INTERNATIONAL PEACE COLLEGE
SOUTH AFRICA

كليّة السلام العالمي بجنوب أفريقيا

Knowledge · Virtue · Civilization

Al-Wasaṭiyyah

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Table of Content

Editorial Note 1

Islamic Leadership: Towards an Efficient and Effective *Imām* to Drive Positive Change 2
Abdul Ghafoor Kamaldien

The Impact of Gentrification upon Culture, Tradition, Identity and Language: A Case Study of the Bo-Kaap Community 35
Dawood Terblanche

Maqāṣid Al-Zakāh and Poverty Alleviation: A Case Study on the Western Cape Muslims 55
M. Wahib Abdul-Jabaar

A Comparative Study of Intentional Homicide *(al-qatl al ʿamd)* in *Sharīʿah* and the Modern Human Rights Concept of Right to Life for Murderers 81
M. Ighaan Taliep

Investigating the Experience of Muslim Widows in Cape Town: A *Maqāṣid al-Sharīʿah* Approach 101
Ibtesiam Samodien
Belqes Al-Sowaidi

Book Review: The Killing of the *Imām* 127
Nurghaan Singh

مراجعة كتاب: السنة النبوية بين أهل الفقه ... وأهل الحديث 132
Said Omer

Editorial Note:

The International Peace College South Africa (IPSA) is founded upon universal principles within Islam's rich legacy and history in Cape Town, South Africa. As the first accredited and registered private Islamic tertiary institution with the Council of Higher Education (CHE) and Department of Higher Education and Training (DHET), IPSA espouses to merge Islam's spiritual, intellectual and academic dynamism within the framework of *Wasaṭiyyah* (the middle path). This uniwversal principle is enshrined within the grand objectives of Islamic Law (*Maqāsid al-Sharī'ah*) and the advancement of human life and co-existence within plural societies locally and globally. It is thus, that IPSA, has chosen this name "AL-WASAṬIYYAH" for its journal and aims to contribute to universal discourses within the study of Islam in Africa and the world.

"AL-WASAṬIYYAH" is a peer-reviewed scholarly journal that publishes original research articles in both English and Arabic. It has an international editorial committee that represents various fields of study and is actively engaged in scientific research and improving the journal's level and scientific status, not only to support our visions of moderation, but also to raise publication standards nationally and internationally.

The first issue of "AL-WASAṬIYYAH" contains a collection of scholarly articles in the field of Islamic Studies, the majority of which are focused on Cape Town. The issue includes articles about Islamic leadership and the heritage of Muslims in the Bo-Kaap and the impact of gentrification on their culture, identity and language. It also highlights the application of *Maqāsid al-Sharī'ah* in poverty alleviation and defending the rights of Muslim widows in Cape Town. The issue also includes a detailed conceptual analysis of intentional homicide. Last but not least, Issue 1 of "AL-WASAṬIYYAH" features reviews of two books, one of which is about a revered leader in Cape Town, namely, *Imām* Haron and the other is about the seminal work of Mohammed Al-Ghazālī titled *Fiqh al-Sunnah*.

We are committed to providing a new publication vessel that caters to the scientific interests and aspirations of researchers in and outside of South Africa, and we will always do our best to ensure the accuracy and reliability of the information we publish.

Islamic Leadership: Towards an Efficient and Effective *Imām* to Drive Positive Change

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Abstract

This paper explores Islamic perspectives on leadership and the lived experiences of *imāms* and role players in *Masājid* in the Western Cape. Firstly, it draws on the *Qur'ān*, *ḥadīths* and the rightly guided caliphs. Secondly, it examines academic literature to extract a theoretical understanding of Islamic leadership. Built on this understanding, it develops a model of variables and relationships in the context of this leadership. It explains how "individual leadership style" is affected and influenced, and how it impacts an *imām's* (Muslim liturgical leader) effectiveness in his community and *Masjid*[1]. Through interviews with experienced *Masjid* administrators, *imāms*, and community members, the aim of this paper is to unearth traits, principles, and variables essential for *imāms* to understand, internalise and apply in their roles as imāms if they want to be effective in their communities and *Masājid*. Finally, it recommends a model that yields more significant levels of accountability and resilience in the *Masjid*.

Key Words: *Imām*, Islamic Leadership, *Masjid*, Western Cape

1. Introduction

The roles of *Masājid imām*s are complex and demanding ones that require specific traits, personal commitment, and specialised knowledge to excel. When an *imām* cannot deal with all the complexity and expectations of the committees and community, they may become frustrated, or feel helpless and undervalued. It follows

1 *Masjid* means place of prostration; it is a communal place of worship for Muslims. It is regarded as the house of Allah ﷻ, meaning where Allah ﷻ is worshipped.

that they may negatively discuss the role of *imāms* and discourage young scholars from accepting this noble role. Only after many years of experience, will an aspiring *imām* eventually develop and build confidence through acquiring the necessary traits and tools to deal with the challenges, and excel. By this time, several years may have been spent at a low level of effectiveness, which could also result in frustrated community members and collective tension.

This paper discusses the traits required and things that must be considered for an *imam* to excel and succeed. *Imām*, in its most basic definition, means leader. In this paper, *imām* and leadership are referred to interchangeably; *imām* refers to the spiritual leader of a *Masjid*, which comprises leading prayers, providing religious guidance, and overseeing religious events and matters. This paper approaches this topic using a phenomenological, qualitative approach. In the context of the Western Cape in South Africa, this paper explores Islamic perspectives on leadership and the lived experiences of *imāms* and the different role players in their *Masājid*. A series of semi-structured interviews with experienced *Masjid* administrators, *imāms*, and community members and their experiences form the data for this study. It also draws on the *Qur'ān*, *aḥādīth* and the examples of the rightly guided caliphs. Then it examines academic literature to determine a theoretical understanding of Islamic leadership. After building on an existing theoretical model, this paper also proposes a new model of relationships that influences the "individual leadership style" that ultimately impacts the transformation of the congregants and followers, which eventually affects the *Masjid's* effectiveness.

1.1. Context

The Muslims of Cape Town are often considered a diaspora community. They were initially brought to the Cape via the Dutch East India company around 1654 as enslaved people, political exiles, and as indentured laborers in penal settlements. At the time, Muslims were prohibited from practising Islam; it was only in 1694, with the arrival of Shaykh Yusuf al-Maqassari[2], a political prisoner from Java, that the first Muslim community was established. In 1794 the first *Masjid* was opened in the Bo-Kaap area of Cape Town. It acted as the "cultural-

2 His actual name was Abadin Tadia Tjoessoep but is commonly known as Shaykh Yusuf al-Maqassari.

ecological base for the grouping of the Muslim Community" (Davids, 1980, p. xxii). For the Muslims of the Cape, the *Masjid* represented a type of freedom and hope and was central to their lives and activities.

The role of *imāms* in the Cape is unique compared to their position in the rest of the Muslim world. This has been historically embedded in the role of the *imām* and the position of the *Masjid* since the time of the first Muslims in the Cape. Here, an *imām's* position has included taking a leading part in liberating Muslim communities from the shackles of intellectual oppression, liberating them from slavery, and in managing, overseeing, and executing life cycle events such as name-giving to new-borns, circumcisions of boys, teaching basic and advanced Islamic knowledge, advising and counselling community members on family matters, leading prayers during special occasions, and ensuring community members are buried according to Muslim rites.

To date, the *Masjid* remains the pole around which the life of Muslims rotates. Muslims generally have a deep connection and personal relationship with the *Masjid*; it is a place of belonging. This institution plays a significant role in forging the identity of Muslims. The *Masjid* is the house of Allah ﷻ, established for the worship of Allah ﷻ. Subsequently, Allah ﷻ honours the *Masjid* and has made it a place of *āfiya*, or guidance, knowledge, and spiritual illumination (*Qur'ān*, 24*:* 37). Once a property has been declared a *Masjid*, then it belongs to Allah ﷻ, and specific rules and conditions must be met. The *Masjid* connects creation with the Creator; a *Masjid* is where many Muslims find identity and meaning through collective worship. For many, it is a place of peace and tranquillity. To accept the responsibility of the *imām* of the *Masjid* is an *amānah*; a sacrosanct contract. Therefore, an *imām* must approach his duties with conscientiousness, diligence, and in earnest.

Currently, the primary function of an *imām* is to lead congregational worship, teach Islamic sciences, etiquette, morals, and advise congregants on how to conduct their affairs according to Islamic teachings. They are also expected to be leaders in charity activities, social development, philanthropy, and act as facilitator when disputes and interpersonal challenges arise in the community. Moreover, congregants generally require guidance in all aspects of life, including social activities, ethical

values, politics, and current affairs. Like most religious communities, the *Masjid* is comprised of individuals and will inevitably give rise to complicated relationships with many interpersonal challenges. Although *imāms* are generally not trained in all the above-specialised fields, they are very often expected to fulfil them.

The efficiency of an *imām* has a direct correlation with the organisational effectiveness, i.e., the purpose of the *Masjid*, which positively impacts the congregants and community by encouraging them to make meaningful contributions to society.

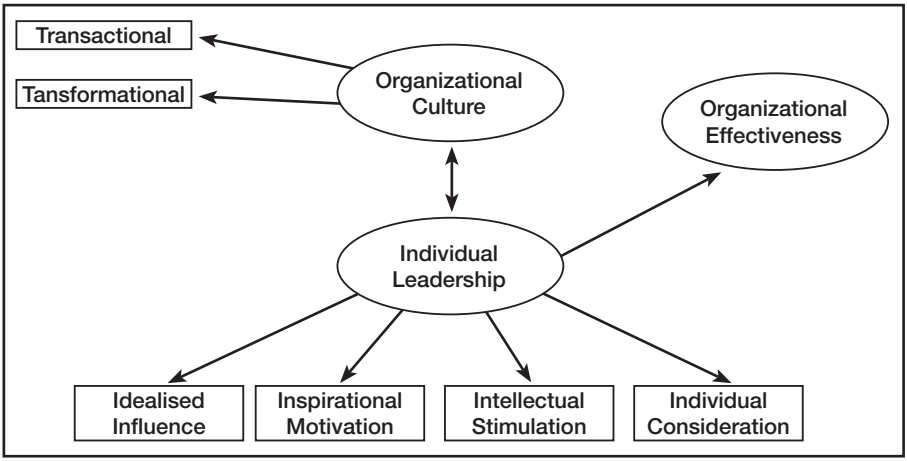

Figure 1: *Individual Leadership and Organizational Effectiveness Adapted from Parry and Proctor-Thomson's model (2003)*

In Figure 1, individual leadership is central and plays a vital role in organisational effectiveness. It demonstrates the relationships between the different concepts by the directions of the arrows that illustrate how one idea influences the other. Parry and Proctor-Thomson (2003) posited that their model would apply to any Western English-speaking economy and society (Faris & Parry, 2011). The above model demonstrates the key areas such as idealised influence, inspirational motivation, intellectual stimulation, and individual consideration in which one must excel as a leader.

Individual and personal leadership influences the organisational culture and vice versa. The organisational culture has an impact on individuals and the community at large.

2. Methodology

A qualitative approach was chosen based on Maxwell's Interactive Model of Research design which is comprised of five key components:

1. Goals;
2. Research Questions;
3. Conceptual framework;
4. Methods;
5. Validity.

As per Maxwell (2005), ethics is integral in every aspect of research design and methodology. Applying a subjective constructivism paradigm, a phenomenological research approach was used in this paper. This paper looks in depth at a sampling of perceptions and understandings of *imāms*, congregants, and committee members, to unearth their experiences and perceptions in the *Masjid* environment. The literature review builds a theoretical foundation to understand the different variables that may emerge.

