reconciliation of the alternative is possible'.⁷¹ The Yemeni jurist Alī Al-Shawkānī (d. 1250 AH, 1834 CE) on this said:

A condition that must be observed is that giving greater weight to an alternative may not be done unless it is not possible to achieve an acceptable reconciliation between conflicting options. If such reconciliation is possible, it should be adopted, and no preference may be given to any alternative.⁷²

Conflict is resolved through the details of definitions, according to the essential constituents of the action and relating each definition to the constituent on which it focuses. Thus, every definition becomes complementary to the other, and any apparent conflict between them is resolved.

Ibn Taymiyyah describes Prophet Joseph's action as reflecting 'knowledge of policy and management' and that it comes under the heading 'beneficial action'. He also says that Prophet Abraham's debate comes under the heading 'beneficial speech'. He said:

Joseph's story reflects knowledge of policy and management so as to ensure the benefit of the desired action. The first one reflects knowledge of what repels harm in matters of religion, and the second reflects knowledge of what brings benefit... It may be said that Abraham's story comes under 'beneficial speech' when it is needed while Joseph's story comes under 'beneficial action' when needed.⁷³

According to Ibn Taymiyyah's reasoning based on these Qur'anic passages, both accounts of Abraham and Joseph relate to policy and management, and both policy and management involve beneficial speech and action when one or the other is needed. This is indicated by the fact that the speech and action in both stories are policy and management adopted by prophets. The policy includes the beneficial speech and action of the governor when they are needed. What is meant, is that the action of the governor, whether verbal or practical, i.e. the action itself, is the primary concern of the term Islamic Governance. The essence of the definition is the effect of what is being defined. It was then figuratively applied to the wording used in the definition, because it is the effect produced by the speaker, while the definition is the effect of the definer. Therefore, the definition of Islamic Governance applies to the essential constituent we called the action of governance. The other two constituents, i.e. the actor and the outcome are included in the action of governance because this action cannot exist without them. They are both part of the subject-matter. The existence of the action of governance is dependent on the existence of the other essentials. If they do not exist, it does not either. This agrees with Najm al-Dīn al-Ṭūfī's classification of the essence of a definition.

What do we mean when we say, 'knowledge of action', 'action of the definer', and 'beneficial speech when it is needed'? Are we referring to knowledge of established rulings, or knowledge of rulings assigning duties, or knowledge of the deduction of the rulings of Islamic Governance? The answer can be given in three parts:

1] *In respect of established rulings:* These are 'God's address that makes something a cause of another, or a condition or a hindrance, or that it is right or flawed, or a concession or a duty required in full'.⁷⁴ We realise that the established rulings represent the start of all processes of deduction, including those of clarification, explanation or identification of objectives. They do not mean knowledge of the action itself, but knowledge of its bases. These are not among its essential constituents and they do not come under the actor, or the action or the outcome of governance action.

2] *In respect of rulings assigning duties:* These are 'the quintessence of the address of the Legislator concerned with the action of the one legally culpable before the law, either as an obligation or a matter of choice'.⁷⁵ We note that the rulings are the outcome of the process of deduction, which means that they are based on information that is classified according to their function, thus influencing the formation of the ruling and its structure and argument. It is clear then that the political outcome represents one of the essential constituents of an act of governance and is considered as the result of Islamic Governance. This outcome includes the decisions of the political actor and his ruling on the action of governance and whether it is obligatory, recommended, permissible, reprehensible or forbidden. It is clear that the results of the action are its outcome, and not the knowledge of the action itself.

3] *In respect of Legal theory (uṣūl al-fīqh):* *Uṣūl al-Fiqh* is defined as 'the rules through which rulings concerning matters of detail are arrived at on the basis of their detailed evidence'.⁷⁶ The essential constituent known as the act of governance is the one concerned with management to serve the interests when regulating for the community. Therefore, it is a type of *Uṣūl al-Fiqh* that is concerned with the actions of individuals that come under the general evidence, but no specific text or special evidence specify their rulings. Or else, some particular or general evidence applies to them, but they may alter and change.⁷⁷

The objective of Islamic Governance is to further the benefits recognised by Islam. It should be noted, however, that the objective of implementing Islamic Governance is more important, and it often leads to changing the purpose more than it influences normal action. This is due to the fact that

the benefits recognised by Islam change according to changing circumstances, places, times and people. This enables the *shariah* to extend to every time, place, situation and people, with no conflict or contradiction. This makes the deduction of rulings on the basis of recognised benefits the core of the knowledge of actions based on the rules and principles of Islamic Governance.

Therefore, for the purposes of the present work, the definition of Islamic Governance will begin by defining the essential constituents of Islamic Governance and will then derive a comprehensive definition of Islamic Governance. Since the definitions of the constituents are equal in importance, the definition of the outcome is the main issue, while the definitions of the actor and the action come next. Therefore, the comprehensive definition of Islamic Governance will be primarily derived from the outcome constituent and secondly from the other constituents.

Types of definition and their nature

Before defining Islamic Governance, we need to explain what definition is, its parts and some rules that must apply to any discussion involving it. We then apply the determined limits to these rules and controls. This relates to a highly specialised area of study known as ‘The Principles of Dialectics and Debate’ (*‘ilm adab al-baḥṭh* / *‘ilm al-jadal* / *‘ilm al-munāzara*). An aspect of it also includes logical reasoning. These rules and controls are indeed general standards applicable to all disciplines. They must be instinctively present in the researcher’s mind, just like the simple rules of grammar, which a writer applies in his composition without thinking. A definition explains the nature of something, or its meaning. It has four types:

- 1) verbal definition;
- 2) alerting definition;
- 3) nominal definition; and
- 4) real definition.⁷⁸

The verbal definition refers to the explanation of the meaning of a term in some clearer terms that illustrate the meaning.⁷⁹ This type is most used by linguists. Examples: ‘Governance is to handle something in the way that sets it right’,⁸⁰ and ‘To govern something is to manage it and attend to its needs’.⁸¹

The alerting definition is intended to bring out in the addressee's mind an image that is stored in it but appears to be forgotten. This type does not add any new value. Whatever the definer brings up in the addressee's mind is a proper alertness definition. It may sometimes be called 'alerting', without adding the word 'definition'.

The difference between these two is subjective and relates to the addressee. If you define something to an audience who do not know anything about it, then you are giving them a verbal definition. But if your audience knew about it but appear to have forgotten it, and you wish them to recollect its meaning, you are giving an alerting definition. Thus, the two are the same in reality, but differ in their relevance. Because they are the same, some scholars do not pay any importance to their difference but consider them as one type. However, it seems the aforementioned opinion seems to be more sound.

The nominal and the real definitions refer to what is cognitively proximate to the listener, i.e. what the mind immediately conjures up. The difference between them is that the real definition details the concepts that are confirmed by something outside the defined matter, even if it is only mentally. The nominal definition details the abstract concepts for which no confirmation is known outside, whether they are well-known or not. To give an example: we may define governance as 'To manage something in a way that sets it on the right course'.⁸² We may linguistically define "*shar'ah*" as 'The place to which those needing a drink aim and drink at it and from which they take their drink supplies'.⁸³ These are real definitions that explain the essence of something that has several real and external cases, which some people know and some do not. Therefore, whatever is mentioned of definitions of disciplines at the beginning of books and the details given are considered nominal definitions when they are given to beginners who do not know them. When the discipline is clear in their minds, they become real definitions.

Parts of the nominal and real definitions

The nominal and real definitions have four parts. Each of them is either a limitation or a description, and each of these is either complete or incomplete.

The complete limit consists of near substance and details, as in: ‘Governance is management of benefits’:

Governance	Management	Of benefits
Type	Near substance	Details

The incomplete limit consists of distant substance and details, as in: ‘Governance is the art of benefits’:

Governance	Art	Of benefits
Type	Distant substance	Details

The complete description consists of the near substance and its essential characteristic, as in: ‘Governance is beneficial management’:

Governance	Management	Beneficial
Type	Near substance	Essential characteristic

The incomplete description consists of distant substance and characteristic, or purely casual matters, as in ‘Governance is a beneficial art’, or ‘Politics is the art of the feasible’:⁸⁴

Governance	Art of the	Beneficial / feasible
Type	Distant substance	Essential characteristic

Conditions of the nominal and real definitions

Both the nominal and real definitions have conditions of correctness and conditions of excellence. If any condition of correctness is not met, the definition is incorrect, but if a condition of excellence is not met, the definition will not be considered incorrect, rather it will merely not be seen as excellent.

Conditions of correctness of the nominal and real definitions

There are five conditions of correctness for each of these definitions:

One: *The definition must be composed of what is of the essence, not an addition.*

Thus, any definition that assigns a particular actor, but does not include other actors to whom the matter applies, is excluded. Thus, Islamic Governance may be defined as: 'Any action by the ruler...' or 'any action by governors...' or 'management by diligent officers...' or 'the actions taken by the Commander of the Faithful (*amīr al-mu'minīn*)...' In all these cases, the definition limits the definition to some responsible persons, mentioning their descriptions. An action by one who does not have such a post or responsibility is not considered as governance in the first place. As such, it is not included in the definition. All these descriptions are additional. The ruler, governor or Commander of the Faithful are changeable additions and may apply to different individuals in different situations, times and places. There are numerous other qualities that apply to those who exercise such governance. Besides, it is possible to imagine actions that are consistent with Islamic Governance and undertaken by someone who acts on behalf of another, and yet he is neither a ruler, nor a governor, nor Commander of the Faithful.