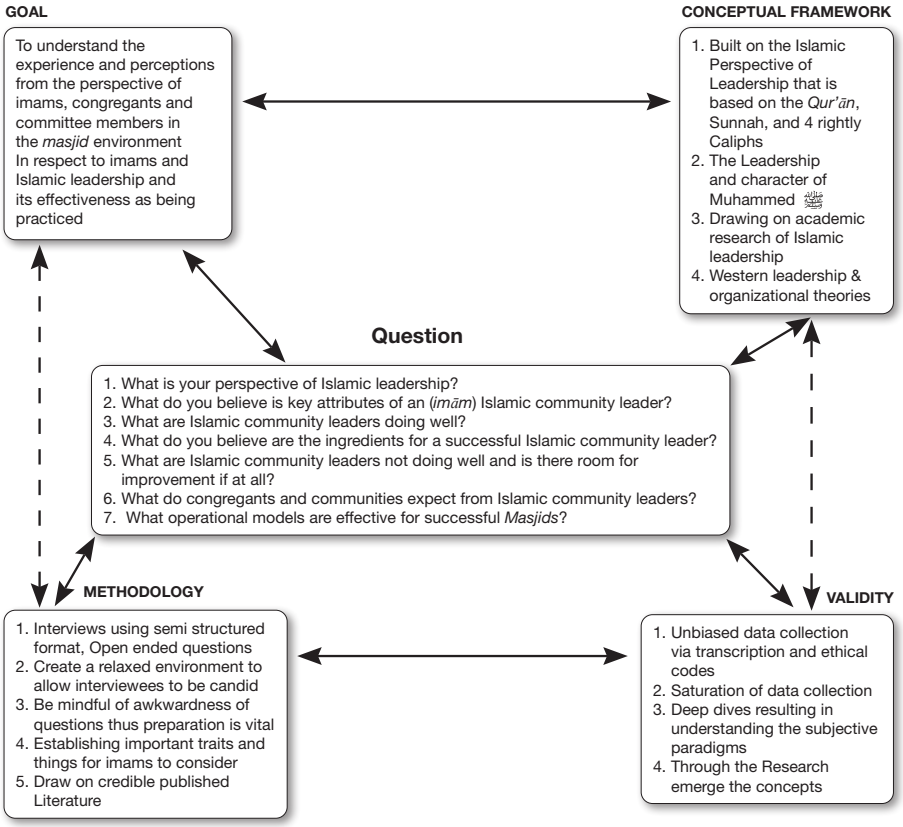

Figure 2: *Research Design Framework (2005)*

The interviews were conducted in 2019 where thirty-three people were interviewed for this study. The data of the study included *imāms*, congregants, *Masjid* trustees, committee members, administrators, and a youth group in the Western Cape of South Africa. People that have been either serving their *Masjid* or closely connected to the *Masjid* for at least 10 to 35 years were of particular interest for this study. Semi-structured interviews, Socratic questioning and discussion, participation, and open-ended questions were all used to gather information and raw data. The participants appeared generally candid and frank in their responses.

Some of the questions posed to inquire about the experiences of the interviewees were:

1. What is your perspective on Islamic leadership?
2. What are the key attributes of a good *imām*?
3. What makes someone qualified to be an *imām*?
4. What are *imāms* doing well?
5. What do you believe are the ingredients for a thriving Islamic community leader?
6. What are Islamic community leaders not doing well, and is there room for improvement, if at all?
7. What do congregants and communities expect from Islamic community leaders?

During the interviews, the interviewees were allowed to speak about matters that they believed were meaningful. The interviews together took approximately 25 hours and yielded useful data.

An interactive process was used to analyse the data and group data of similar meaning. These groups were eventually coded into themes, which were discernible after several interviews, saturation point[3] was reached. It is important to note that the data yielded multiple levels and layers of information. The data were analysed in terms of the first level of insights. This process took several weeks of reflection. Finally, themes emerged that were representative of the first level of data. The rough data is still rich with additional information that can be re-interrogated for secondary and even tertiary levels of information and insight.

The emergent variables were:

1. Character
2. *Ṣabr*[4]
3. Presence
4. Approachability
5. Accountability
6. *Tazkiyyah*[5]

3 Themes repeat themselves with no new themes emerging.

4 Patience, or gratitude.

5 Purification of the heart (inner being). The removal of spiritual ailments.

7. *Tawakkul*[6]
8. Unlocking the potential and role of women in society
9. Community Expectations
10. The relationship between the imām and the committee.
11. Mentorship

3. Theoretical Framework

Much existing academic work focuses on studying early Muslims in the Cape (Davids, 1980). Tayob (1995, 1998) focused on youth development and analyses Friday, or *Jumuʿah* sermons as case studies of specific *Masājid*. Jeppe (1996) presented a historical account of *imāms* in the Cape and the establishment of the Muslim Judicial Council (MJC)[7] in 1945. Long (2006) presented a thematic analysis of *Jumuʿah* sermons of *imāms* in predominantly black townships in Cape Town. Most of the available anthropological work regarding Cape Muslims takes a phenomenological approach.

Fiqh texts like Al-Zuhailiy's (2010) deal with an *imām's* technical requirements for leading prayer (Zuhailiy, 2010). Similarly, Salie (2002) draws on the work of Al-Zuhailiy (Salie, 2002). However, neither *Fiqh* texts address the interpersonal challenges and emotional intelligence and character traits required for *imāms* to excel and be successful in their role.

3.1. Leadership and Its Importance to Organizations

Leadership is the ability to transform vision into reality (Drucker, 1999). Hesselbein et al. opine that leadership is the ability to manage the organisation's mission and mobilise people around that mission (Hesselbein, 1999). Leadership is also a process of shared influence, and one that maximises the efforts of others towards the achievement of an established goal (Kruse, 2019). Jamil posits that leadership entails the capability of a person to lead a cluster of individuals to complete a particular mission while grooming followers for succession (Jamil,

6 Putting one's trust and reliance on Allah ﷻ alone.

7 The Muslim Judicial Council is a structured body of *imāms* in the Western Cape, which was established to represent the specific religious needs of local Muslims and to consider ways of protecting Islamic customs in South Africa (Jeppe, 1996).

2015). Leaders have the potential to influence millions of individuals; they can change the world (Baqutayan, 2016). An organization's success and culture stem from the leader's attitude, actions, and priorities, manifested through their choices, policies, and programs (Drushal, 2011).

Adair distinguishes between leading organisations and communities, although both are products of human activities. A community is comprised of individuals and families and is a kindred group ordered through their acceptance of common laws and some form of government. Organisations, in contrast, are formed to achieve goals that culminate in a particular kind of work or task. Adair argues that a leader is the one that facilitates the necessary functions to enable a team to achieve its mission and to hold it together as a working unit (Adair, 2011).

The essential elements of a leadership structure are (i) the leader, (ii) their followers, and (iii) their objectives, i.e., the goals the group sets for itself (Saeed et al, 2014). Many scholars such as Wilner, Conger and Kanungo assert that leadership is an attribution phenomenon. Thus, the characteristics and traits of a leader are central to their effectiveness (Ali, 2016). Ability is a measure of a leader's effectiveness. The higher the quality of leadership, the higher the degree of efficacy and vice-versa. A leader has a direct influence on the success of the organisation, and typically directs it. With a change in leadership, the direction of an organisation is changed. Leaders, however, can grow and develop over time, but many organisations may want quick and efficient change (Maxwell J. , 2007). It follows that if a leader is not competent and skilled, it can lead to a poor and inefficient organisation.

3.2. Islam Perspective of Leadership

In Islam, leadership is generally viewed as a sacred trust (*amānah*), and a sacred responsibility (Mustapha, 2015) (Baqutayan, 2016). The subject of leadership is significant in Islam. Muslim religious leaders are tasked with guiding the affairs of their followers. This contributes to the success of the community by impacting their religious rituals and level of spirituality. Muslims commonly believe that the success of the community affects their position in the afterlife (Ali, 2016). Leadership is a process whereby a leader guides willing followers, pays attention to their needs, serves

them, and takes on the role of guardian (Baqutayan, 2016). Adair (2010) argues that organisations and communities have shared a common and constant human nature throughout history (Adair, 2011). Similarly, Ali (2016) argues that Islamic leadership is a shared process of influence between the leader and the follower, or, *shurā*[8] (Al-Raysuni, 2011).

Muhammed ﷺ[9] was the first recognised leader in Islam and the best example thereof (Egel et al, 2016). He ﷺ led with wisdom, virtue, and a high degree of ethics and integrity. His intention as a leader was to please his Lord, Allah ﷻ. Muhammed ﷺ was a charismatic, ethical leader and lived according to a high moral code which was affirmed by his virtues. Ethical leaders develop their followers into leaders (Beekun, 2012).

Muhammed ﷺ demonstrated the multifaceted approach that a leader should have to lead communities. His ﷺ leadership techniques were instrumental in achieving his goal of delivering Islam to the world (Al-Olaqi, 2015). The *Qur'ān* confirms in the verse below that Muhammed ﷺ is an excellent example. "…And indeed, you are of a great moral character" (*Qur'ān*,68:4)). The *Qur'ān* further instructs in many verses[10] to obey the Messenger ﷺ. There can be no doubt that a Muslim needs to follow the example of Muhammed , Messenger ﷺ of Allah ﷻ if they wish to attain success both in this world and the hereafter.

Muhammed ﷺ was endowed with wisdom and virtue, both of which are widely considered desirable traits in any leader. Macintyre (1984) defined virtue as the qualities that enable and predispose a person to a good life and lead them to do the "right" thing in a given context. Both character and virtues can be taught and learnt. Dukerich et al. (1990) found that followers have higher levels of moral reasoning when they emulate morally mature leaders. If a follower needs to learn virtue, a "virtuous" leader and mentor is required to provide an adequate example and guidance (Beekun, 2012). Mohammad et al. (2015) argue that Islamic approaches to leadership are often characterised by the religious and moral spirit that dominated every aspect of government and administration under Muhammed ﷺ.

8 Mutual Consultation. It is a process that allows input from the followers that leaders can consider in their decision making

9 Arabic words of honour and salutations which is attached to the holy Prophet ﷺ.

10 See, for instance: (*Qur'ān*, 3:31-32; 41:78-81; 24:51-57; 64:11-18; 47:29-33; 33:28-34; 26:141-153).

Moreover, Muhammed ﷺ considered leadership to be critical. He ﷺ developed his followers to become leaders. He ﷺ was very careful when selecting people to lead Muslims, whether it was as a governor overseeing lands or for other specific tasks (Sahih Muslim, Hadith, 1733); (Sahih Muslim, 1825). According to Muhammed ﷺ, every person is a leader and has some domain for which they are responsible. Every person is a "shepherd" of their flock (Bukhari, n.d.). The degree of influence or responsibility may vary from person to person and from situation to situation (Beekun et al, 1999).

4. Discussion

An *imām's* persona is comprised of many attributes, qualities, and traits. What he believes about himself and how he conducts himself and interacts with others contribute to his persona. Moreover, his behaviour, cognition, and emotional patterns develop from his worldview. In this regard, an *imām* must be aware of and inculcate the character antecedents below that will contribute to him being an effective and efficient *imām*. Additionally, he needs to acknowledge, appreciate, and respect multiple perspectives to serve his congregation well.

Character is the mental and moral qualities which are distinctive to an individual. Ethics and virtue are part of these. Humility, intention, approachability, accountability, *ṣabr*, *tawakkul* and *tazkiyyah* are also crucial variables which were mentioned in the interviews for this study. Community expectations and mentorship emerged as additional aspects of leadership to consider. These aspects were mentioned in the practical lived examples and views given by the interviewees. The role of women was also mentioned as an essential catalyst for developing a thriving *Masjid* community.