Definitions that make a particular action of Islamic Governance they describe as the basis of definition are also excluded. Examples of such definitions include: 'Islamic Governance is confirmed laws', or 'the rulings of the government', or 'the authority to legislate', or 'the law enacted to protect morality, bring benefits and set things right'. All these things limit the definition of Islamic Governance to some actions by mentioning their descriptions and limiting it to these. All these specified actions are additions. Actions by government and an enacted law are some of the outcome of operating Islamic Governance, not all of it. The authority to legislate is one of the things that bring about Islamic Governance, not of its essence. Likewise, rulings that specify duties are the outcome of the process of deduction, not the process itself.

Two: *The definition must include every individual that belongs to what is being defined, so that none of these individuals are thought not to belong to it.*

Every definition that relates Islamic Governance to one of its essentials, but not to the others, is excluded.

Limiting the definition to the actor constituent by describing his position, status, or type, as in 'Any person of responsibility, within the limits of that responsibility and authority'.

Limiting the definition to the outcome constituent by describing a particular action or the outcome of actions that are based on being consistent with Islamic law, or mentioning a quality of the outcome, such as saying all that the action produces according to Islamic Governance.

Limiting the definition to the action constituent by describing an aspect of the action, such as saying ‘management’ or the action related to public interest.

Three: *It must exclude the possibility that anything other than the defined may get included in it. Thus, it should be impossible to imagine that anything that does not belong to the defined may be part of it.*

Thus, definitions that include a cancelled benefit in Islamic Governance are excluded. For example: ‘Islamic Governance means serving established benefits even though they may be contrary to religious text and unanimity’. Such a statement is based on al-Ṭūfī’s view that

‘When text and unanimity are contrary to benefit, the benefit should be given precedence through specification and explanation, not by cancelling them, just as the Sunnah may be given precedence over the Qur’an when it explains it’.⁸⁵

This view seems to be very problematic as it is not possible, religiously, to consider benefits that are contrary to religious text and unanimity as real benefits. Rather, they are merely imaginary. It seems that they may have been described as ‘cancelled benefit’ (*maṣlaḥah mulghāh*) because initially they may wrongly be thought to constitute benefit.

Four: *It must not require an impossibility, such as being circular, consequential⁸⁶ or allowing inner contradiction.*

To be circular means that something is dependent on what is dependent on it,⁸⁷ such as defining something by another which cannot be defined except through the first thing.⁸⁸ It is of two types:⁸⁹ the first is called the stated circulation, as in ‘a’ being dependent on ‘b’ and the reverse is true.⁹⁰ For example: ‘Governance cannot be governance unless it is Islamic, and nothing can be Islamic unless it is governance’. The other type is by stages and is called implied circulation,⁹¹ as in ‘a’ is dependent on ‘b’ and ‘b’ dependent on ‘c’ and ‘c’ dependent on ‘a’. For example: ‘Governance

cannot be Islamic unless it is Islamic, and the Islamic cannot be governance unless it is the art of what is possible, and the art of what is possible cannot be Islamic unless it is governance’.

To be consequential means, linguistically, that things are endlessly interconnected, and setting an order for an infinite number of things.⁹² It is divided into two types, with regard to the actor and the effect. (1) The first is being consequential in regard to the actors and the causes. What this means is that something is being done by an actor, and the actor has an actor producing it, and so on, endlessly. This type is agreed to be false from both the religious and logical points of view. It does not have any bearing on definition in this treatise. (2) The second is being consequential in effect. It is of two types: a) being consequential in relation to the future, by producing one effect after another. Thus, no event occurs unless preceded by an event. Thus, it may be said: ‘No action of Islamic Governance occurs unless another action of Islamic Governance occurs after it, and so on, endlessly’. b) being consequential in relation to the past, which means that no event takes place unless it is preceded by another event. Thus, it may be said: ‘No action of Islamic Governance occurs unless another action of Islamic Governance has occurred before it, and so on, endlessly’. This is false for two reasons: Firstly, it means that no action is ever done; and secondly it describes human activity to be without a beginning.

Inner contradiction is to say something like: ‘Islamic Governance means serving confirmed benefits even though they may be contrary to religious text and unanimity’. it is argued that what we have here is a case of inner contradiction on the basis that how is it possible for a benefit to be established and confirmed in this definition, on the basis of plentiful evidence confirming the need to serve people’s benefits, and yet to be discarded on the basis of definitive evidence, namely, being contrary to text and unanimity? It is not possible for two mutually contradictory things, such as confirmation and discarding, to exist side by side within the same matter.

Five: *the definition must be clearer than what it defines, so as to be easier to understand, and to achieve the purpose of the definition which is to enable the recipient to understand what is being defined.*

Thus, any definition that makes the defined matter more ambiguous is excluded. To give an example: some define Islamic Governance as ‘the actions of a government that are included in Islamic rulings, and which are made obligatory to the community according to Islamic law’. This definition does not provide much clarity of what is being defined.

The Limits of Islamic Governance (the definition)

At the beginning of his book, *Sharḥ Mukhtaṣar al-Rawḍah*, al-Ṭūfī makes a distinction between definition and limit: ‘Definition is more general than the limit, because definition may be complete with the mention of an essential constituent, or a quality or a word that ensures continuity and clarifies the reverse. The limit requires the mention of the thing being considered and the section that incorporates all the essential qualities of what is being within the limits. Thus, every demarcation limit is a definition, but not every definition sets limits, because a definition may not include all the essentials’.⁹³ Therefore, since all essential constituents of something belong to it in substance, it is necessary to have a definition to attach to each, then we derive from these a comprehensive definition of Islamic Governance, which sets a complete limit or something close to it.

The definitions attached to the constituents of Islamic Governance are of two types: primary and secondary.

A primary definition is one attached to the intended constituent itself within the definition of Islamic Governance.

A definition attached to the action constituent: ‘Continuous management to further the benefit, provided that nothing in Islamic law prohibits it’.

Secondary definitions are attached to the intended constituents for others within the definition of Islamic Governance. They are brought within the definition because they belong to what is being defined and are part of its entity. It cannot exist without these others, but they are not intended in the first place:

A definition attached to the actor constituent: ‘Management by the ruler in accordance with benefit and applied to the community’.

A definition attached to the outcome constituent: ‘Management of interest applied to the community’.

The definition we need is what may be described as the complete limit, or close to it. It should be composed of the near substance and the section that incorporates all the essential characteristics of what is within the limit and fulfils the conditions of the right definition as already explained. Certain requirements must be fulfilled:

- The comprehensive definition should be most general so that all the definitions of the essential constituents should be parts of it, while it must not be part of any of these.
- The meanings of the terminology used must be as close as possible to their linguistic meanings as used in normal speech.
- The definition should describe only the nature of Islamic Governance itself.

In the light of the above, the comprehensive definition, i.e. the complete limit or what approximates it, which is proposed for Islamic Governance is:

Islamic Governance is: ‘the administration of justice through action applied to the community’

When a definition of Islamic Governance has been formulated, to serve as a complete and true limit, or something close to that, it is necessary to pause a little to remind ourselves of the overall objective of Islamic Governance and the importance of the establishment of a complete limit and definition of Islamic Governance.

First: it is very difficult, if not impossible, to define any conceptual meaning by real limits, because human views cannot attain perfection. They inevitably admit error, oversight or prejudice. Hence, it could be argued that it is not useful to exert too much effort in trying to formulate a complete limit, particularly when such is extremely difficult. Rather, it is sufficient to formulate a limit that is nearly complete or at least sufficient for the purposes of this discipline. The essential thing is to have agreement on the broad and general meanings that give a clear idea. In any case, such difficulty, or even impossibility, should not prevent us from trying as hard as we can in formulating one. We should bear in mind that if we can do no

more than the pursuit of knowledge and serving a good aim, this would be sufficient.

Second: the problem was never really one of definition. It was always one of willingness and sincerity in the part of the one who governs in the implementation of Islamic Governance. Neither ‘Umar ibn al-Khaṭṭāb nor ‘Umar ibn ‘Abd al-‘Azīz had any definitive technically produced meaning of Islamic Governance; rather, they were only keen to have the vision agreed by the community of what Islamic Governance means, and that its core concept is justice.

Third: It may be said that adding the adjective ‘Islamic’ to qualify ‘governance’ aims basically at the administration of a just policy of governance, because it is the right policy, to which all people, Muslims and non-Muslims, agree. Ibn al-Qayyim said:

‘God sent His messengers and revealed His books so that people would conduct their affairs on the basis of justice, because it is on justice that the whole universe is set on the right course. If the signs of justice and its fulfilment appear to be in following any particular line or method, then following that implements God’s law and meets the requirements of the faith He revealed. God has not limited the administration of justice, or its signs and evidence in any particular method or methods, to the exclusion of others that may be of equal or greater benefit. He has stated that the methods He laid down are aimed to establish justice and ensure that it is done. Therefore, whatever way ensures justice is part of Islam and not contrary to it. We do not say that fair governance is contrary to what Islam states; it is consistent with it, and indeed a part of it. We simply call it governance because this is the term you prefer. In fact, it is the true law’.⁹⁴

Fourth: Within this fair and just governance, the practical details may be described as Islamic or not. This means that a condition of arriving at the desired justice is that the aim and the means must be legitimate. Islamically, injustice could be identified via a reflection on prohibitions and commands.

Fifth: A confirmation of this is in the fact that if the term ‘Islamic’ was to be omitted from those definitions, nothing will change, if these definitions

include a description of justice. This means that the required governance is synonymous with the right sincere management so as to ensure justice. Ibn al-Qayyim states:

‘Fair governance is a part of Islamic law. Whoever has some insight into Islamic law and knows how perfect, fair, broad and beneficial it is, and that people can never set their affairs right without it, will realise that fair governance is part of it. Whoever is well aware of the objectives of Islamic law will never need any different way of governance’.⁹⁵

Adding the adjective ‘Islamic’ to ‘governance’ will not change anything. The name will not change the nature of that to which it applies. Therefore, there is no effect for adding the adjective ‘Islamic’ except:

1. That Islamic law is based on fairness and is welfare oriented, and whatever is contrary to Islamic law is deemed unfair, and
2. That a governor must ensure the highest benefits for those he governs so that he will be right from the Islamic point of view. This means that he will be punished in the life to come if he does not seek to ensure the best benefits that serve the interests of his community.