4.1. The Importance of Virtuous Character and Humility

The importance of character was articulated by the interviewees when sharing their experiences, which in many cases demonstrated the emotion and conviction of the ideas shared. Most interviewees identified humility as a crucial part of a leader's character. Body language and facial expressions were also noted as essential. For example, smiling creates a

warm atmosphere, demonstrates pleasant feelings, and contributes to the impression created by the *imām*. Generally, a person only gets one chance to make a first impression; creating a good impression is vital for the *imām*. He is perceived as an inheritor of the prophets because he has been blessed with Islamic knowledge. Ideally, his followers respect and look to the *imām* as an ambassador and role model of Islam, and a representative of what the tradition should be. Essential considerations are highlighted in the comments of interviewee two below:

> The other very important thing is the character, you know. As an *imām*, you will have to have good character even on the day that you're not feeling well. You must be able to put that smile on your face no matter what. It is imperative because your first impression is crucial. It is critical to welcome anyone that comes to the *Masjid*. (Interviewee two, 2019)

Similarly, interviewee one believes that character supersedes qualifications in the domain of an *imām*. An *imām* may be competent and knowledgeable, but he will not be effective if he does not demonstrate good character and treat people with a high level of respect. Character is developed by following a *tazkiyyah* process:

> There must be humility – Even if the *imām* is an intellectual but doesn't have the *akhlāq*[11] to interact. When the *imām* has the *akhlāq* and doesn't have the standard of *ʿilm*[12], I would go rather with the *akhlāq* than the *ʿilm* because through my experience I have seen in college with friends from all over the world, everybody's different. Allah ﷻ created everybody differently. Everybody's capacity is different. Everybody's *akhlāq* is different… It doesn't mean that if you're a shaykh, you are automatically pious or have this *akhlāq*. One of my colleagues knows his *Qur'ān* very well *ma shaʾ Allah* . The guy's a local graduate and an international graduate from a prominent university, so, in terms of credibility, *mā shaʾ Allah* , on a very high standard, but the guy lacks *akhlāq*. He doesn't know how to interact with people. He's always aggressive. He's [sic] own *ustādh*[13] said to him 'you can't be an *imām*; you don't have the *akhlāq*'. (Interviewee one, 2019)

11 Character of virtue and high level of ethics; morality.
12 knowledge
13 "Teacher", or "master".

The importance of following the example of Muhammed ﷺ was repeatedly exemplified by several interviewees, as in the example below. This corresponds with the Islamic perspective on leadership and the need to follow the example of Muhammed ﷺ. Interviewee 16 raises the importance of truthfulness as an expected trait by an *imām's* followers. Followers and the community want to see the *imām* practice what he preaches:

> Look, specific [patterns] are expected of a leader and any religious leader. In the case of the *imām*, we would expect that the *imām* emulates the examples which were set by *Rasulullah* ﷺ and what the *sharī'ah* prescribes. It is vital for the *imām* because he speaks about it every day, and it becomes very shallow if he doesn't act upon what he says. If the *imām*, for example, talks about truth or [*ṣiddīq*][14] then the *imām* must be a truthful person. He must speak with one single [straight tongue]. (Interviewee 16, 2019)

When the community expresses *ḥusnul ẓan*[15] regarding the *imām*, this may inspire the *imām* to live up to these good thoughts by leading prayers and worship with a greater level of *taqwa* and *iḥsān*[16].

Principle 1: The imām must have good *akhlāq*.

Principle 2: The *imām* must be mindful that peoples' praises and respect do not create arrogance in his heart.

Principle 3: The peoples' *ḥusnul ẓan* of the *imām* must inspire the *imām* to improve his character and relationship with Allah ﷻ through an active *tazkiyah* process.

4.2. The Importance of *Ṣabr*[17] and Controlling One's

14 "Truthful." Often bestowed as an honorific title.

15 Thinking good of something or someone.

16 Beautifying actions for Allah ﷻ and awareness that Allah ﷻ is present with them at every moment.

17 Patient, perseverant.

Anger

Ṣabr was identified by many interviewees as an essential trait when working with the community. Within communities, one inevitably finds difficult personalities, and *ṣabr* is required to be able to deal with them. People with different levels of understanding or comprehension and levels of ability to rationalise exist in any community. This may require that the *imām* repeats himself several times over. Moreover, he may need to deal with disrespectful or rude people who are part of the community he serves. Interviewee six argues that with low levels of *ṣabr,* an *imām* will not attract the community to him, which will not aid him in his mission to call people to Allah . People will be more willing to listen to an *imām* that they respect and have a rapport with:

> You must have good character because people want to be around people that have good character. You know, you need to have the necessary *ṣabr* with community – if you're just like short-fused, you're going to lose everybody. People are very much attracted to humility, so if we speak about the character traits, we can only look directly at the character traits of *Rasulullah* ﷺ. People are attracted to that, and they latch onto you. (Interviewee six, 2019)

The importance of controlling one's anger is highlighted in several *aḥādīth*. They state that mitigating one's anger is true strength and demonstrates strength of character (Bukhari,n.d.). This challenge is encapsuled in the comments below:

> Because being an *imām* is challenging. You need to keep your cool all the time. You are the one that people look up to. You can't degrade yourself and go down as low as people go. So, you need to swallow all that anger, swallow that, and it is not easy and, on top of that, dealing with community issues, seeing what is happening in your community, dealing with youth. It is challenging. (Interviewee six, 2019)

Principle 4: *Ṣabr* and restraining oneself are required for *daʿwah.*[18]

4.3. Sincerity

Sincerity is a fundamental trait of an *imām*. Everything stems from his intention, as Muhammed ﷺ has said; actions will be judged by their intentions. One must have pure intent; meaning everything an *imām* does must be to draw Allah ﷻ pleasure, per the *sharī'ah*. A Muslim must not perform good deeds[19] to show off or for recognition; it must only please Allah ﷻ. When an *imām* is blessed with specific abilities, he needs to remind himself that it is a gift from Allah ﷻ because everything ultimately is from Allah ﷻ. The *imām* is only a conduit for the message, calling to Allah . Thus, he must refrain from thinking of himself as superior to others that may not have the same ability. These abilities can be many, i.e., a strong memory, a melodious reciter (of the *Qur'ān*), or good oratory ability. These notions were apparent in the views of many interviewees. For instance, comments made explicitly by interviewee four:

> Yes, it is the sincerity with which the talk is given. Allah ﷻ has given different people different abilities but the most critical ingredient of all these abilities is the ability of sincerity. Humbleness is a part of sincerity. Otherwise, the person has that – keeping himself better – 'Ek gaan die mense…; Ek moet die mense reg maak' [I am going to fix the people…(from wrong doing)]You must feel that you are used as a tool by Allah ﷻ, whether you are a person that can speak for three hours on end and mesmerise people or you're a person that can speak for three minutes, but what you said is essential from the point of view of sincerity and what you want to give over. Don't let your eloquence make you arrogant, be humble. All credibility belongs to Allah . We make *duāḥ* Allah ﷻ guides us, and Allah ﷻ puts the proper wording in our mouth to convey the *daʿwah*. (Interviewee four, 2019)

18 Propagating and calling to Islam.

19 Good deeds refer to doing things that are essentially considered acts of worship, meaning actions recognized Islamically as acts of piety.

An *imām* must internalise knowledge and understanding before conveying it. It must be authentically conveyed with sincerity from his heart. He must refrain from trying to impress the congregation by speaking to their minds; this type of action and speech is very shallow and not influential.

Principle 5: All actions must be with pure intentions.

Principle 6: The *imām* must speak authentically from his heart based on sound knowledge.

4.4. Approachability and Presence

Approachability in this context is understood to be one's level of openness, readiness to engage, and willingness to serve the community. Several interviewees noted approachability as an essential criterion of an *imām*. An *imām* should make himself accessible to his community and followers. A factor that contributes to the approachability of an *imām* is daily presence in the *Masjid*. When he is present and demonstrates welcoming, or friendly body language, it indicates accessibility. Visiting with the community and meeting and greeting congregants were also highlighted as part of the basic expectations of community members. Interviewee nine, a member of the *Masjid's* youth group, was particularly vociferous in expressing the importance of the approachability of the *imām*:

> I grew up in this area, although I noticed that visiting *Masājid* in Cape Town and around the world is the approachableness of an *imām* is something key, even though it seems basic. Sometimes, it is difficult for people to approach someone well-known who stands in front (leads prayers) quite often or is even knowledgeable. It isn't easy to approach them with your own personal things, and that is sometimes what I think an *imām* is there for, to help some people through those things. If you are going to be an Islamic leader of a community, you must be prepared for people who don't know Islam as well as you do to come and query with you about the things they face in their own lives. I notice many people

> don't necessarily see the *dīn*[20] completely, but they have such firm *yaqīn*[21] that they know that if they don't know something, they should go find out from someone who does know, and I think an *imām* should fulfil that role. That being said, approachableness, being like someone approachable and even further, I believe that they should be someone who approaches others, to an extent where they try to be – they are the ones who go into the community instead of waiting for the community to come to them, especially like after *Jumuʿah* or after *ṣalāh*; they don't wait for people to come, to greet them, but they go to greet people and find out more about them and see what they can do to help. Those things make them seem more like they're a resource, which they should be, I believe. (Interviewee nine, 2019)

An *imām's* approachability and keenness to share his knowledge with others was re-iterated by others in the youth group:

> From my personal experience, I think an *imām* should be approachable and somebody readily available to share their knowledge because I believe knowledge is acquired to be shared with those who maybe not know less. (Interviewee nine, 2019)

An *imām's* body language, like anyone, portrays his attitude. He must be mindful of his body language. It can either silently support his mission or detract from it. Interviewee six's comments clearly illustrate this:

> One of the things is body language – people can pick up by just your demeanour. [E.g.] just sitting in the corner, not wanting to be disturbed. Sometimes you'll find that the *imām* goes to the *Masjid*, and he sits, does his thing, and walks out immediately, so that's a demonstration that I don't want to be disturbed– I've got my own thing that I'm busy with…It says that I am not approachable and don't approach me. (Interviewee six, 2019)

Interviewees also mentioned the importance of having a compassionate and understanding approach and refraining from a harsh attitude. Interviewee four draws on the idea of "servant leadership." In a diverse community, it is impossible to resonate with everybody. There will be differences. Not

20 Islamic way of life.

21 Complete belief and conviction in Allah . It is embedded in the notion that nothing will benefit nor harm you without the decree of Allah .

everyone will appreciate or like the *imām*. These differences can be for a myriad of reasons, which may result in the undermining of the *imām*, the committee, and even conspiracies to remove them. Despite these challenges, an *imām* must remain true to his mission and treat his community with kindness, following the Prophetic example:

> The person who's a leader must serve. He must serve the community. He must help the people. Those things bring him closer to the people because the important thing is if you don't have people's hearts. It will be tough. There is an Abu Jahl and an Abu Lahab in every community – there will be those challenges, but *Alḥamdulillāh*, the majority will generally love you for serving them. (Interviewee four, 2019)

An *imām* must build a rapport with his community. He must support them during all life events, whether celebratory or grieving moments. An *imām* should accept invitations to perform special prayers at community members' homes, such as name-giving ceremonies for new-borns, engagement or wedding ceremonies or the funerals of loved ones. An *imām* should be revered in his community, and his presence alone should hold significant meaning to the relevant individuals and the family. This is reflected in the comments of interviewee four:

> So, one must be close to people, and the way you get close to people is not to distance yourself. You must attend their functions because when that person loses a close one, how do you know what that person goes through? So at least if you are there, *Alḥamdulillāh*, whether it's a supporting word or your presence – it is comforting. It opens the door between you and that person. (Interviewee four, 2019)

An *imām* must remain focused on his key objective and purpose, which is to call people to the obedience of Allah ﷻ. Every opportunity must be sought to connect with his community. This will ensure that an *imām* gains the respect of his community, making them more amenable to his advice and guidance to serve his mission. Interviewee four articulates this notion:

> Once the door is open, you can again - call to Allah ﷻ, but if I didn't share in his moment of sorrow or happiness, it closes doors. Maybe something good happened to him, and he invited you; "please come, man, *Alḥamdulillāh*; you shared in his joy; it would have opened the door for you to speak to him on another occasion also, but now you didn't turn up, and you didn't say anything, or you just shove the person away: 'Nee, daai is nie important dinge nie' [no, that is not the important thing], how does that person feel – you know? So, one has to do all these things – because it opens the door to call that person to Allah ﷻ. (Interviewee four, 2019)

Principle 7: An *imām* must be accessible and reach out to the people with gentleness and kindness.

4.5. Accountability and Mentorship

The importance of accountability to Allah ﷻ, the committee, and the community is crucial for the success of an *imām* in a community and *Masjid*. An *imām* must consider those who contribute to the success of the *Masjid*. If he respects them, he will contribute to a pleasant and amicable environment, which is fundamental if the *imām* wants to call Allah ﷻ and ensure that the *Masjid* model is sustainable. When an *imām* acts as a law unto himself with unaccountability, he is likely to lose his community's confidence and respect. This is undesirable because it will contribute to the system's failure:

> I believe there should be a certain amount of accountability to everybody, even though we're accountable to Allah ﷻ. In every position that we find ourselves in, there must be that accountability, and for the *imām* and the *Masjid*, Allah ﷻ states in the *Qur'ān* that certain people are going to be in charge of running the *Masjid* affairs, etc. So, when a person [*imām*] comes in, there should be certain things that he needs to do, and that can only be done via the contract; otherwise, he can do whatever he wants to do, and even the person with integrity [at times] is going to feel I'm in charge; I can do what I want to do, but

> there should be that framework. So, even within the framework, it should be for [the objective] the needs of the *Masjid* and the community's needs. (Interviewee four, 2019).