Many verses in the Qur’an asserts that Islam commands that justice is implemented and injustice to be eliminated. The Qur’an sates in one place: **‘God enjoins justice, kindness [to all], and generosity to one’s kindred; and He forbids all that is shameful, all reprehensible conduct and aggression. He admonishes you so that you may take heed’.** (16: 90) In his comments on this verse, Ibn Kathīr writes:

God tells us that He bids his servant to do justice and enjoins them to maintain kindness, as in: **‘If you should punish, then let your punishment be commensurate with the wrong done to you. But to endure patiently is far better for those who are patient in adversity’.** (16: 126) **‘An evil deed is requited by an evil like it, but the one who forgives and puts things right will have his reward with God. He does not love wrongdoers.** (42: 40) **‘A similar retribution [is the punishment] for wounds. But for him who forgoes it out of charity, it will atone for some of his sins. Those who do not judge in accordance with what God has revealed are indeed wrongdoers’** (5: 45).

Discussing this verse in his extensive legal exegesis *Aḥkām al-Qurʾān*, the Andalusian Mālikite jurists and exegete Ibn al-ʿArabī remarks:

‘In man’s personal relation with his Lord, justice means to prefer God’s right to one’s own benefit, and to give precedence to His pleasure over what one wants for oneself; to refrain from prohibitions and to abide by commands. To be fair to oneself means to stop oneself from what leads to one’s perdition, as God says: **‘He who feared that he will stand before his Lord and forbade his soul its base desire will dwell in paradise’** (79: 40-1). It further means refraining from the pursuit of what one covets and to be content in all situations. Justice between oneself and others means that one should give sincere advice and refrain from dishonesty in all matters, little or serious. It also means to deal with all people fairly in every way, so as not to do harm to anyone, in word or action, in public or private; and even not to think of that or intend it. Furthermore, to endure with patience what harm others do to you. The minimum that is required in this respect is to be fair to all and to do no one any harm’. This is quoted by al-Qurṭubī who adds: ‘This detailed explanation of justice is fine and right’.⁹⁶

These three aspects of justice are combined in a narration in which the Prophet is reported to have said: ‘Remain God-fearing wherever you are; and follow up a bad deed with a good one and it will wipe it out; and behave well towards all people’. (Related by al-Tirmidhī, *Sunan*, 1, 987).

Three other Qurʾanic verses urging justice and kindness include: **‘Believers! Be ever steadfast in upholding equity, bearing witness to the truth for the sake of God, even though it be against yourselves, or your parents and kin. Whether the person concerned be rich or poor, God’s claim takes precedence over [the claims of] either of them. Do not, then, follow your own desires, lest you swerve from justice. If you distort [the truth] or decline to do justice, then [know that] God is indeed aware of all that you do’** (4: 135); **‘Believers, be steadfast in your devotion to God, bearing witness to the truth in all equity. Never allow your hatred of any people to lead you away from justice. Be just, this is closer to righteousness. And remain God-fearing. Surely, God is aware of all that you do’** (5: 8) and **‘Do not let your hatred of people who would debar you from the Sacred Mosque lead you into aggression’** (5: 2).

In all these verses believers are being instructed to be just. This means to be just with those who are close to them and those who are not, and with friend and foe. No one may be favoured with justice because he is a relative or a friend, and none is denied justice because he is an enemy. Commenting on the last of these verses, Ibn Kathīr writes:

‘Let not your hatred of some people cause you to abandon justice. Justice is an incumbent duty on everyone and due to everyone in all situations. Some early scholars said: “You can never deal with someone who disobeyed God in treating you than by obeying God in the way you treat him. It is with justice that the universe is set on the right foundation”.⁹⁷ God also says: ‘We do not charge a soul with more than it can bear. When you speak, be just, even though it be against one of your close relatives’. (6: 152) Ibn Kathīr said: ‘God issues a general order to maintain justice in word and deed, with friend and foe. God orders justice to all at all times and in all situations’.⁹⁸

For the sake of brevity and clarity, the explanation of definitions and what the debate is about will be limited to the definitions of Islamic Governance and the action constituent of it.

The administration of justice: What is meant by ‘the administration of justice’ is the clear and well-known way that ensures justice. This is composed of a set of rules, controls and standards which determine justice, and added to these is a set of ways and means that serve the rules and controls in order to determine the most complete form of justice in action with the minimum cost and with no violation of Islamic laws.

Administration: The administration here mirrors governance. The continuous management to ensure the benefit, with nothing in Islam to prohibit it, is a way and a special method related to Islamic Governance in ensuring justice without any violation of the rules of the Qur’an and the Sunnah.

Justice: Justice here mirrors Islamic, as Islam is seen to be fair in itself and enjoins justice, commanding people to do justice in word and deed, and to administer justice to friend and foe, to all people, at all times and in all situations.

Action applied to the community: What is meant here is that the person in charge of the community is in a position of trust, having been assigned duties and assumes responsibility. This is certainly not a position of privilege, ownership and possession. The ruler is responsible for ensuring the interests of the community and managing their affairs so as to ensure justice with as little cost as possible, so as to bring about the highest worldly benefits without detriment to their interest in the life to come.

Management: What is meant by governance is the continuous management in detailed matters and their results so as to ensure people's benefit. al- Askarī said:

‘The difference between governance and management is that governance means continuous management. The management of a single affair cannot be called governance. Every way of governance is management, but not every management is governance. Moreover, governance applies to the detailed affairs of the governed. Management is to set a matter in a way that ensures that what it entails is right’.⁹⁹

The desired interest may be distant and cannot be achieved without using more than one method, which means that continuous management is needed to achieve such distant interest. The method needed may be a relative objective, such as management. This is a case of multiple and consecutive means, or multiple and consecutive management, which is then akin to governance.¹⁰⁰ Maintaining justice, for example, is an objective that is served by implementing Islamic law, and the implementation of Islamic law is an objective that is achieved by reforming the judiciary system, which in turn is an objective achieved through the provision of the best human, financial, structural and administrative resources.¹⁰¹ Thus, the means and ways become consecutive, so that when one matter is achieved another follows. Every sequence of such ways and means is a form of continuous management to ensure justice. Such continuous management to set things in the proper order is the meaning of Islamic Governance. Included in this are all matters to be managed, in the widest sense of the term. This means that it is not limited to action that comes to mind, but also includes what is said as well as beliefs.¹⁰²

Management by the ruler: What is meant by management by the ruler in the definition, attached to the actor constituent, is that the ruler has some status

in respect of what he manages. Therefore, anyone who does not have such a status or authority and what such a person does are excluded.

Management of benefits: What is meant by management in the definition, attached to the outcome constituent, are the benefits that have been managed. This refers to the results of the ruler's actions applicable to his community, in respect of his responsibility to bring them maximum benefits, without any violation of God's law.

In what is right: 'What is right' means that the thing in question is complete as intended. Therefore 'management in what is right' means choosing the action in its most complete form as it is intended to bring the best and most perfect benefit, provided that it is not contrary to Islamic law. The meaning is that the management is that of interests approved by Islam, and balancing different interests so as to determine priorities, and to aim for the greatest benefit.

Not contrary to Islamic law: This proviso means that whatever is contrary to Islamic law is excluded and every management consistent with Islamic law is included. The condition that the approved benefits that are the essence of Islamic Governance should be consistent with Islamic law is taken for granted. What is intended here is that the means by which a benefit is realised should be acceptable, either in a specific text or a general one, as follows:

- Included in this is knowledge of consistency with Islamic law. This applies to all measures and definite benefit, which are mentioned in a clear evidence as required. The evidence may be a text, unanimity or analogy. These are certainly among the benefits that are consistent with Islamic law, as confirmed by that specific evidence.¹⁰³
- Included also is the knowledge that there is no contradiction. This applies to all measures and benefits for which there is not a single specific evidence, but other ways of evidence, such as the objectives and rules of Islamic law agree in considering them interests and benefits. A consideration of such evidence will show that these interests are not contrary to Islamic law.
- Also included is the unawareness of any contradiction. This applies to all measures and benefits that are not known to be contrary to Islamic law, as they are part of what the Legislator determines.

They are described by Ibn Taymiyyah as follows: 'It is such as when a well-versed scholar who exercises *ijtihād* considers that a particular measure ensures a clear benefit and there is nothing in Islamic law to prevent it'.¹⁰⁴ There is here well known disagreement, with some scholars calling these 'unspecified [i.e. *mursalāh*] benefits', while others call them 'reasoning', and others still make them close to 'subtle analogy' or *istihsān*. This disagreement has led to abandoning some definite interests, with the situation described by Ibn Taymiyyah:

'Many of them ignored benefits that Islamic law requires to be ensured, because they argue that Islam does not specify them. Thus, some duties and some fine things are left undone, or some prohibitions and reprehensible things are done. Yet these may have been mentioned in Islamic law and the scholar did not know of such mention'.¹⁰⁵

What the debate is all about - The two sides:

Some scholars call the one who objects to the definition describing it as invalid 'the questioner', and the one who justifies it 'defender'. The majority call the objector 'provider of evidence' and the justifier 'blocker'. They mean that an objection to the definition is not considered merely by the claim that it is invalid; the objector still needs to support his claim by showing that one of the conditions of the validity of the definition is not met, as will be explained. They also mean to say that the one who provides the definition may respond by merely blocking one of the premises of the evidence cited for its invalidity, whether he cites an evidence for blocking it or not.