Furthermore, interviewee four attributed the success of *imāms* from previous generations to their dedication and commitment to the community. They were not distracted by the shortcomings of their employees or committee members. They remained committed to *khidmah*[22]. An *imām* should not give anyone reason to speak ill of him. He needs to work amicably with his committee, respect them and always strive to go the extra mile to fulfil his responsibility.

Traditionally, *imām*s always worked with a *gatiep*[23], the *imām's* aide. The aide studied under the *imām* and was mentored by him to become an *imām* himself eventually. Several interviewees cited this process as essential for a young graduate to follow. They argued that the *imāms* who underwent this training process were the most successful. They learnt from the experience of someone that has already learned to deal with most of the complexities an *imām* must contend with. The mentor, senior shaykh, or scholar must possess *ʿadl,* or an exemplary character, and is able to assist the aspiring *imām* with his *tazkiyyah*.

The role of an *imām* is not comparable to an ordinary job. It is not limited to a contract; it is a way of life. Often there will be matters that require his attention and care not written in his contract. He must be mindful that he is also a community member serving Allah ﷻ. When the *imām* performs *khidmah* for Allah ﷻ, Allah ﷻ takes care of his needs and elevates him with honour.

Principle 8: An *imām* must have a mentor and remain connected to him.

Principle 9: An *imām* must have a clear (unambiguous) contract mutually agreed upon by all parties.

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22 Service to creation.

23 An understudy or someone that fills in for the *imām* when he is not available.

4.5. Community Expectation

The congregation and community have their expectations and ideas of how an *imām* should conduct himself and what he should be doing. The community wants an *imām* with an exemplary character that is in line with *fiqh* criteria of the position. Most notably, he must be a man of *ʿadl*, which is that he must not be someone that commits neither major sins nor persistently commits minor sins. Specific standards are built on these worldviews. Interviewee three, for instance, points out the following:

> First, the basic things – of course, they expect the *imām* to be an exemplary person in terms of how he behaves and all the things he does – he must not bring shame to them [the community]. Whatever he does, it reflects on them also. What they want also is that he must be able to connect them with Allah ﷻ and teach them about the dīn of Allah ﷻ according to their requirements. (Interviewee three, 2019)

Principle 10: The *imām* is an ambassador for his community and Islam.

4.6. The Role of Women

The role of women in the *Masjid* community was identified by many interviewees as a significant contributor to its success. It is widely believed that women are the bedrock of a society and make substantial contributions to their families and the community. Women should be respected and treated with dignity.

When women go through challenging times, many *Masājid* have development and support programs to include them, and so they are able to overcome their challenges because of this support. This transformation process can be a liberating experience, and after that, many women may be inclined to give back to the community in meaningful ways. Many unmarried women consider the *Masjid* as their primary, and sometimes only link to Islam. The *Masjid* for many

is something tangible and meaningful that provides a place of safety and refuge from the noise of the *fasād* and *fitnah* of the times; it is a place where all can connect to Allah ﷻ:

> So, what we did was look at what was needed. Most importantly, in any thriving community, women are the strong point of a community and the most neglected in society. So, what I did was I brought in an expert, a *shaykha*.[24] I brought her in, and until today, she is still with us for the women, just women if you want (anyone) to consult with a woman expert. She was the first shykhah that came to South Africa, Cape Town. She is still with us, *Alḥamdulillāh*. Ten years ago, we introduced a housewife's class. We have a full-time *ḥifẓ* school for girls only running here at the *Masjid*. So very important is that we need to also look at our womenfolk because I believe they are the foundation of the home. They're the driving force behind the husband. If I ask you who is behind, you? If your wife is not happy at home, will you be happy in your environment? *(Interviewee 5, 2019)*

One *imām*, recognised by the radio Islam International awards (2019) as one of the top five most influential *imāms* in South Africa, took it upon himself to remain abreast to contemporary issues. He started with women as the focal point. This was his route to his community; he addressed the importance of family units. He strove to fully understand family issues by understanding their history and lineage. He confirmed his approach in his comments below:

> My first focus here was women, so I started counselling. I went to learn to counsel. I studied all philosophies through reading – reading is power – I read it all. That's how I identified women, and that's how I drew them because I believe it's dedicated to my mother and, *Alḥamdulillāh*, no charge. You've got to be humble in this business. (An influential *imām* in South Africa, 2019)

24 Qualified religious scholar.

Principle 10: Women are central to a thriving society.

Principle 11: Women's needs must be considered and included in planning and programs.

4.7. Serving (*khidmah*) to Draw Allah 's Pleasure (*riḍā*) upon the Self

It is worth mentioning that the standout *imām*s were *imām*s who have been serving for at least 20 years and more. Their intentions as serving their community for Allah ﷻ were apparent. Moreover, they were not concerned about financial or material gain; they reported that their worldly needs were adequately met, and they were comfortable, satisfied and at peace. Furthermore, they expressed perplexity at young *imāms* seeking big salaries. They expressed the belief that if they take care of Allah 's house, and serve the congregation for Allah ﷻ, then Allah ﷻ takes care of their needs. They also mentioned that they practise *tawakkul*. This is beautifully illustrated in one *imām's* statement below:

> If I need anything, I don't ask the committee. I ask Allah ﷻ and Allah ﷻ put it in the committee's hearts to facilitate what I need. (An *imām,* 2019)

Principle 12 - Allah ﷻ honours and takes care of the needs of the one in *khidmah* of his creation with reverence to those that build and support the *Masājid*.

An *imām* must be remunerated fairly. When determining an *imām's* salary, the committee must consider his years of study and the essential role he fulfils in the community. Moreover, he likely has a family with the same needs and wants as every community member. The *Masjid* committee should ensure that an *imām's* personal and familial needs are adequately fulfilled. Both the *imām* and the committee must refrain

from exploiting each other and be mindful of their responsibilities as per the sacrosanct contract they accepted, which is to serve Allah ﷻ.

5. Results

Individual, essential traits revealed in the study are depicted in figure 3, labelled character / *khuluq* conceptual level 1. *Khuluq* is made of antecedents of the leadership traits that contribute to character. These traits contribute to a value system and worldview, which informs the individual's conduct and etiquette. These traits influence leadership style, which gives rise to different leadership methods.

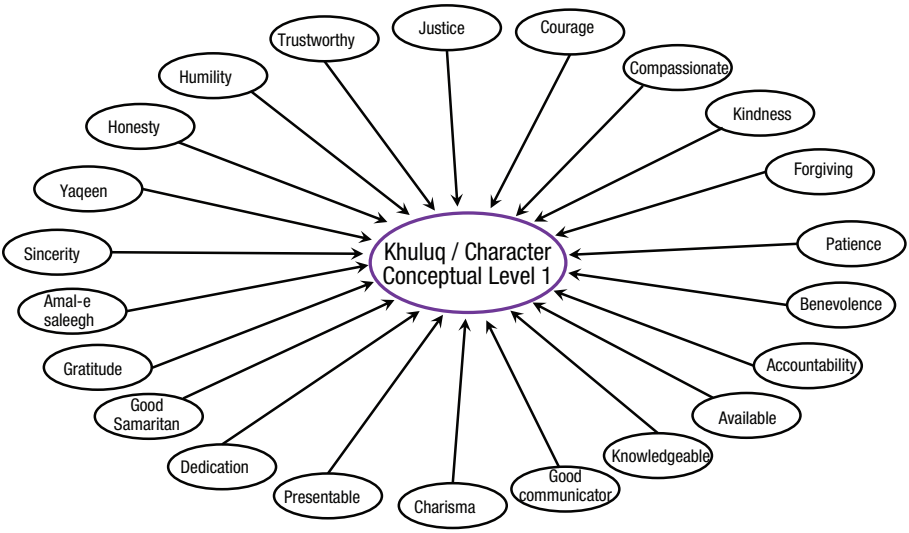

Figure 3: *Conceptual Illustration of Character for Islamic Leadership Level 1*

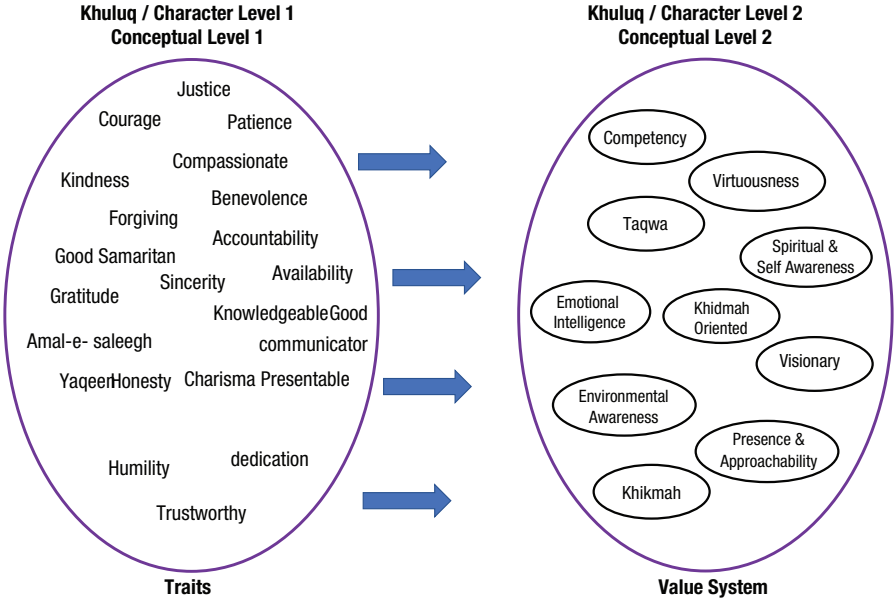

Figure 4: *Conceptual Illustration of Character Level 2 Required for Islamic Leadership*

Figure 4: illustrates the development of certain traits into a higher level of abstraction, which in turn forms a higher level of character and contributes to the competency and skills required to be an effective leader.

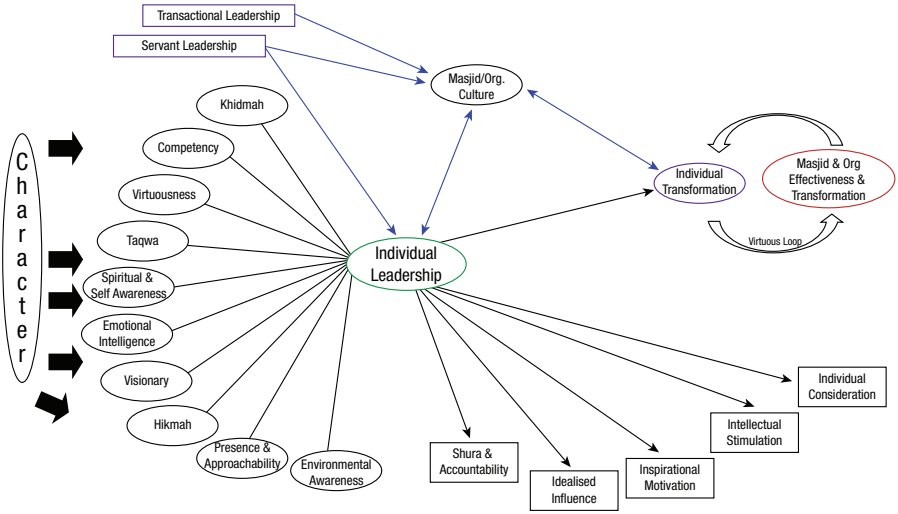

Figure 5: *Kamaldien Model 3 – Developed from a Qualitative Study in the Construct of Islamic Leadership Adapted from Parry and Proctor-Thomson Model(2003)*

Figure 5 is a novel contribution that draws on Parry and Proctor-Thompson's (2003) established model. It depicts key character traits and competencies that influence individual leadership. On the left appears character, which directs to oval figures, indicating where a leader must excel. The degree of competency achieved in these areas will ideally influence Islamic leadership capability. These areas are *khidmah*, competency, virtuousness, *taqwa*, spiritual and self-awareness, emotional intelligence, vision, *ḥikmah*, presence and approachability, and environmental awareness.

Competency is primarily comprised of communication style and charisma. Virtue is made up of ethical actions, good character, courage[25], integrity, justice, and wisdom. *Taqwa* is comprised of sincere intention, effort, humility[26], justice[27], truthfulness, trustworthiness, integrity, *ṣabr*, *tawakkul* and *yaqīn*[28]. *Taqwa*[29] is the crucial intrinsic driver towards doing good for the sake of Allah . It is about complying with Allah 's injunctions and refraining from Allah 's prohibitions. It restrains a leader or follower from acting unjustly or unethically (Mohammad et al, 2015). It is an internal moral compass, and the foundation of all actions.