Objection to the real and nominal definitions

Objections to either the real or nominal definition, whether either is a limit (*ḥadd*) or a description (*waṣf*), may be in four ways:¹⁰⁶

One: If the objection is that the definition is not a real limit. This could be replied to by the fact that the definition is a real limit of Islamic Governance because it consists of the near substance and the section that includes all the constituents of what is within the limit:

*Islamic Governance: A Linguistic and Conceptual Study of the term
(al-Siyāsah al- Shar'iyah)*

Islamic Governance	Administration of justice	Action applied to the community
Type	Near substance	section

The definition is a real limit that is necessarily, not optionally, long.

This definition is of the type of a complete limit that is made necessarily, not optionally, long. It is long because it includes all the essential characteristics of what is being limited. If any of these is missing, the definition will not be a limit of what is being defined. This is what is intended by al-Ṭūfī when he says: 'The limit exists only when the substance and the section that includes all the essentials of the limited thing are mentioned'.¹⁰⁷

Two: If the objection is that this definition does not include all the individuals of what is being defined. Then, it could be said that it does include them all, because the definition is composed of the most general description and changing any of these will exclude some of its individuals. The objector must provide evidence in support of his claim.

Three: If the objection is that this definition does not prevent individuals that do not belong to the defined thing to be included in it, there are here different cases:

The objector may claim that this definition speaks of 'action applied to the community' making it general, without limiting it to the one who has the authority to act, such as the ruler or the governor. In this case, such actions may be considered by some who do not have the right to consider them and have no authority.

The answer: Everyone who is in charge of something has responsibility, and everyone with responsibility has an authority within the limits of what he is in charge of. Ibn 'Umar narrated that he heard the Prophet say: 'All of you are shepherds and all of you are accountable for whatever is under your charge. A ruler who is in power is a shepherd and is accountable for his flock. A man is a shepherd of his household and is accountable for his flock. A woman is a shepherd in her husband's home and she is accountable for her trust. A man's servant is a shepherd of his master's property and is accountable for his trust. Everyone of you is a shepherd and everyone is accountable for their trust'.¹⁰⁸ Therefore, what is being deduced

from this is that every Muslim individual is in a position of charge and under some authority at the same time. He has duties which he must fulfil and rights which must be given to him. The Prophet begins this hadith by confirming a general principle stating that everyone is a shepherd and accountable, and he finishes by repeating the same principle. In between, he gives specific examples, stating the top responsibility at first and the lowest at the end, and he mentions others in between. Thus, the hadith applies to all Muslim individuals.¹⁰⁹

This clearly suggests that whoever undertakes to do something of benefit to oneself or to others is a person assigned a trust and is accountable for the management of the trust God has given him or her. They are required to set it on the right footing doing nothing that is contrary to Islam. This cannot be done without a scholarly effort to apply the appropriate Islamic rulings to matters that are thought to bring benefit. Such an effort requires at least a scholarly application, which is a process that must be followed in every event. To exert an effort to apply rulings to events is a duty with every new event, and cannot be dispensed with, following the same line as in other questions. Every new event is unique and without a perfectly similar precedent. Hence, the application of the ruling to it is a new process and cannot be through an earlier application. Al-Shāṭibī (d. 790 AH, 1388 CE) said:

‘It is not possible to follow an earlier process, because such application can only be after the verification of applicability of the ruling, and this has not been done yet. Every new case of an event is a new event without any earlier parallel. Even if there was a parallel in the same matter, it did not apply to us. Hence, it should be considered through the process of *ijtihād*, i.e. scholarly effort. Still, if we assume that a similar case had taken place, it is necessary to consider first whether it is similar or not. This is again a case of *ijtihād*... it should be remembered that Islam has not given a ruling on every detailed case on its own. It gives general principles, stated in general terms that may apply to countless numbers of cases. Yet every case has some specific characteristics that do not apply to others, even in the same field’.¹¹⁰

Every consideration, examination or verification of the cause of confirmed benefits in the management of affairs, even in its simplest form, which is the verification of causes, is in essence part of Islamic Governance which is binding on everyone in all affairs. We may, perhaps, explain the trend

that limits Islamic Governance to the state and the ruler by the fact that in the past application to the community through a specialised civil service was unknown except through government machinery and action by rulers and governors, according to their respective domains of authority. Thus, scholars looked at governance by the ruler who has overall authority, whether acting personally if he is the overall ruler, or through deputies, such as judges. Scholars did not look at professional authority which results from qualification and does not lack approval by the ruler, such as the authority of a scholar, mufti, medical doctor, engineer, etc. Moreover, we see today that some companies and non-governmental entities may be richer and more powerful than many countries. It is possible to apply to individuals the same status as such organizations and apply to individual persons the status of legal personalities when the cause is the same, which is the continuous management of public affairs. All these have an authority entrusted to them to look after other people and their benefits.

It can also be answered in a different way: the difference between the choice available to the rulers and to individuals without special capacity is insignificant. To explain, the difference between them in the choice available is based on the difference in what is under consideration, not in the action itself. Rulers and leaders act in what is other people's benefits as the people's agents, while individuals act in their own interests. The action of anyone on behalf of another is subject to benefit, according to the jurisprudential rule: 'Every actor on behalf of others must act to ensure their benefit'.¹¹¹ Administrators act on behalf of others. As such, this rule applies to them. The owners of companies and other entities are not excepted, because they act on behalf on the legal other, i.e. their companies or entities. Scholars have explained the difference between the two. Administrators have an administrative authority which requires them to take only the measures that are best for those who are under their authority. They thus move from one duty to another, and the duty applies to them in all situations, before and after they exercise their discretion to take a decision. They try to discharge a duty, and as such their work is a duty. When they have exercised their discretion and arrive at a decision, they must do what they have arrived at. Thus, they are always duty-bound. This is the opposite situation of having a choice or permissibility. That they originally have a choice is explained by saying that they were not in the first instant under an obligation to manage, i.e. they are not told: this is what you have to do so look into it and go about it. Thus, they may first look into the available options, then use their evaluating authority to give

preference to a certain option, and after that act on what appears to them to be the best option. The choice given here is between duties, not of duties.¹¹² Whoever acts on behalf of others must act according to what ensures their benefits. There is no difference in this between rulers and ruled, each according to their trust and responsibility. This is what is meant by the narration mentioned previously: ‘All of you are shepherds and all of you are accountable for whatever is under your charge. A ruler who is in power is a shepherd and is accountable for his flock. A man is a shepherd of his household and is accountable for his flock. A woman is a shepherd in her husband’s home and she is accountable for her trust. A man’s servant is a shepherd of his master’s property and is accountable for his trust. Everyone of you is a shepherd and everyone is accountable for their trust’.

If the objector claims that this definition is not a blocker, because it does not exclude what is subject to a particular text that applies to it and whatever is joined to it through analogy. Nor does it exclude whatever is based on the evidence of unanimity. Yet the ruler has no say in such matters, but must rule according to such evidence. His action in such matters is based on a text or what is equivalent in status. It is not based on the evidence of interest.

This objection makes three points:

One: The benefit addressed by the measure is an unspecified one, i.e. *mursalah*, which means that there is no special evidence applicable to it. Its evidence is that it constitutes part of the Legislator’s actions, and there is nothing in Islamic law that is contrary to it. This excludes action on the basis of text, analogy and unanimity.

The answer to this point: benefits are of many types, with some accepted by all and others not so. The management of benefit applies to an interest that is approved by Islam, whether such approval is confirmed by a general evidence, which is of the type of the Legislator’s action, or by a specific evidence. The latter is generally called confirmed benefits, as they are confirmed by a text or unanimity. There is a particular evidence applicable to it, so as to give it a ruling. Scholars of legal theory, i.e. *Usul al-Fiqh*, call it confirmed benefit. According to all scholars who approve of analogy, this type of benefit may be used as reason for rulings and give verdicts on their basis. This type includes all benefits that

religious rulings seek to achieve, such as the preservation of mind for which the Legislator has forbidden drinking alcohol and imposed a punishment on anyone who drinks it. The protection of property is another example, and Islam legislates in this regard the prohibition of theft and the punishment of the thief. It was such confirmed benefits that makes analogy an acceptable evidence for rulings. Analogy is based on studying religious rulings and identifying the purpose of the Legislator to ensure a particular benefit through them. Thus, if the same benefit applies to a different case, the same ruling is applied to this new case by analogy.¹¹³ It is asserted this type must be accepted, whether we realise the benefit it seeks or not, because it is thought that all legal rulings aim to ensure people's benefits.¹¹⁴ Ibn Taymiyyah said:

'It is sufficient for a believer to know that everything that he is commanded to do brings a pure or likely benefit, and that what he is prohibited is a pure or likely harm. God does not order His servants to do things because He needs these. Nor does He prohibit them things grudging them. He orders what benefits them and prohibits what causes them harm.'¹¹⁵

The second is that the implementation of Islamic Governance can only be based on the determination of benefit, not on a particular text.

The answer is that, as we have explained earlier, management of interest is concerned with a benefit confirmed islamically, whether it is based on a general or special evidence. The ones that are based on a general evidence are those normally called unspecified, i.e. *mursalah*, benefits which are referred to by the objection. Those that are based on special evidence are generally called confirmed benefits, and these, according to the objector, do not come under Islamic Governance. We do not agree with the objector on this point, and we have already shown that his view is incorrect.

The third point of objection is that the ruler or the one managing the affairs of the community has no discretion to exercise in matters that are subject to a particular text. Where a text applies, *ijtihād*, or scholarly discretion has no role. As such, where a text or analogy on the basis of a text or unanimity applies there can be no management of affairs on the basis of benefit.

The answer to this point is that when it is said that *ijtihād* has no role where a text applies, this means that there is no need to look for another piece of

evidence to be considered alongside the text. It does not mean to negate scholarly discretion in order to apply the text to the case in hand. Scholarly discretion in this situation is to give priority to the best among duties. Every application of a text is essentially fitting it to the case in hand, which means managing its proper operation. It is renewed every time the application is repeated. From another point of view, it is to manage the benefit of continuing to implement the text for the interest of the individual.

This last answer may be countered by someone saying, for example, that the objection is based on the fact that the special text indicates an aspect of Islamic Governance that is included in the overall Islamic Governance. By doing so, the definer only defines Islamic Governance in its special meaning even though he believes that it is Islamic Governance in the general sense. It goes beyond the limit answered here. As such, it remains short, not comprehensive.

The answer to this objection is that the special meaning of Islamic Governance is added in the definition to the essential constituents of Islamic Governance, which have already been explained. The definer wants to give every definition its proper place among the essential constituents of what is being defined. If the explanation includes all the meanings of the essential constituents, then it is in the words of the comprehensive definition of Islamic Governance and remains within its limit, not outside it. As such, in its special senses, Islamic Governance comes under the definitions of the essential constituents of Islamic Governance. By contrast, in its general sense, Islamic Governance comes under the comprehensive definition of Islamic Governance, not outside it.

Four: The objector may claim that this definition will allow what is impossible, such as circulation and sequence. The answer is that there is nothing in this definition that leads to the impossible, such as circulation or sequence. Such a claim should be proved first.

Five: An objection may be raised claiming that this definition is not clearer than what is being defined. The answer is that this definition is free of any linguistic errors and does not include any word that has several meanings. Nor does it include any figurative or strange or ambiguous word, or one with no evidence that it is closely related to the constituents of the defined. Thus, it is right to describe the definition as a complete limit of the defined

thing. The only point left is that of clarity or otherwise. This is something that is seen differently by different people. Something may appear to someone as unclear when it is very clear to others.

Grades of management according to benefit

Management according to benefit is of different grades, and it differs from one benefit to another, according to how the management operates the three types of *ijtihād*: *Tanqīh al-Manāṭ*, i.e. isolation of cause, *Takhrīj al-Manāṭ*, i.e. deduction of cause and *Tahqīq al-Manāṭ*, i.e. verification of cause.¹¹⁶ Therefore, it has four grades:

1] Benefits that are new in substance and description: The management of such benefits requires isolation, deduction or verification of the cause. For example, extraordinary or exceptional benefits. These are normally new with no earlier cases of the same type.

2] Benefits new in substance: The management of these requires isolation and verification of cause only. For example, new benefits that are based on reasons that were not considered as reason in the past. Alternatively, a change of the situation requires a change of reason. This includes for example organizational benefits with a changed objective that necessitates amendment. The same applies to the benefits that require amendment because of a change or division of objective or reason.

3] Benefits new in description: These require for their management the deduction and verification of cause. For example, benefits whose substance has changed, and they come under a particular evidence or rule or system. Such benefits are related to attributing a part to its whole. Managing these follows this pattern, which means that the treatment of the whole is applied to the part.

4] Regular benefits. These are the interests whose management requires only the verification of cause. The majority of administrative and executive benefits that require the enforcement of a particular system, standard or tradition come under this subheading. Consideration of these benefits focuses on the extent to which the

system, standard or tradition applies to them. When this extent is equal to the specified limit, then the management applies.

In the light of the foregoing, when benefits reflect a greater degree of newness, their management requires a higher authority to consider. This necessitates a high degree of responsibility, knowledge and resources which are normally met by the highest administrative authority. The opposite is true: when benefits reflect a small degree of newness, the management needs a lesser authority to consider. The management will be formal, and it is mostly assigned to lower authorities or even to individual officers.

What is meant by ‘the administration of justice through action applied to the community’ is that such administration will manage people’s interests in a way that is consistent with Islam and does not run contrary to Islamic law in any way. This means that the following must be met:

1. The actor should be qualified, not a spoiler or usurper, and authorised to act with no impending barrier to his action.
2. The management should be to achieve the benefit, and that Islam does not object to the means of management or the result (i.e. the benefit).
3. What is being managed should realise a benefit that is not contrary to Islamic law and which does not spoil a greater benefit. It must not cause an equal or greater harm.
4. It must lead to justice. All this must lead to justice in its highest form, in the easiest and clearest way, and with the minimum cost. Without this, there is no need for Islamic Governance. To lead to justice is not sufficient on its own. Governance requires that it should lead to justice with the minimum cost to the community. Without this, there is no use of continuous management and governance.

Bearing all this in mind, the answer to the original question is: Yes, it is possible to consolidate all the definitions of Islamic Governance and reconcile them so that they do not clash. They can be made to be mutually complementary according to a clear, scholarly and logical methodology, leading to a definition that provides a complete limit to the term ‘Islamic Governance’, which is consistent with the nature of Islamic Governance and what is meant by it, as appears in the following table:

Actor	Qualified	Disqualification	Usurpation	Harm
Action	Justice	Injustice		
What is acted upon	Brings benefit	Not contrary to Islamic law	Does not block a greater benefit	Does not cause equal or greater harm

Clarification of the answer lies in the criterion of correctness, namely, the fulfilment of essentials and conditions and the absence of hindrances that prevent the application of Islamic Governance. This is considered in three ways:

1] Reconciliation and complementarity:

a] reconciliation: We mentioned earlier that some definitions focus on the first essential constituent, namely the actor. Others consider the second essential which is the action itself, while others still focus on the outcome. This means that they are all in agreement to define one aspect of Islamic Governance, which means that they are not in conflict. Their differences are due to what they reflect of generality or specification. Some of them are more general than others. It is also due to what division they make or cause. Some divide others, when we consider the definitions of each essential constituent in relation to another, we might find that one comes across the other. All of these definitions are parts of the other definition, when we consider the most essential element that the definition focuses on, namely the action itself. It is the action that represents the core that other essentials follow and of which they form parts.

2] Complementarity: All the secondary definitions are reconciled in order to support and reconfirm one or all the meanings that the main definition asserts.

Drawing a complete limit for the term. Defining Islamic Governance as ‘the administration of justice through action applied to the community’, as

explained and confirmed in this treatise, represents a complete limit of the term 'Islamic Governance' or something close to it.

3] Consistency with the nature of the question: It is logically and normally accepted in the area of management and Islamic Governance that there is nothing like a special action that brings about justice. Everyone who is in a position of responsibility is required to achieve justice for those who are under him, managing their affairs in a way that brings them the benefits he is responsible for. Such a person will certainly not have complete authority, or perfect knowledge, or unlimited time, or inexhaustible resources, or certainty that would enable him to exercise exemplary care. The only way to overcome such limitations and to arrive at a satisfactory result is to use a proper method and practical means to compensate for the deficiency. There is no other way. Hence, management is needed and it must be administered with justice. Hence, the nature of Islamic Governance cannot be separated from such limitations that require management. It must use one's powers in a way that considers the benefits due to the community. This makes justice an essential requirement. This is the reason for attaching the qualification 'Islamic' to 'governance'. The definition we have arrived at reflects this situation with all its elements, completing the deficiency that crept into it. It is thus consistent with the nature of the question.

Having mentioned the definitions of Islamic Governance in respect of its essential constituents and formulated a comprehensive definition for it, we can now define the *Fiqh* of Islamic Governance and define its *Uṣūl*, or legal theory, as follows:

The *Fiqh* of Islamic Governance is: 'knowledge of the detailed management of justice through action applied to the community from its detailed evidence'.

The *Uṣūl al-Fiqh* or legal theory of Islamic Governance is: 'knowledge of the rules of deducing the detailed management of justice through action applied to the community from their detailed evidence'.

This field of knowledge of the beneficial deeds and speech when needed requires knowledge and skills of several types, which are:

Fiqh al-Nawāzil, which is the discipline of deducing rulings for cases that have no precedent, in addition to knowledge of changeable rulings for

known matters that have changed, as well as knowledge of how to consider the results and consequences of cases.

Deduction of rulings for matters that have no precedent and the knowledge of changeable rulings for known matters that have changed: it is asserted that Islam is suited for all times, places, situations and people. However, each time a religious ruling is applied, its application is within a specific time and place, and to certain people and in a particular situation. This specificity is to a particular place, and to a certain time to the exclusion of all past and future times, and this application to certain individuals to whom the ruling applies when they are in a particular situation. The application of rulings to all these situations may change when a change affects an essential element of the ruling that is based on understanding what is necessary in the case.¹¹⁷ Ibn Qayyim al-Jawziyyah said:

Neither the mufti nor the judge can give a right fatwa or ruling without two types of understanding. The first is a thorough understanding of the case and deduction of the truth of what has happened, depending on evidence, signs and other indications, so as to be well aware of its nature. The second is to understand what is necessary in the case. This means understanding God's ruling which He has stated in His book or through His messenger. He will then have to apply one to the other. Whoever exerts his best effort in doing so will not miss receiving a single or a double reward'.¹¹⁸

Knowledge of how to consider the results and consequences of cases. Al-Shātibī said:

Looking into the consequences of actions is required from the religious point of view, whether such actions are in agreement or disagreement with religion. A scholar who is issuing a verdict should not give a ruling on actions by people, and whether to do these actions or refrain from them, until he has looked into the consequences of each action. An action may be legitimate as it leads to a needed benefit or to the prevention of harm, but it leads to consequences that are at variance with the aim it is intended for. Or it may be prohibited because it leads to harm or to the prevention of a certain benefit, but it leads to different consequences. If the scholar gives a verdict of permissibility of the first action, the benefit that results from it may lead to harm that is equal to or greater than this

benefit. If so, the verdict of permissibility is blocked. The same applies to the second type: if the scholar gives a verdict of prohibition, the prevention of the expected harm may lead to an equal or greater harm. Hence, the verdict of prohibition is blocked. This field presents the scholar with a difficult task, but it is sweet and rewarding. It aims to achieve the objectives of Islamic law.¹¹⁹