Spiritual and self-awareness consists of knowing the self, and reflecting specifically on the hereafter, which includes awareness of the Divine, and the need for spiritual and moral guidance related to this. Awareness of these is also manifested when one expresses self-control in very challenging circumstances.

Emotional Intelligence refers to being aware of one's feelings and with whom one engages. It also relates to the awareness of one's environment, the uniqueness of individuals, and understanding of varying circumstances and when to act appropriately. A visionary refers to one who thinks creatively and plans for the future, maybe even beyond one's life. They are willing to challenge the status quo, to put

25 To stay the course and resist pressure of all kinds. Doing good despite the challenges often associated with it.

26 To always think good of others and not believe that you are better than any person no matter who they may be or what they may or may not own, even if they own nothing. To overcome selfishness and serve others habitually.

27 To give every individual their due.

28 Complete belief and conviction in Allah ﷻ. It is embedded in the notion that nothing will benefit nor harm you without the decree of Allah ﷻ.

29 It is the inner consciousness of one's duty to Allah ﷻ and his accountability towards Him ﷻ

a plan into action to realise a specific vision. *Ḥikmah*, in its simplest form, means that one is knowledgeable and can act appropriately at the appropriate time in response to a particular situation. Islamically, it means to act according to the *Qur'ān* and the teachings of Muhammed ﷺ, while incorporating kindness, benevolence, and gratitude.

In Figure 5 two purple rectangular boxes with transactional and servant leadership appear on the top left. These concepts influence the leader as well as the *Masjid* and organisational culture. The relationship is represented by a black line that indicates one direction of influence. A leader's qualities determine how they will adopt the concepts embedded in servant and transactional leadership. Muhammed's ﷺ leadership incorporated elements of both servant and transactional leadership styles. Both of these concepts influence organisational culture. This affects the values and norms by which the people within an organisation interact and their expectations.

Once the above traits and leadership elements are internalised in a leader, he becomes transformative. This is depicted in Figure 5 by the single directional arrows that flow from the individual leadership, pointing towards (i) *shurā*[30] and accountability in the decision-making process; (ii) idealized influence, or being a role model and leading with integrity and developing a shared vision to achieve the organisational goals; (iii) inspirational motivation, which conveys an achievable vision with enthusiasm; (iv) intellectual stimulation, which is to think creatively and critically, and encourage problem-solving behaviour through innovative ways and stimulates followers intellectually; (v) individual consideration is recognising and developing relationships with followers by giving them personal attention to become the best they can be.

Individual leadership has a direct influence on the organisational culture.[31] A leader sets the tone and influences an organisation's framework, both physically and socially. Likewise, the organisational culture influences the leader because the latter often either emerge from the organisation's existing culture or may be limited by it. Either

30 Consultation with knowledgeable and skilled persons regarding the subject matter at hand

31 Organizational culture focuses on how individuals collectively respond to the environment internally and externally.

way, it impacts the leader. A leader influences the culture through his actions that the followers admire, identify with, and ideally emulate. This ultimately affects the behaviour and conduct of the followers.

Additionally, he may facilitate education that prompts followers to consider new paradigms and fosters individual transformation. Similarly, an organisation's culture might be one of development and reflection. This creates the foundation and conditions for change of the individual followers.

Lastly, when congregants are transformed[32], they are more likely to contribute to the *Masjid*, and the organisation's effectiveness in so far as its desired objectives. Congregants who perform *taqwa,* engage in worship, and demonstrate commitment and loyalty, are more likely to be transformed. Congregants may make extra effort to realise an organisations' goals. A virtuous re-enforcing loop is created because the more efficient and effective the *Masjid*/organisation becomes, the more it drives the individual to continue assessing, reflecting, and contributing to its effectiveness, efficiency, and transformation.

6. Conclusion and Recommendations

This paper investigated leadership by providing a brief survey of Islamic and general leadership literature. Critical character antecedents and traits were identified that *imāms* should inculcate if they want to excel. This paper also discussed ideal skillsets, beliefs and competencies that must be developed and enacted.

Twelve guiding principles emerged that would assist an *imām* in succeeding in his role. The discussion highlighted important variables and virtuous character traits that *imāms* should internalise and act upon to thrive in their roles. These are approachability, accountability, being present and accessible, compassion, tolerance, humility, *ṣabr*, sincerity, building rapport with the community, and understanding community expectations.

32 To bring out the best of the individual.

Taqwa and khidmah were identified as critical drivers for success as an imām. Women were identified as a segment of the community that has a significant, positive impact. This paper found that the most impactful *imāms* understand how to unlock the potential of women in their community.

Five indicators were identified that measure the effectiveness of an *imām*:

1. Level of accountability and *shurā* application.
2. Idealised influence.
3. Inspiration motivation.
4. Intellectual stimulation.
5. Individual consideration.

A recommendation for future research is to extract principles and concepts relevant to *Masājid* and its committees.

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The Impact of Gentrification upon Culture, Tradition, Identity and Language: A Case Study of the Bo-Kaap Community

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Abstract

Language is central and important to the identity of every community. It defines who they are, their culture, social milieu, and traditions. It is through language that people communicate with one another and preserve their heritage and history. The history of colonisation in South Africa is an example of how culture, identity, language, and history have been subjected to colonisation. In this paper, I will discuss the impact of gentrification upon the Bo-Kaap community in Cape Town. Today, gentrification is not only displacing people, but slowly erasing the culture, identity, and language of this area. This paper is intended to continue the work of Achmat Davids, who first began documenting the history of Bo-Kaap. This paper analyses the potential of participatory action research (PAR) in communities to become more critically reflective and socially conscious about gentrification. First, this paper explores the rationale and process of engaging the Bo-Kaap community who, at the time this paper was written, were subjected to a gentrification. The research for this paper included the participation of students for them to develop greater awareness and become agents of social justice. This study also used oral testimonies in developing a strategy designed to help other communities in becoming more vigilant against gentrification and its resulting displacement, and to preserve local culture, traditions, and language.

Keywords: Bo-Kaap, culture, gentrification, tradition, identity

1. Introduction

Bo-Kaap is an area of Cape Town facing an onslaught of gentrification that threatens its culture, history, identity, and language. The codification of language used by early Muslim slaves in the Cape was in response to colonialism. Grenoble and Whaley have argued that:

> All persons should therefore be able to express themselves and to create and disseminate their work in the language of their choice, and in particular in their mother tongue; all persons should be entitled to quality education and training that fully respect their cultural identity. (Grenable A. Lenore & Whaley J, Lindsay, 2006, P2).

Davids contends that the first arrival of the first Muslims at the Cape may have been at the same time Jan van Riebeeck arrived at the Cape (Davids, 1980). According to Mayson, oral history accounts assert that there were a group of "eastern slaves" who accompanied Jan van Riebeeck in 1652, when he took up command of the initial Dutch settlement in what is now South Africa (Mayson, 1865). Davids opines that the first official recording of Muslims at the Cape was in 1658 with the arrival of the Mardyckers:

> They were brought to the Cape to protect the newly established [Dutch] settlement against the indigenous people and to provide a labour force in the same was as they had been employed first by the Portuguese. (Davids, 1980:35).

The Muslim identity in Bo-Kaap is unique, compared to other areas in South Africa. This uniqueness can be attributed to the forefathers of Islam who arrived in Cape Town; Shaykh Yusuf from Macassar in Indonesia, Tuan Guru from the Tedori Islands, and Shaykh Abu Bakr Effendi from the Ottoman Empire. They are considered the pioneers of Islam in South Africa.

(Bo-Kaap, Cape Town, South Africa,2017)

The language of many people in the Bo-Kaap community is a combination of English, Afrikaans, Malayu, and Arabic. The written form of this language was intended by slaves to respond to the colonial onslaught. The preservation of this community was largely successful, with the acceptance of Islam by many slaves who left the Church.

Today Bo-Kaap's culture, traditions, identity, and language are threatened by gentrification. Gentrification can be best described as:

> As a neighbourhood gentrifies, the economic opportunity that it presents increases. More people move into the area to take advantage of those opportunities, and then the desirability of that area increase even more. Developers begin to tear down old housing to build new. Old shops, restaurants, and other neighbourhood features may be driven out by storefronts that cater to new residents. Perhaps worst of all, the old residents themselves may be forced to leave. Rising costs of living and a changing landscape for jobs mean that the benefits gentrification brings to an area are often distributed unequally (Zuber-Skerritt, 2012, para.4).

It can be argued that gentrification brings investment opportunities and creates employment. Thus, it is a complex issue that involves the people, social justice organizations, and policy makers in the City of Cape Town, as in any context experiencing gentrification.

In the context of this study, gentrification can be more specifically understood as a structured socio-economic system that erases the identity, culture, tradition, and language of a community.

Today gentrification contributes to a rise in municipal rates and affects the living standards of Bo-Kaap residents. They are increasingly forced to sell their homes just to survive and to give their families a better future. As a result, the spoken and written language of Bo-Kaap is being lost.

To better understand the impact of gentrification, more qualitative research is required (Slater, 2009). Scholars such as Lees et al (2013), Larsen and Hansen (2008) and Ah Goo (2018) have written about gentrification from the perspective of displacement and replacement, while others through the lens of personal accounts. Shaw and Hagemans (2015) opine that a dearth in research exists about the financial impact of gentrification which is experienced by residents who remain in communities where gentrification is taking place. A study into the impact of gentrification on the language, culture, and traditions of the oldest urban Muslim community in South Africa, in Bo-Kaap, will be made through the framework of Action Research (AR).

Bachelor of Arts students at the International Peace College South Africa (IPSA) study Islam in South Africa as a module in their degree programme. Students study the colonisation period in South Africa and its impact on Islam in the Cape. PAR Students are assigned assignment-based research projects as part of the module on Islam in South Africa, with the intention to understand the ongoing challenges that the people of Bo-Kaap face due to gentrification. Often, when students begin the programme, they have little to no knowledge of gentrification and the impact that is has upon culture, tradition, and language. An important aim of the PAR project is to understand the personal stories of residents facing gentrification and the consequences of it upon their culture, tradition, and language as the oldest urban Muslim community in South Africa.

It was another primary aim of the PAR project to produce students who are not only knowledgeable about the history of Bo-Kaap, but also able to bring awareness to the challenges that residents face

today. The structured curriculum of the module is theoretical, and information based. One of the outcomes of the module, is to produce social justice activists through the course. Thus, a major requirement of this PAR project is to monitor the students' involvement and to develop a structured curriculum that produces students who are agents of social change. To achieve this, students must move beyond textbook knowledge. This is particularly important in this PAR project, because there is limited knowledge and information on gentrification in a South African context. To achieve the object of the project and contribute to the production of new knowledge, the students were required to engage community members directly and actively participate in the processes of collecting data and thereafter analyse it.

Changing or influencing government policies demand the production of new knowledge, creativity and developing critical ways of thinking about the implementation of these changes. Education that fails to prepare students to adequately seek transformative knowledge through continuous self-reflection and research, will result in subverting South Africa's national aspirations of becoming a socially just society in which the constitutional rights of all our upheld. This point is argued by Renfew Christie (1995) when he asserts that when there is no research, there can be no development and history will be lost.

Another aim of this paper is to reflect on how to include critical inquiry and reflection and the integration of theory in the abovementioned PAR project. It is the contention of this paper that this can be achieved by exposing students to emancipatory action-based research methods, while at the same time influencing curriculum design. Boog (2003) argues that action research was intended from the beginning to be emancipatory, and he believes that it is still so. By exposing IPSA students for the first time to action research through applying its techniques, this project aims to create students who are more critical, imaginative, argumentative, and who are agents of social justice who provide a voice to the voiceless.

1.1. Educational Significance and Implication for the Field

A limitation of this research project is that students were at different levels of understanding action research and PAR in particular. Some of them had limited knowledge, while others had no understanding of what action research entails.

For everyone involved, the PAR project was significant because it provided everyone with evidence that action research, if done collaboratively and in a participatory way, can empower students with skills in becoming effective researchers and social justice advocates. The project not only enhanced students' action research experience, but also bridged the theory-practice divide by integrating a theoretical approach to the study of Islam in South Africa. Simultaneously, by modelling collaborative action research, the students and their instructors grew professionally and felt more empowered and informed.

Regarding the significance and outcomes of the course, analysing the final reports indicated that students were able to select and carry out projects beneficial to local communities. Furthermore, students indicated their enjoyment in choosing an issue that was significant and important to the history of Muslims in South Africa, as well as the satisfaction derived from the implementation and analysis of the project. They also indicated that they intend to actively research their practise and outcomes as students. Some students also indicated that they would apply the skills they gained in their own community to better understand the challenges that youth face. A particularly satisfying outcome of the project was that most students understood the difference between desktop research, technical action research, emancipatory action research, and PAR. Most importantly, students felt empowered as agents of social awareness and change.

2. Methodology and Data Collection

The research methodology applied for collecting data in this study was qualitative and interpretive. As for the qualitative dimension of the research project, it incorporates a form of the PAR process. The main objective of this research is to place social issues and advocacy high on teaching agendas and to develop a model that will bring awareness to

the threats of gentrification in the oldest urban Muslim community in Cape Town, South Africa.

Interpretivism aims to move beyond the scope of gathering information and knowledge. It includes the understanding that people are the product of their actions. In studying the challenges faced by the Bo-Kaap community, it was important to understand its history, social, and cultural practices. Social reality is a continuous process of interpretation and reinterpretation of behaviour (Denzin & Lincoln, 2000). Bo-Kaap, as the oldest urban Muslim community in Cape Town, illustrates that the formation of social constructs and cultural practices undergo years of development, and therefore it was important to conduct interviews with senior citizens in the community. The data was collected in 2019 and the collection techniques used in this PAR included field notes, student assistance, interviews, questionnaires, and focus groups.

In this research process, the focus group techniques produced many insights. Students held regular meetings and discussions while preparing and developing the project. The focus group technique is an effective qualitative method for studying ideas in group formations. This method particularly exposes critical and passive interaction, attitudes, and cognition, and allows researchers to arrive at a collaboration of ideas, because the whole is greater than the sum of its parts (Zuber-Sherritt, 2012).

The instructor and the student assistant provided focus groups with valuable feedback regarding their research. In addition to noting that a project of this nature is important and interesting, its limitations and constraints were also mentioned. As their instructor, I oversaw three focus group sessions with four students in each group. Three discussions were held lasting of 50 minutes each. The first focus group meeting was at the beginning of the module, explaining the course content and assignment. The second meeting focused on conceptualising the PAR, which included gathering the required resources and finalising the timelines. The last session was at the end of the module to evaluate and analyse the data, and to determine which aspects of the project could be improved.

The methodology adopted was driven by emancipatory research:

> Emancipatory action research is a participatory, democratic process concerned with developing practical knowledge in pursuit of worthwhile human purposes grounded in a participatory worldview… It seeks to bring together action and reflection, theory and practice, in participation with others, in pursuit of practical solutions to issues of pressing concerns to people, and more generally, the flourishing of persons and their communities. (Bradbury, 2001:1).

For this project, students were requested to formulate their ideas, develop a methodology, and present why this action research was important. In their preliminary research, which included engaging with their own families about the issue of gentrification in Bo-Kaap, it became clear to them that gentrification is affecting the community. This clarified their purpose, of recording the impact of gentrification on Bo-Kaap's culture, traditions, and language.

This study incorporates and includes Sagor's (2000) perspective, that researchers initiate their own action research projects, with the objective of improving their practice and knowledge. An integral part of this PAR project was that students participated in the conception and design of the project, data collections and analysis.

3. Theoretical and Conceptual Framework

Community-based participatory research and service-learning intersect at the crossroads of academic interest and community development (Brulin, 1998; Ennals, 2004; Kasl & Yorks, 2002; Pine, 2009). Research into action research in the field of education indicates that the development from a student into a teacher involves engaging in the process of inquiry and reflection that action research demands (Cochran-Smith, 2003; Schulz & Mandzuk, 2005). Brown and Tandon assert that participatory action research can be seen as an integrated activity that combines social investigation, knowledge, and action. The goal of participatory action research is to work collaboratively to generate new knowledge to influence change (O'Leary, 2004;98). Using action research, students working on this project commenced with a

preliminary study, divided themselves into focus groups, formulated a theoretical and conceptual framework, finalised the rollout of the PAR, and concluded with an analysis and write-up of their field work.

PAR is not new. It originated with studies by Kurt Lewin (1948) and the Tavistock Institute in the 1940s. The main objective is that it must be done with, not on or for people (Brock & Petti, 2007; Chevalier & Buckles, 2013; Reason & Bradbury, 2001; Swantz, 2008).

The first discussion in South Africa on an emancipatory form of action research as an educational construct appeared in the book *Action research: justified optimism or wishful thinking*? edited by Flanagan, Breen, and Walker (1984). Not long after the book's publication, in 1987 this idea began to take root as a research methodology for addressing social issues, and increasingly formed part of the requirements for masters' programmes in the Education Faculty at the University of the Western Cape. This was first implemented in the supervision of Owen van den Berg, and then later under Dirk Meerkotter (1996). According to them, all action research should be liberating. It is also a powerful academic exercise in the production of knowledge.

The current PAR project is inspired by the methods of Fals Borda, who first applied PAR in promoting new knowledge in research about literacy development (Fals Borda & Rahman, 1991; Quigley, 2000). Borda's work challenged hegemonic approaches to education as well as contributed new insights about youth development and its related issues in many societies (Carr &Kemmis, 1986; Fine &Torre, 2008; Noffke & Somekh, 2009). Further interest in PAR projects is evident in the approaches of Freire (1972), who attempted to use critical pedagogy and dialogical reflective methods in the classroom.

Freire's approach to action research is helpful for the objective and purpose of the current project, in that it not only empowers students with new knowledge but also researchers and policy makers. This, as Walker asserts (1990:61), allows educators' voices and those of their students as active partners in the research to be heard as producers of knowledge.

Researchers involved in this study were not only concerned with changing and improving their educational methodology and approach in classrooms, but also highlighting and influencing positive change in society. Knowledge must have a purpose and objective, and be able to move beyond theory and information towards empowerment and transformation, where students become agents of social change.

3.1. Contextual Relevance

During the 2019 academic year at IPSA, second-year students participated in an action research project for an assignment about the history of Islam in the Cape, part of a history module in IPSA's undergraduate programme. Each student was required to plan a research project with the aim of developing active involvement in social justice, and creating awareness of the impact of gentrification upon the oldest urban Muslim community in South Africa. Another aim of this PAR project was to start a critical discussion on the dangers and effects of gentrification at the provincial level, in the hope of influencing zoning policies in the City of Cape Town.

4. Ethical Considerations

Before this project commenced, it was important to discuss ethical issues and its dimensions, such as involvement with and work in the Bo-Kaap community. Students were informed that I have been serving as a religious leader in the Bo-Kaap community since 2002. As part of this role, I participated in many forums, discussing the perils of gentrification in Bo-Kaap. It was important for students to understand my role and position as a community leader; this type of information is central to any PAR project. This sort of disclosure is part of an ethical approach, as argued by Ely (1999: 218) who said, "qualitative research is an ethical endeavour". I engaged the willingness of students to participate in such important research and made them aware of any challenges that may be associated with it.

Although all students who were invited agreed to participate in the PAR project, it was equally important to understand why they were willing to engage in such research. Some of the remarks were:

- To engage in a project at this level will be interesting.
- It will be informative to interview the seniors in the Bo-Kaap community on the challenges they face.
- To recording the impact of gentrification upon the oldest urban Muslim community in South Africa, the Bo-Kaap community, will be exciting.
- To create awareness of the challenges the Bo-Kaap community faces.
- To influence government policies and to preserve the identity of a community.

Discussing the objective of this project with students and hearing their responses, conveyed much more than just a single response of a "yes" answer. It was explained to students that being co-researchers in the PAR project at this level requires planning. They understood the requirement of being actively involved in conceptualising and designing the project, collecting data, and analysing it. They were made aware that they may be asked to be interviewed by those who may be interested in the project. Students were required to keep a detailed diary, and to take any necessary photos or video recordings for future reference. Students also had to understand that at any time during the project, they might be requested to hand in their data to be scrutinised and analysed. It was important for them to understand that the interests of all co-researchers and interviewees should be protected, and that the highest ethical practice must be observed at all times. Fundamental aspects of ethics include how one treats individuals, the information shared, and maintaining confidentiality. (Mathison, Ross & Cornett, 1993). Throughout this process, I was reminded to exercise caution regarding social norms and ethical conduct; implications related to these may vary and change (Chevalier and Buckles, 2013). Ethical considerations can be revisited as a project unfolds. PAR should not limit discussions about ethics to the design and the proposal phase.

4.1 Participatory Action Research Project Guidelines and Procedures

First, the students identified the challenges that the Bo-Kaap community face. Thereafter, they each wrote an outline of no more than two pages indicating:

(1) How gentrification is understood?

(1) What are the similarities between apartheid and living in a democratic South Africa?

(1) How does the research benefit them and society?

(1) What are the social, economic, and linguistic impacts of gentrification?

(1) What evidence can be collected to raise awareness and influence policy in Bo-Kaap?

Next, students planned research approaches that would address these challenges and ideally bring about positive changes. In the next phase, they were required to put their plan into action, adhering to strict timelines to be completed in the designated period. It was emphasised that not only would their PAR require careful preparation, but gathering and collecting evidence must be done professionally. Keeping careful records were a vital components of the research. They were required to reflect and plan while incorporating analytical thinking. Students were also required to record their actions, evidence, and reflections as they proceeded, whether in a written form or audio recording. Finally, the project had to be collated into one product which included different sub-headings.

Topics chosen by the students included:

(a) A comparative study of the Bo-Kaap during colonialism, apartheid, and post-apartheid, including reflections on today's ongoing changes.

(b) Understanding the socio-cultural challenges of Bo-Kaap.

(c) The social, economic, and linguistic impact of gentrification.

(d) Marginalisation and discrimination against the people of Bo-Kaap.

(e) The restoration of justice in post-apartheid South Africa.

5. Finding and Discussions

The findings of this study provide a broad perspective on the ongoing development and changes happening in Bo-Kaap.

Three themes emerged from the analysis of the data collection:

Firstly, the students were able to articulate the steps in the action research process and were able to describe how to use them in other modules and in independent research beyond the classroom. At the end of the semester students wrote final papers depicting their journey of learning to become participatory action researchers. Students found the process to be helpful and planned to do participatory action research in the future. Most students reflected on how they were able to understand their teaching practices more fully by engaging in this PAR project. The diversity and the scope of the research questions the students formulated was particularly impressive.

Secondly, students understood the complexities of gentrification. They were well informed and collected data from several first-hand sources. The project help inform students' understanding of society, tradition, and language. Previously, they found these challenging to address. Students deepened their understanding of lived realities in Bo-Kaap. They realised that gentrification is not only about the influx of foreigners and wealthy people into a community, but also the adverse effects it has upon the oldest urban Muslim community in South Africa.

Through the processes of data collection, students documented the economic, social, traditional, and linguistic impact of gentrification on the Bo-Kaap community. Each student recognised the potential of action research as a means of exploring how to improve understandings of the lived realities of gentrification.

This PAR project created new ways of highlighting the impact of gentrification on the Bo-Kaap community. According to some students, collaborative participatory action research not only changed their perceptions, but also their outlook as researchers and social

activists. They reported that the most rewarding aspect of the research was the realisation that effective curriculum design and the transfer of knowledge in the classroom has a greater impact if it is developed via ethically motivated social justice leadership as part of a PAR. It is a contention of this paper that this type of assignment-based research should be explored in other Islamic studies modules.

This research project also revealed that many students previously had little knowledge of gentrification. Additionally, the students were generally unaware that it exists in other countries and different cultural contexts.

Gentrification is a global phenomenon. It is currently underway in many American contexts, such as the Bushwick neighbourhood in Brooklyn, New York. "This process can disrupt the traditional makeup of a neighbourhood with the influx of wealthier people moving into downtrodden, largely minority urban neighbourhoods" (Zuber-Skerritt, 2012). Small businesses are often adversely affected economically by gentrification when large enterprise businesses move into the area. Development, high municipal rates, traffic congestion, and overcrowding makes adjustment difficult for long-time residents.