The discipline of management of benefits. This discipline has several branches:

Identifying benefits: deduction of a benefit which has no precedent, and deduction of a change or continuity of a ruling on a benefit that has precedents. Ibn Taymiyyah said: 'Knowledge of correct and incorrect analogy is one of the greatly important disciplines. This is an area that is known only to those who are well aware of the subtle elements of Islamic law and its objectives, as well as the countless benefits of Islamic law and how it serves people's interests in both this life and the life to come, and the great wisdom behind it as well as the perfect justice it achieves'.¹²⁰

Evaluating benefits: Determining which benefits are more valuable in the light of available management. One of the most difficult, noble and important types of evaluation is the evaluation of benefits against harm. To know this is a great blessing from God, as it leads to earning rich reward in the life to come and to happiness in the present life. It is said: 'A wise person is not the one who distinguishes good from evil, but a wise person is the one who knows which is the better of two good things and which is the worse of two evil things'. To neglect evaluation, or to err in it when it is applied could lead to great problems. Advantage may be given to benefits that are not approved of islamically, while others which should be considered may be neglected. Thus, some duties or recommended sunnah may be neglected, or some prohibited or reprehensible deeds may be committed'.¹²¹

Operating benefits: To determine the ideal way of management does not merely depend on proving that it achieves the general purpose, but it also requires understanding of the circumstances, which is proving that it achieves the purpose peculiar to the case. Al-Shāṭibī states that the cause of a ruling is of two parts: general and peculiar.

The first requires verification of the cause as applied to an individual without specifying that individual or considering a special case. Verification of the peculiar cause means to consider how the ruling achieves the purpose in the case of an individual according to what is incumbent on him as may be applicable to him of indications of duty.¹²² He asserts that this needs to look at what is good for a particular person at a particular time and in a particular situation and capacity. People are not the same in accepting or taking decisions, in the same way that they are not the same in their understanding and the resources available to them. He further asserts that the ruling may need to reflect the verification of the cause. This does not need knowledge of the objectives of the legislation or knowledge of Arabic. What is required in such *ijtihad* is knowledge of the subject matter as it is. The important thing to know is what the case cannot be understood without. The scholar issuing the ruling must be fully aware and well conversant in that line, so that the religious ruling would fit the case. Thus, a technician should be aware of the technology; a doctor should know diseases and disorders; market supervisors should know the value of the goods and what defects may affect them; a surveyor should know how to estimate plots of land, etc. All this and similar matters that serve in knowing the cause of the religious ruling do not need knowledge of Arabic or the objectives of Islamic law, but to have such knowledge makes the scholar better qualified.¹²³

Knowledge of the administration of justice: Justice does not mean equality. To apply equality to those who are not equal is injustice. The Qur'anic text states the following regarding justice: 'God commands you to deliver whatever you have been entrusted with to their rightful owners, and whenever you judge between people, to judge with justice. Most excellent is what God exhorts you to do. God hears all and sees all'. (4: 58) What is meant here is that a ruler must not rule according to his desire, but he should remain God-fearing. Hence, islamically justice is not to violate the Divine legislation. There are ways and means to ensure justice, and these increase in number, vary in kind and differ in respect of their ease or difficulty as authority increases in quantity or quality and as the effect of justice heightens and deepens. In such complex situations, justice administered directly by individuals is not enough. Benefit and justice in administering it may be difficult or very hard to gauge without resort to advanced scientific and technological means and tools. It is essential to

have the following three aspects: 1) knowledge of such ways and means; 2) knowledge of how to use them in assessing benefit; and 3) accurate knowledge of how to use such ways and means to ensure justice in the evaluation and application of such benefits for the interest of the people, with no violation of Islamic law. To know all these three and how to use them is what is meant by the administration of justice.

It is true that evaluation of benefit, which is at the core of Islamic Governance, is part of every human action. However, such evaluation does not readily appear in instinctive actions which people do without deliberation or much thinking, such as the choice of clothes one wears when going to work. Nor is evaluation of benefits exercised in matters that, by nature, do not allow prior examination, but are evaluated when they are in progress, such as the case of a government official who deals with people needing a service. This requires a series of corrective actions to ensure good treatment of applicants.¹²⁴

A great difference may exist between ordinary and serious matters, or between benefit and harm, and a great gulf may separate good management from bad one, but there is no difference or gulf between one act of justice and another. All justice is one and its opposite is injustice.

Hence, it is important to define Islamic Governance as ‘the administration of justice through action applied to the community’. What is meant is that governance based on justice is Islamic Governance. If governance is not just, it is not Islamic. However, one may exert one’s best effort in the management of benefits, knowing that it is not contrary to Islamic law, yet deep inside one feels that despite one’s best effort, justice is not done. There is nothing clear as a basis for this feeling, and one may not be able to express what causes such a feeling. In such a case, is the action one takes legitimate?

It is in such cases that the leaders among administrators are distinguished from mere administrators who reflect no leadership. The leaders will be keen to do what is right, while an ordinary administrator wants only to do whatever he is doing in a correct way. Therefore, the two groups may give two different answers to the aforementioned question (i.e. was the action taken in the above example legitimate).

An administrator who is not a leader will be satisfied by doing his job correctly. Since he has done his duty, which is consistent with management

for benefit, and it is not contrary to Islamic law, then to feel that it is unjust is meaningless. Therefore, he will go ahead and do it.

By contrast, a leader who is an administrator will not be happy that he has done his job, making his best effort to manage for benefit, and his action is not inconsistent with Islamic law. He is keen to do what is right. Therefore, he will not go ahead until he has cleared his feeling of injustice or that justice is not fully done. It is such a person who deserves the description 'competent and worthy of trust'.

Hence it is important to differentiate between management of benefits and the administration of justice. The management of benefits may fulfil all its essentials and conditions, and there may be no counter evidence for it, yet it may not achieve justice. But it is not possible that justice is established on a correct basis without bringing all the benefits in question. Benefits are benefits because they are the outcome of justice, while the reverse is untrue.

Conclusion

This article has attempted to provide a linguistic and conceptual examination of the term *siyāsah*, tracing its origins in Islamic legal tradition. This was achieved by defining the term *siyāsah* and highlighting its types and conditions. This was followed by a discussion of Islamic Governance and its major components. This led to the comprehensive definition of *siyāsah*, suggested by this paper, together with a clarification of it and evaluating the counterarguments raised against it.

Notes & References

¹ Ibn Qayyim al-Jawziyyah, *Badāi' al-Fawā'id* (Makkah, 1996), Vol. 3, pp. 634-5.

² Al-Māwardī, *Ādāb al-Dunyā wa'l-Dīn* (Beirut, 1985), pp. 148-9.

³ Within half a second, Google found 1,260,000 results of the search for *al-siyāsah al-shar'īyyah* in between inverted commas, which indicates results for the full phrase. This is different from the results that show its constituents separately and together, i.e. *siyāsah* and *shar'īyyah* then *al-siyāsah al-shar'īyyah*. When this latter search was made, Google found more than 49,800,000 results within one-third of a second. The search was made by the author on 8/1/1435 AH, August 2013.

⁴ This was the eighth Caliph of the Umayyad Dynasty and he lived between 61 – 101 AH, 681 – 720 CE.

⁵ Abū Nu'aym, *Hilyat al-Awliyā' wa Ṭabaqāt al-Aṣfiyā'* (Beirut, 1409 AH 1989), Vol. 5, pp. 292-3.

⁶ al-Ṭabarī, *Tārīkh al-Rusul wa-l-Mulūk* (Cairo, 1384 AH 1965), Vol. 7, p. 472.

⁷ Peter Druker, *Asāsīyyāt* (Beirut, 1996), p. 10.

⁸ The full details of the story of Samarkand and its people's attitude to Islam is documented in various sources. The most recent are al-Ṭanṭāwī, *Qaṣaṣ min al-Tārīkh* (Jeddah, 2007), p. 87 and Imād al-Dīn Khalīl, *Malāmiḥ al-Inqilāb al-Islāmī: fī Khilāfah 'Umar ibn 'Abd al-'Azīz* (Beirut, 1971), pp. 67-8. Classical references include: al-Ṭabarī, *Tārīkh al-Rusul wa-l-Mulūk* (Cairo: Dar al-Ma ārif, 1967), vol. 6, pp. 567-8.

⁹ Al-Āmidī, *al-Iḥkām fī Uṣūl al-Aḥkām* (Beirut, 1982), Vol. 1, p. 5.

¹⁰ al-Isnawī, *Nihāyat al-Sūl fī Sharḥ Minhāj al-Uṣūl* (Beirut, 1999), Vol. 1, p. 7.

¹¹ Early dictionaries referred to include *al-'Ayn* by al-Khalīl (d. 170 AH, 787 CE); *al-Jamharah fī l-Lughat* by Ibn Durayd (d. 321 AH, 931 CE) and *Lisan al-'Arab* by Ibn Manẓūr (d. 711 AH, 1311 CE). Recent ones include *Taj al-Arūs* by al-Zabīdī (d. 1250 AH, 1834 CE) and *Muḥīṭ al-Muḥīṭ* by al-Bustānī.

¹² Barker, Ernest, revised by Richard Stalley, Oxford: Oxford University Press, 1995.