Many residents in Bo-Kaap have had to make the difficult decision to sell their homes and it remains an ongoing issue. The restoration of social and economic justice more than 28 years into democracy has been meagre, and in some cases non-existent. The national and provincial governments in South Africa have neglected their duties and responsibilities to the Bo-Kaap community. High municipal rates and a rising costs of living, coupled with high employment rates are contributing factors that force many people to sell their homes in Bo-Kaap, which are common circumstances often reported in interviews with residents of the area. In a sad tone, short of shedding tears, a resident explains that all she wants is to provide comfortably for her children and give them an opportunity in life; "I can no longer afford to live in Bo-Kaap and I am thinking of selling my home that has been in our family for generations". This sentiment, expressed in an interview with a student researcher, was certainly revealing; similarly emotional feelings were shared by others. An interesting observation of one the students that stood out was that among the actors in the process of gentrification were both the national and provincial government. During interviews, students captured the sentiments of residents who have had

to make difficult financial decisions, sometimes having to decide between paying high municipal rates, giving their children a good education, and putting food on their tables. Other comments that emerged during interviews reflected despair; many said very little has changed for them following apartheid. One resident believed that there is very little political will to address the issue of gentrification in Bo-Kaap. He opined that if the city of Cape Town wanted to truly redress the pains of apartheid, previously disadvantaged communities should be able to benefit from new legislation of laws and by-laws. It is obvious that many residents in Bo-Kaap are suffering the economic impact of gentrification. Considering what was reported in interviews with community members, there is little doubt that there is an increase in people requiring financial support to meet their basic living requirements.

One resident reported that she did not qualify for indigent relief and a rates rebate from the government based on her income level. She reported that her salary goes towards paying her municipal rates, traveling expenses, education and food. She cannot afford to send her children to a private school, or to pay for the sort of life that she was deprived of under apartheid. "We were in poverty, kept in poverty and gentrification is causing poverty" she claimed.

Residents who were have been forced to sell their homes reminisced about what life was like in Bo-Kaap, the street games they played as children, the social lives they lived, and the security they felt. Being forced out of Bo-Kaap for financial reasons is one of the most painful experiences that residents have had to endure. One interviewee who opted to remain anonymous stated that he does not wish upon any father to be forced to decide to sell his home because of being unable to pay high municipal rates, and being unable to send their children to the best schools for an education that he had no access to:

> Moving from Bo-Kaap was the most difficult decision I had to make and living where I am currently is not the same. The social and cultural atmosphere and inclusive brotherly neighbourhood feeling is not the same. Many times, I come to Bo-Kaap just to participate in the social and culturing [sic] practises of the Bo-Kaap community (Anonymous interviewee, 2019).

Another interesting comment made by a resident is that the restoration of justice is vital to addressing the pain that apartheid caused.

This PAR project has revealed that many of the senior citizens living in Bo-Kaap view gentrification as an extension of the racist apartheid-era Group Areas Act, which was part of broader forced removal policies under the apartheid government of South Africa. Gentrification can be seen as a modern form of eviction, as stated by some residents. Other residents have claimed that when some foreigners move into the area, they have little or no respect for the local cultural and religious practises of the Bo-Kaap community. These new residents have attempted to silence the call of the five daily Muslim prayers, delivered over several loudspeakers in the area, a practice spanning more than 60 years as stated by some interviewees. This tradition, of delivering the call to prayer over loudspeakers, is being challenged more regularly all the time.

Ms Fawzia Ahmad, a resident of Bo-Kaap, asserts that:

> Gentrification is our pain. We have been fighting gentrification for years. Years ago Bo-Kaap was known as a "slum", it was our people who built up the area and slowly started to renovate their homes. It must be noted that our people suffered under apartheid and did not earn huge salaries. The little that they had left after paying all their expenses were invested in upgrading their homes. These renovations increase their municipal rates. (F. Ahmed, 2019)

This PAR project revealed that more research is needed and awareness must be raised about gentrification. The experiences of those places in Britain, North America, and France that have been gentrified may provide useful examples to help deepen our understanding of this phenomenon in South Africa in general, and Bo-Kaap in particular. The residents of Bo-Kaap, in collaboration with academics and social activists, must address gentrification before the spatial impact thereof completely erases the local culture, traditions, and language of the area. The area is becoming more densely populated with new developments, which are signed off by the city of Cape Town. Other areas of Cape Town, including Woodstock and Salt River, are also

facing gentrification. Residents are increasingly forced to sell their homes because the levy and rental prices of units have doubled, or more, in recent years.

Finally, it is evident that the action research project had its own constraints and challenges. This was also evident from the comments made by students in their feedback about the project:

(1) This action research project required more time.
(2) There were always going to be ethical challenges – especially from some interviewees who were traumatised by apartheid.
(3) Fear of not capturing the true spirit of the interviewees.
(4) Whether the objective of raising awareness about the plight of Bo-Kaap facing gentrification will be achieved.

The last theme was extensively discussed in the focus group discussions. It underlined the idea that the PAR project should be concise, manageable, and meet its objective. This was the students' first experience with action research. Thus, challenges were inevitable. However, identifying and cataloguing these may serve as a valuable resource for future PAR projects.

5.1. Pedagogical implications

PAR, with an undertone of an emancipatory objective, can become a powerful tool in supporting the transformation of societies in the wake of the fourth industrial revolution. This project has made a significant contribution to raising awareness of the plight of the Bo-Kaap community. It has also contributed significantly to IPSA's academic programme in developing a more socially conscious, justice-oriented student. Awareness must be created, and this research must be shared.

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Maqāṣid Al-Zakāh and Poverty Alleviation: A Case Study on the Western Cape Muslims

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Abstract

This article endeavours to explain how the Muslim practice of *zakāh* (almsgiving) is a viable model for poverty alleviation in the Western Cape. This paper will briefly examine the origin and history of *zakāh,* how it has developed over time, the relevant *Sharī'ah* aspects, its rulings, and the spiritual rewards relating to the practice, including those liable to pay and who are eligible to receive *zakāh*. A selection of the organisations in the Western Cape and their principal objectives to alleviate poverty will also be discussed. A holistic view will be presented explaining the epistemology of poverty. The consequences of poverty will be described, and then an assessment of what the State is doing regarding the reduction or alleviation of poverty in South Africa will be undertaken. This paper will also highlight both historical and contemporary views on the issue of *zakāh*. The conclusion provides some solutions, recommendations, and alternatives that could improve Muslim communities socially, economically, and spiritually.

Keywords: alleviation, *Maqāṣid al-Sharī'ah,* organisations, poverty, *zakāh*.

1. Introduction

In examining the economic and social structure of the Western Cape and how it has been affected by poverty, this paper raises the question: what is the most effective and efficient means to alleviate the epidemic of poverty that the Western Cape faces? The objective of this study is not to criticise, search for loopholes in the system, or to point fingers at potential defects, but to critically examine the current system to

ascertain if South Africa is on track and whether the State needs to amend its approach in dealing with the current situation.

Zakāh, or almsgiving, is one of the five core pillars of *Islām*[1] and has direct economic implications.[2] It is estimated that approximately one-fifth of the world's population lives on an amount below $1 a day, and more than two-fifths on $2 per day (*Population | United Nations*, n.d.). A large percentage of these people live in Muslim-majority countries (*Magnitude of Poverty in the Muslim World*, n.d.). Addressing the issue of *zakāh* is therefore very relevant. Traditional institutions[3] have had a tremendous effect on societies in dealing with poverty in the past, thus it is important to see how these policies could be applied in contemporary times to alleviate such pressing demands (Al-Qarḍāwi, 2022).

1.1. Rationale and Methodology

The contemporary reality of the growing rate of poverty globally is particularly discernible in the Western Cape of South Africa compared to other provinces. One can noticeably observe the ever-growing gap between the rich and poor, the significant economic imbalance, and declining spirituality. The rich have become richer, and the poor have progressively become poorer (*Why the Rich Become Richer and the Poor Become Poorer*, n.d.).

The information collated in this article was obtained from web pages, articles, and books compiled by some of the organisations that will be discussed. Relevant books or articles written by experts who have delved into this topic include *Al-Qarḍāwi* . The methodology of this study included 40% data collation via relevant websites to attain the

1 *Islām* is built upon five pillars, to bear witness in The Absolute Oneness of The Creator and His messenger, to practice prayer, to give to charity, or *zakāh*, to fast during the month of *Ramaḍān* and to embark on *Ḥajj* (pilgrimage) at least once in one's lifetime.

2 This is on a small scale in South Africa where only two percent of the country is Muslim, and therefore their charity may only make an impact on a minority. However, this is potentially on a considerably larger scale for *Islām* in general, which is the second largest religion in the world and growing; if all Muslims were to fulfil their duties of charity, then the impact of *zakāh* would become significantly evident.

3 The intent of this statement refers to how *zakāh* was managed in the past, as seen in the time of the second *khaīifah* 'Umar as well as the 'Umar 'Abdul 'Azīz. An Egyptian Islamic scholar based in Doha, Qatar, and chairperson of the International Union of Muslim Scholars His book *Fiqh al-Zakāh* is considered by some as the most comprehensive work in the area of *zakāh*. Abul Ala Maududi commented on it as the book of this century in Islamic jurisprudence (*fiqh*).

necessary information. Some of these sites provide statistics relating to the state and conditions of people living in South Africa. Another 40% of the data reviewed was from different articles, journals, dissertations and books about the economic disparities in South Africa. Finally, 20% was derived from speaking to people who shared their sentiments on the topic.

1.2. Objectives of this Article, and *Maqāṣid al-Zakāh*

The *maqṣid* (sing.; objective) of this article is to try to find solutions to the crisis of poverty. The term *maqāṣid* (pl.; objectives) implies finding answers to questions like; why is *zakāh* one of the Islamic principle pillars? What are the physical and spiritual benefits of fasting during the month of *Ramaḍān*? Why is drinking any amount of alcohol *ḥarām* (forbidden) in *Islām*? How can Islamic law contribute to development and civility? Muslims can find answers to these in the wisdom of the underlying rulings in the *Sharī'ah*. These *maqāṣid* aim to find suitable, or favourable outcomes, which is the general aim of *Sharī'ah*.

Thus, the *maqāṣid* of preserving people's minds and souls explains the strict Islamic ban on alcohol and other intoxicants. "*Maqāṣid* are also the group of divine intents and moral concepts upon which Islamic law is based, such as justice, human dignity, free will, magnanimity, facilitation and social cooperation. They represent the link between Islamic law and today's notions of human rights, development and civility" (Auda, 2016: p. XX).

The *maqāṣid* approach can be referred to as goals awareness, as part of the need to understand the goals of Islamic law. All rulings, as well as legislation, aim to actualise benefits, prevent harm, and free persons from evil or transgression. Ideally, this approach aims to actualise the general goals of happiness and seeks the preservation of law and order (Auda, 2016).

2. Literature Review

In general, *zakāh* is a specific proportion of a person's wealth designated for the poor as a God-given right. Additionally, it is also defined as "a compulsory levy imposed on Muslims to take surplus money or wealth from the comparatively wealthy members of the Muslim society and give it to the destitute and needy" (Zaim, S. 1989). Moreover, based on a study by (Ahmad, 1997), *zakāh*, in theory, will eventually result in economic prosperity; *zakāh* is paid from those who have, to those who do not, and is meant to meet the needs of the poor. Thus, if *zakāh* is practiced to its full potential, this will improve and enhance the purchasing power of the poor, which could lead to a higher demand for goods, thus improving the economy.

According to (Metwally, 1983), the main objective of *zakāh* is the achievement of socio-economic justice and is not disputed in Muslim jurisprudence. Metwally also claims that *zakāh* disbursement can increase consumption, since the marginal propensity to consume from the *zakāh* payer is lower than the *zakāh* recipient, by increasing the purchasing power parity of the poor.

The word "*zakāh*" is the infinitive of the verb "*za-ka-wa*", meaning: to grow, increase, purify and praise. When it refers to a person, it means to improve or to become better. Consequently, *zakāh* means blessing, growth, cleanliness and betterment. In the *Sharī'ah*, the word *zakāh* refers to the predetermined share of wealth prescribed by Allāh ﷻ to be distributed among the categories of those entitled to receive it.