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- ¹³ al- ‘Askarī, *al-Furūq al-Lughawiyyah* (Cairo, 1997), pp. 181-182.
- ¹⁴ al-Maqrīzī, *al-Mawā‘ iz wa-l-I‘tibār* (Beirut, 1418 H), Vol. 2, p. 220.
- ¹⁵ Ibn Taghri Bardī, *Al-Nujūm al-Zāhirah fi Akhbār Miṣr wa-l-Qāhirah* (Egypt, 1363 H) Vol. 2, p. 308.
- ¹⁶ Ibn Kamal Pasha, *Risala fi Taḥqiq: Ta‘rīb Al-Kalima al-A‘Gamiyya* edited by Mohamed Sawaie. Damas: Institut Français d'etudes arabes. 1991, pp.99-100.
- ¹⁷ al-Khafājī, *Sharḥ al-Shifā‘*, quoted in Atwah’s *al-Madkhal ilā al-Siyāsah al-Shar‘iyyah* (Riyadh, 1993), p. 16.
- ¹⁸ Atwah, *al-Madkhal ilā al-Siyāsah al-Shar‘iyyah*, pp. 15-6.
- ¹⁹ Mahmud Arnus, *Tarīkh al-Qaḍā‘ fi al-Islām*, quoted in Atwah’s *al-Madkhal ilā al-Siyāsah al-Shar‘iyyah*, p. 14.
- ²⁰ Al-Rifā‘ī, *al-Siyāsah al-Shar‘iyyah ‘inda al-Imām Ibn Qayyim al-Jawziyyah* (Amman, 2004), pp. 46-8. See also, Ibn al-Qayyim, *al-Ṭuruq al-Ḥukmiyyah fi al-Siyāsah al-Shar‘iyyah* (Cairo, 1428 H), pp. 17-25.
- ²¹ Related by al-Bukhārī, *Ṣaḥīḥ*, no.3,268; Muslim, *Ṣaḥīḥ*, no.1,842; Aḥmad, *al-Musnad*, 7,940; al-Bayhaqī in *al-Sunan al-Kubrā*, no.16,324 and Ibn Mājah, *Sunan* no.2,871.
- ²² Qāḍī ‘Iyāḍ, *Mashāriq al-Anwār ‘alā Ṣaḥīḥ al-Athar* (Beirut, 1978), Vol. 2, p. 231.
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²⁹ Fu’ād Ḥamad, *Shaykh al-Islām Ibn Taymiyyah wa’ l-Wilāyah al-Siyāsiyyah al-Kubrā fī al-Islām* (Riyadh: Dār al-Waṭan, 1417 H).

³⁰ Ibn Sa’d, *al-Ṭabaqāt al-Kubrā* (Beirut, 1968), Vol. 6, p. 129.

³¹ See, for instance, Ibn Sa’d, Muḥammad, *al-Ṭabaqāt al-Kubrā*. Beirut: Dar Sadir, V. 6 p129, Al-Ṭabarī, Muḥammad, *Tārikh Al-Ṭabarī, Tārikh al-Rusul wa al-Mulūk*, edited by Abū al-Faḍl, Dār al-Ma’ārif, Cairo, V. 3 p111, *Ṣaḥīḥ al-Bukhārī*, edited by Muhammad al-Bagha, Beirut: Dār Ibn Kathir, Kitāb al-Nikaḥ, *Ṣaḥīḥ Muslim* edited by Mohammad Abdul Baqī, Beirut: Dār Iḥyā al-Turāth, Kitāb al-Salam, *Sunan al-Tirmidhī*, edited by Ahmad Shākir et al, Beirut: Dār Iḥyā al-Turāth, Kitāb Tafsir al-Qur’an, *Muṣannaf Ibn Abi Shaybah*, edited by Kamāl al-Hūt, Riyadh: al-Rushd, Kitāb al-Umara’.

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³⁴ Al-Ṭabarī, *Jāmi al-Bayān an Ta’wīl Āy al-Qur’ān* (Egypt, 2001), Vol. 10, p. 388.

³⁵ Ibn Taymiyyah, *Majmū al-Fatāwā* (Riyadh, 2004); Vol. 3, p. 268; Vol. 19, p. 308; Vol. 11, pp. 262-5 and Vol. 35, pp. 395-6.

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- ⁴² al-Ṭarabulsī, *Mu'tin al-Hukkām fī-mā Yataraddadu Bayn al-Khaṣmayn min al-Aḥkām* (Beirut, 2000), p. 117.
- ⁴³ Al-Mahdī, *al-Ṣiḥāḥ wa 'l-Fasād 'inda al-Uṣūliyyīn wa Athuruhā fī' l-Fiqh al-Islāmī* (Aleppo, 1997), p. 89.
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- ⁴⁷ Al-Mahdī, *al-Ṣiḥāḥ wa 'l-Fasād 'inda al-Uṣūliyyīn*, p. 142.
- ⁴⁸ Ibn Qayyim al-Jawziyyah, *Badā'i' al-Fawā'id*, Vol. 3, pp. 634-5.
- ⁴⁹ See *Hāshiyat* of al-Aṭṭār *alā al-Jalāl al-Muḥallī wa Jam al-Jawāmi'* (Beirut: Dār al-Kutub al- Ilmiyya, 2015), Vol. 1, pp. 110-111.
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- ⁵¹ Ministry of Endowments and Islamic Affairs of Kuwait, *al-Mawsū'ah al-Fiqhiyyah* (Beirut, 2004), Vol. 25, pp. 294-6.
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⁵⁸ Amr, *al-Siyāsah al-Shar'iyah fī al-Aḥwāl al-Shakhṣiyyah* (Amman, 1988), p. 22.

⁵⁹ Aḥmad, *Shaykh al-Islām Ibn Taymiyyah wa l-Wilāyah al-Siyāsiyyah al-Kubrā fī al-Islām*, p. 82.

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⁶⁸ Al-Duraynī, *Dirāsāt wa Buḥūth fī al-Fikr al-Islāmī al-Mu'āṣir* (Damascus, 1988), Vol. 1, p. 351.

⁶⁹ Al-Rifā'ī *al-Siyāsah al-Shar'iyah 'inda al-Imām Ibn Qayyim al-Jawziyyah*, pp 51-2.

⁷⁰ Ibn Saṭṭām, *Ittikhādḥ al-Qarār bil Maṣāliḥ* (Riyadh, 2005), Vol. 2, p. 631.

⁷¹ This rule is upheld by the majority of scholars. However, the Ḥanafī school and a number of Hadīth scholars consider that giving preference should take

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precedence ahead of reconciliation. This is their consistent method of preventing conflict.

⁷² Al-Shawkānī, *Irshād al-Fuḥūl ilā Taḥqīq al-Ḥaqq min ‘Ilm al-Uṣūl* (Damascus, 1999), p. 407.

⁷³ Ibn Taymiyyah, *Majmū‘ al-Fatāwā*, Vol. 14, p. 493.

⁷⁴ Al-Ṭūfī, *Sharḥ Mukhtaṣar al-Rawḍah* (Riyadh, 1987), Vol. 1, pp. 114-5.

⁷⁵ Al-Zarkashī, *al-Baḥr al-Muḥīṭ*, Vol. 1, p. 305 ad al-Zuḥaylī, *Uṣūl al-Fiqh al-Islāmī* (Damascus, 1996), Vol. 1, p. 93.

⁷⁶ Al-Ṭūfī, *Sharḥ Mukhtaṣar al-Rawḍah*, Vol. 1, p. 250.

⁷⁷ Al-Ṭūfī, *Sharḥ Mukhtaṣar al-Rawḍah*, Vol. 1, p. 120.

⁷⁸ Aṭwah, *al-Madkhal ilā al-Siyāsah al-Shar‘iyyah* (Riyadh, 1993), p. 57.

⁷⁹ Abd al-Ḥamīd, *Risālat al-Ādāb fī ‘Ilm Adab al-Baḥth wal-Munāzarah*, 7th edition (al-Maktabah al-Tijāriyyah al-Kubrā, 1958). Abd al-Ḥamīd commented: ‘That a word clearly indicates its meaning is due either to the frequency of usage of this term in this particular meaning, or because its meaning is present in the mind of the addressees or for some similar reason. Such clarity differs among people’.

⁸⁰ Ibn Manzūr, *Lisān al- ‘Arab*, Vol. 3, pp. 366-7.

⁸¹ *al-Miṣbāḥ al-Munīr fī Gharīb al-Sharḥ al-Kabīr* (Beirut, Dār al-Ma‘ārif, 1977), Vol. 1, p. 295.

⁸² Ibn Manzūr, *Lisān al- ‘Arab*.

⁸³ Al-Fayrūzabādī, *al-Qamūs al-Muḥīṭ*, Vol. 1, p. 946. Ibn Manzūr, *Lisān al- ‘Arab*, Vol. 8, p. 175; al-Zabīdī, *Tāj al- Arūs*, Vol. 1, p. 63.

⁸⁴ Incomplete description also includes definition by giving an example, as in: ‘The subject in grammar is like the word “a man” in the sentence: “a man is standing”.’ It also includes giving different types, as in: ‘The predicate may be an adjective, a clause or a phrase’.

⁸⁵ Al-Ṭūfī, *al-Ta’yīn fī Sharḥ al-Arba‘īn* (Beirut, 1999), p. 238.

⁸⁶ For further details about what is circular or consequential and their branches as well as the attitude of different groups and schools to them, see Ibn Taymiyyah, *Dar Ta'arūḍ al-Aql wa 'l-Naql* (Riyadh, 1991), Vol. 3, pp. 143-5; Al-Jurjānī, *al-Ta'rifāt* (Beirut, 1985), pp. 80 and 140; Aḥmad Ibn Ibrāhīm, *Tawḍīḥ al-Maqāsid wa Taḥḥīḥ al-Qawā'id fī Sharḥ Qaṣīdat Ibn al-Qayyim* (Beirut: al-Maktab al-Islāmī, 1986), Vol. 1, 369-70.

⁸⁷ Al-Jurjānī, *al-Ta'rifāt*, p. 140 and al-Munāwī, *al-Tawqīf alā Muhimmāt al-Ta'rif* (Beirut and Damascus, 1990), p. 343.

⁸⁸ Arabic Language Academy, *al-Mu'jam al-Falsafī* (Cairo, 1983), p. 85.

⁸⁹ Some scholars, like Ibn Taymiyyah, subdivide it into 'adjoined' circulation, such as offspring being adjoined to parenthood, which means that neither one can exist without the existence of the other; and 'follower' circulation, which means that one thing cannot exist except after another, and this other can only exist after the existence of the first. See *Dar Ta'arūḍ al-Aql wa 'l-Naql*, Vol. 3, pp. 143-5.

⁹⁰ Al-Jurjānī, *al-Ta'rifāt*, p. 140; *Jāmi' al-'Ulūm fī Iṣṭilāḥāt al-Funūn* (Beirut, 2000), Vol. 1, p. 79.

⁹¹ Al-Jurjānī, *al-Ta'rifāt*, p. 140 and *Jāmi' al-'Ulūm fī Iṣṭilāḥāt al-Funūn* (Beirut, 2000), Vol. 1, p. 79.

⁹² Al-Jurjānī, *al-Ta'rifāt* p. 80; al-Munāwī, *al-Tawqīf alā Muhimmāt al-Ta'rif*, p. 343 and Ibn Ibrāhīm, *Tawḍīḥ al-Maqāsid wa Taḥḥīḥ al-Qawā'id*, Vol. 1, 369-70.

⁹³ Al-Ṭūfī, *Sharḥ Mukhtaṣar al-Rawḍah*, Vol. 1, p. 120.

⁹⁴ Ibn Qayyim al-Jawziyyah, *Badā'i' al-Fawā'id*, Vol. 3, pp. 1,088-9.

⁹⁵ Ibn Qayyim al-Jawziyyah, *Badā'i' al-Fawā'id*, Vol. 3, pp. 1,088-9.

⁹⁶ Al-Abbād, *al-'Adl fī Sharī'at al-Islām wa Laysa fī al-Dimūqrāṭiyyah al-Manzūmah*, a thesis published in 2011 on the internet (<http://al-abbaad.com/books/book-titles>), pp. 333-7.

⁹⁷ Al-Abbād, *al-'Adl fī Sharī'at al-Islām*, pp. 333-37.

⁹⁸ Al-Abbād, *al-'Adl fī Sharī'at al-Islām*, pp. 333-37.

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⁹⁹ Al- Askari, *al-Furūq al-Lughawiyyah*, p. 181 and pp. 191-2.

¹⁰⁰ Al-Jizānī, *Aḥkām al-Wasā'il 'inda al-Uṣūliyyīn*, a thesis on the internet, 2014:

<http://www.islamfeqh.com/Nawazel/NawazelItem.aspx?NawazelItemID=890>.

¹⁰¹ Structural refers to the division of action and the mechanism of coordination and complementarity between actions and their pyramidal sequence in the administration. Administrative resources refer to what is needed of professional specializations that require training.

¹⁰² Al-Zarqā, *Sharḥ al-Qawā'id al-Fiqhiyyah* (Damascus, 1989), p. 5 and Al-Bahusayn, *Qā'idat al-Umūr bi-Maqaṣidihā. Dirāsah Nazariyyah wa Ta'ṣiliyyah* (Riyadh, 1999), p. 25.

¹⁰³ Some may wonder: are the benefits specified in texts included in Islamic Governance? Some scholars tend to limit Islamic Governance to benefits that are neither confirmed nor negated by any text. They argue that the benefits specified in texts are part of the concerns of Islamic Fiqh where detailed rulings are deduced and outlined. However, the answer to the objection mentioned in 'what the debate is about' shows what Islamic interests include. They undoubtedly include what is specified in texts and what is not so specified. What the objection is about is whether these are included under Islamic Governance. In other words, if we are to agree to a term of Islamic Governance, we cannot exclude benefits specified in texts from its definition.

¹⁰⁴ Ibn Taymiyyah, *Majmū' al-Fatāwā*, Vol. 11, p. 342.

¹⁰⁵ Ibn Taymiyyah, *Majmū' al-Fatāwā*, Vol. 11, p. 344.

¹⁰⁶ Shaykh Muḥammad Abd al-Ḥamīd said: 'Scholars allow that objection may be made to the real definition in particular, if it is a complete limit, by providing a counter argument. This means that the objector provides a different and complete real definition of what is being defined. He would say to the one giving the first definition that what he has given is not a complete and real limit. Had it been so, the thing being defined cannot have another complete and real limit. There can be no two real and complete limits to one and the same thing. A complete and real limit is demarcated by the near substance and section. Had these two definitions been complete and real, each one of them would be composed of the near substance and section. There can be no two near substances and two near sections for the same thing. As for the incomplete definitions, whether nominal or real, as also the complete nominal definition... If

an objector raises an objection of this type to a particular definition, he is answered either by showing that his counter definition is not a real definition, or by criticising this definition as being 'not a complete real definition or being an incomplete nominal or real definition'. See *Risālat al-Ādāb fī 'Ilm Adab al-Baḥth wa 'l-Munāẓarah*.

¹⁰⁷ Al-Ṭūfī. *Sharḥ Mukhtaṣar al-Rawḍah*, Vol. 1, pp. 114-5.

¹⁰⁸ Related by al-Bukhārī, *Ṣaḥīḥ*, Vol. 8, p. 104; Muslim, *Ṣaḥīḥ*, Vol. 3, p. 145.

¹⁰⁹ Al-Ahdal, *al-Mas'ūliyyah fī al-Islām* (Beirut, 1992), pp. 7-8.

¹¹⁰ The General Presidency of Research and Ifṭā', *Majallat al-Buḥūth al-Islāmiyyah: Mashrū'iyat Tanzīl al-Aḥkām 'alā al-Waqā'i'*, Vol. 78, p. 238. See also, al-Shāṭibī, *al-Muwāfaqāt* (Beirut, 1999), Vol. 4, pp. 91-2.

¹¹¹ Al-Subkī, *al-Ashbāh wa-l-Nazā'ir*, Vol. 1, p. 310.

¹¹² Ibn Saṭṭām, *Ittikhād al-Qarār bi 'l-Maṣlaḥah*, Vol. 1, pp. 7-8.

¹¹³ Al-Lakhmī, *al-Taḥlīl bi-l-Maṣlaḥa 'inda al-Uṣūliyyīn*, pp. 150-1.

¹¹⁴ Al-Darwīsh, *al-Maṣāliḥ al-Mursalāh fī al-Shari'ah al-Islāmiyyah* (Riyadh, 1968), p. 15.

¹¹⁵ Ibn Taymiyyah, *Ziyārat al-Qubūr wa-l-Istinjād bi-l-Maqbūr* (Tanta: Dār al-Ṣaḥāba li'l-Turāth, 1992), p. 53.

¹¹⁶ "Al-Manāṭ" is the description to which a ruling is attached. To prove it is to confirm the reason in a subtle form. The author of *al-Minhāj* said: *Taḥqīq al-Manāṭ* means proving that the case in question reflects the agreed cause. In other words, to show the evidence confirming its presence. According to scholars of *Uṣūl*, it means agreement of a total description by a text or unanimity. The scholar considering the case will exert his effort to determine its presence in the case where the cause is unclear or subtle. Linguistically speaking, the term *tanqīḥ* means removing what is in excess or alien. In this context, it means removing some descriptions to which the Legislator has attached the ruling because they are not appropriate in considering the cause. *Takhrīj al-Manāṭ* means deduction. This means adding a ruling for which the Legislator has not specified a reason to an appropriate description in the scholar's view. This may be in any suitable aspect of reason. 'Suitable' means, in respect of analogy generally and here in particular, what Ibn Qudāmah said in *al-Rawḍah*: 'suitable means confirming that the ruling ensures a benefit interest'. *Takhrīj al-Manāṭ*

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applies only to deduced rulings, or to examination and classification. See: al-Shaṭībī, *al-Muwāfaqāt*, Vol. 3, p. 231 and Vol. 5, p. 12. See also al-Ṭūfī, *al-Sharḥ Mukhtaṣar al-Rawḍah*, Vol. 3, p. 237. Ibn Qudamah, *Rawḍat al-Nāẓir wa Jannat al-Manāẓir fī Uṣūl al-Fiḥh 'alā Madhhab al-Imām Aḥmad ibn Ḥanbal* (Riyadh, 1997), Vol. 3, p. 865. Wahba al-Zuḥaylī, *al-Fiḥh al-Islāmī wa Adillatuh*, Vol. 1, p. 694.

¹¹⁷ Ibn Taymiyyah, *Majmū' al-Fatāwā*, Vol. 14, p. 493.

¹¹⁸ Ibn al-Qayyim, *I'lām al-Muwaqqi'in an Rabb al- 'Ālamīn* (Beirut, 1987), Vol. 1, p. 94.

¹¹⁹ Al-Shāṭībī, *al-Muwāfaqāt*, Vol. 5, pp. 177-8.

¹²⁰ Ibn Taymiyyah, *Majmū' al-Fatāwā*, Vol. 2, p. 583.

¹²¹ al- 'Izz ibn Abd al-Salām, *al-Qawā'id al-Kubrā*, (Damascus, 2000), Vol. 1, p. 79 and pp. 52-3.

¹²² Al-Shāṭībī, *al-Muwāfaqāt*, Vol. 5, pp. 22-5 (paraphrased).

¹²³ Al-Shāṭībī, *al-Muwāfaqāt*, Vol. 5, pp. 128-9.

¹²⁴ See Ibn Saṭṭām, *Ittikhādh al-Qarār bi 'l-Maṣlaḥah*, Vol. 1, pp. 7-8.

Abdul Aziz bin Sattam