Zakāh is a divinely ordained institution and is regarded both as a Right of Allāh ﷻ as well as a right of the poor. *Zakāh* is one of the five pillars of *Islām*. It is second only to prayer as an essential article of the faith. *Zakāh* forms an integral and compulsory part of the Islamic way of life. An Islamic government can forcibly oblige payment of *zakāh* from wealthy Muslims who are eligible to pay it (SANZAF, 2011). As per *aḥādīth,* Muḥammad ﷺ has informed the Muslim '*ummah* (nation) upon what *zakāh* should be paid: livestock, fruit, grain and vegetation, gold and silver, and treasure and trade. (*Imām* al-Ḥākim, *al-Mustadrak,* 1/388)

2.1. Conceptualising Poverty

The classical texts of Muslim jurisprudence provide a general meaning of poverty; interpreted as people living with extremely needy conditions. This includes those who have no income at all, or whose earnings are insufficient for meeting their needs. A comprehensive understanding of the latter includes the idea that the impoverished might have an income, but their job is unbefitting. In other circumstances, they might have suitable jobs, yet their income does not suffice to meet their family's needs (*I'ānah al-Ṭālibīn*, vol.2, 1300).

Poverty is a multidimensional phenomenon that has various ramifications that have existed throughout human civilization. An omnipresent phenomenon that knows no race, culture, or nation, it can harm and affect anyone. It often includes the deprivation of well-being, which consists of five main aspects, physical weakness, exclusion, isolation, susceptibility, and desperation (Adnan, 2020).

Poverty is generally measured in economic terms based on income and consumption per household. On the other hand, *Islām* defines it as an individual who fails to fulfil one or more of the *Maqāṣid al-Sharī'ah*; piety, physical wellness, knowledge, dignity, and wealth (Adnan, 2020).

2.2. The Jurists' View on the Beneficiaries of *Zakāh* as Mentioned in the *Qur'ān*

The Qur'ān mentions eight categories of recipients of *zakāh* as mentioned in *āyah* 60, *Sūrah al-Tawbah*:

> *Zakāh* expenditures are only for the poor and for the needy and for those employed to collect [zakāh] and for bringing hearts together [for Islām] and for freeing captives [or slaves] and for those in debt and for the cause of Allāh ﷻ and for the [stranded] traveller, an obligation [imposed] by Allāh ﷻ. And Allāh ﷻ is All-Knowing and Wise.

These groups are namely: *Al-Fuqarā'* (The poor): A person who is indigent with no fixed income from a *ḥalāl* (pure/permissible) source. This *ḥalāl* income is insufficient for covering their immediate needs. It is also explained as the one who earns an amount of money which only

suffices for a third of what is needed to meet one's immediate needs.[4] *Al-Masākīn* (The needy): is defined as the one who has money (or can acquire it), one who is needy and is able to earn money that suffices for two-thirds of what is sufficient for him to meet his and his family's immediate needs.[5] *Al-'Āmilīn* (The *zakāh* collector): Administrators of *zakāh* are anyone employed as a manual worker (labourer, driver, etc.), a supervisor or a scribe. Such administrators are considered '*ummāl*'[6] and are entitled to accept *zakāh* funds as payment for services. *Mu'allafah al-Qulūb* (Poor and needy who recently converted to *Islām*): Those who newly embraced *Islām* and whose *īmān* (faith) may be weak and unconsolidated, may be a recipient of *zakāh* to increase their faith. They may be given *zakāh* if the act of *zakāh* will influence the non-believers among the convert's tribe to enter into the fold of *Islām* or to protect the believer against their evil. Also, a Muslim who is steadfast in faith and who needs *zakāh* to protect against the evil of unbelievers under whose laws he or she lives. *Al-Riqāb* **(**Slaves):[7] This category is no longer relevant as slavery as an accepted practice has been abolished worldwide. *Al-Ghārimīn* (A debtor): Whosoever has *dayn* (debt) and placed themself in a situation to buy what is required to utilise it for permissible purposes for their own *maṣlaḥah* (interest and benefit) or has purchased something which was not meant to be used for *mubāḥ* (for permissible) purposes but has made *tawbah* (repentance) for putting themself in such debt. *Fi Sabīlilāh* (Those who are away from home in the path of Allāh ﷻ): The *Mujāhid* (the freedom fighter) voluntarily prepares for war in the path of Allāh ﷻ for the sake of *Dīn* (religion). *Mujāhidīn* who do not have at their disposal the specific amount allocated to them at the administrative offices to equip them for war

4 Many people live in this condition in the Western Cape. This could be for many reasons; for instance, it could be due to the absence of job creation, e.g. from the late 90's into the early 2000's, artisans in the building industry were in demand, but more recently their hand work is slowly becoming obsolete, as machinery has been and continues to be developed for fulfilling almost the same objectives, thus largely replacing manual labour. The positive aspect of this is it happened at a tremendously rapid rate; now, more work can be accomplished in less time and more cost efficiently.

5 It is not a coincidence that such a large amount of people falls within this category. This will be discussed under the heading 'Causes of poverty.'

6 It is a common misconception that the '*āmil* is just a layman. In fact, he is a knowledgeable man who is well grounded in *fiqh* (jurisprudence) of *zakāh* so that he may make the correct choices and judgments regarding different *masā'il* (concerning matters) relating to *zakāh*. *Al-Majmū', Sharḥ al-Muhadhdhab*, al-Nawawī. Chapter of *zakāh*.

7 Although modern-day slavery persists in isolated cases worldwide, in Muslim jurisprudence it has been abolished and is not considered a socially acceptable practice.

may take from the *zakāh* (or may be given of *zakāh* what is sufficient for them for the duration of their stay at the battlefront. They may receive *zakāh* even if they are wealthy. A *Mujāhid* is also given *zakāh* that will provide necessary provisions, i.e. to provide the fighter with weapons, a means of conveyance and everything concerning warfare. *Ibn al-Sabīl* (The wayfarer: A stranded traveller in need of financial assistance): The wayfarer may be given *zakāh* to reach their destination if their travels are not in any way disobedient or defiant of the *Sharī'ah*.[8]

Those who are not liable to pay or fulfil their duty of *zakāh* are the people who do not fall under categories 1, 2 & 5, and if they do not qualify in respect of *niṣāb* (the minimum amount of cash needed to possess before being compelled to pay *zakāh*). One would generally find these groups of people in underprivileged communities, which are often found in townships in the Western Cape.

2.3. The Effects of Poverty

The problem with poverty is the effects it has on society; these effects can be felt at every level of society, from the individual living in poverty to the political leader attempting to provide solutions to it. Poverty impacts every aspect of life. Following are a few of the most significant impacts of poverty:

2.3.1. Malnutrition

The most common effect of poverty is malnutrition. Commonly seen in children of poor families. People living in poverty in many cultures have limited access to nutritious foods because these foods are often too expensive. In other contexts, if they have access to these foods, they may still be unable to purchase them. Therefore, a family on a very small budget may be more likely to suffer from malnutrition because of limited access, or because they simply cannot afford enough food to sufficiently meet their needs (Cleveland, n.d.).

8 Note that the above mentioned categories are extrapolated from *naṣṣ* (Qur'ān & *Sunnah*). We should acknowledge that *fiqh* evolves over time and the need to expound on these categories becomes a necessity. Scholars analysed these categories and concluded in a more inclusive view based upon *wāqi'* (living reality).

2.3.2. Health

One of the most severe impacts of poverty is its negative health effects. This includes issues from diseases, life expectancy and the acquisition of medicine. Diseases are very common in poverty-stricken environments because the poor in many contexts lack the resources to maintain healthy living. As noted, many impoverished people are lacking in nutritious food, which can decrease a body's ability to fight off diseases. Sanitary conditions may often be very low, increasing the chance of contracting diseases. "Sometimes these diseases can be minor, but other times they can be life-threatening" (5 Effects of Poverty - Brooke Fitzwilson, n.d.). In many cases, people living in poverty may not be able to afford appropriate medicines to treat illnesses.

2.3.3. Education

Education is often affected by poverty. Many people living in poverty may be unable to attend school from a very early age. "Families may not be able to afford the necessary clothing or school supplies" (5 Effects of Poverty - Brooke Fitzwilson, n.d.). Others may not have a way for their children to get to school. Whatever the reason, there is often a correlation between families living in poverty and a lack of education. Without the ability to attend school, many people risk going through life uneducated.

2.3.4. Economy

Among the effects of poverty is its impact on state economies. The percentage of people living in poverty generally influences employment rates. Without an education, people may be less likely to find a job that pays sufficient remuneration. Unemployment hinders a country from developing a strong economic system. A high unemployment rate can impede a country from progressing in all aspects.

2.3.5. Society

Poverty may also have social effects. Many people living in poverty are also homeless. There is often a connection between poverty and crime. Many people who are unemployed and homeless, may find their minds and hands generally idle, which could result in social unrest, and may in turn lead to increases in crime. Ibn al-Qayyim said, '*The soul if it is not busied with good it*

will then busy the person with bad" (*Al-Wābil al-Ṣayb*, 1/111). When people have nothing and no money to buy necessities, they may be forced to turn to theft or prostitution to survive (Cleveland, n.d.).

3. Islamic View on Humanity and Poverty

The Islamic view of humanity is unique. It looks at the human being as being the most honourable and noble creation favoured by its Creator, raising the status of humans as mentioned in the Qur'ān:

> And surely, We have honoured the children of Ādam, and We carry them in the land and the sea, and We have given them of the good things, and We have made them excel by an appropriate excellence over most of those whom We have created (Qur'ān 17:70).

Poverty is understood in *Islām* as detrimental to the belief system of an individual, dangerous to one's character, mindset, and affecting families and communities. It is seen as a tribulation: a trial that calls for a solution. This is where the third pillar of *Islām* plays its role, participating in the process to eradicate poverty, treating the wounds in society, and changing the living conditions to something more deserving of a human being. Secondly, to assist them in easing their path to obedience and fulfilling the rights of Allāh ﷻ, it is a goal in *Islām* that people live pure lives free from any vice. Some of those who are afflicted with deprivation may resort to lying and cheating, which, sadly often leads to stealing, and in the process may lead to unwarranted violence.

The causes of poverty have been at a rising level for more than a decade (Africa, 2017). One of these common causes is substance abuse. In the Western Cape alone, this factor was an escalating percentage. People misuse narcotics for a variety of reasons, such as to find solace from their stressful lives, or perhaps they are merely intoxicating themselves to have fun. However, these abuses often lead to economic damage, leading to the loss of jobs and lives, violence, a decline in ethical values, and sometimes even prostitution

There are no simple explanations for, or solutions to the problem of poverty. Although varying theories abound, sociologists will continue to pay attention to this issue in the years to come (*Causes and Effects of Poverty*, 2022).

4. The Islamic Perspective on How Poverty is Caused by Various Structural Reasons

4.1. Poverty arose because of the wickedness of humans against nature:

> Evil has appeared in Al-Barr (on land) and Al-Bahr (on sea) because of what the hands of men have earned, He (Allāh ﷻ) may make them taste a part of that which they have done, so that they may return (Qur'ān 6:151).

4.2. Poverty arises due to the selfish and ignorant nature of the rich:

> And let not those who are stingy with that which Allāh ﷻ has bestowed on them of His bounty think that it is good for them. Nay, it will be worse for them; the things that they were stingy with shall be tied to their necks like a collar on the Day of Resurrection. And Allāh ﷻ's is the inheritance of the heavens and the earth, and Allāh ﷻ is Well-Acquainted with all that you do (Qur'ān 3:180).

4.3. Poverty arises because some people are being arbitrary, exploitative and oppressive towards others, like stealing someone else's property for the sake of vanity (Ahmad, 2010)

> And defraud not people by reducing their things, nor do evil, making corruption and mischief in the land (Qur'ān 26:183).

> Oh, you who believe! Verily, there are many of the akhbār (rabbis) and the ruhbān (monks) who devour the wealth of mankind in falsehood and hinder (them) from the way of Allāh ﷻ. And those who hoard up gold and silver and spend them not in the way of Allāh ﷻ, announce unto them a painful torment (Qur'ān 9:34).

4.4. Poverty arises because of the concentration of political power, bureaucracy, and the economy in the hands of a few.

This is illustrated in the story of Pharaoh, Haman and Korah who were allied in oppressing the people of Egypt in the life of Prophet Musa (Qur'ān 28:188). As such, in *Islām* justice and equality have always been important instruments in fighting poverty (Ahmad, 2010)

> Oh, you who believe! Stand out firmly for Allāh ﷻ as just witnesses, and let not the enmity and hatred of others make you avoid justice. Be just, that is nearer to taqwā (God-consciousness), and have taqwā of Allāh ﷻ. Verily, Allāh ﷻ is well-acquainted with what you do (Qur'ān 5:8).

4.5. Poverty caused by natural disasters and wars:

> And there is also a share in this booty for the poor emigrants, who were expelled from their homes and their property, seeking bounties from Allāh ﷻ and (His) good pleasure, and helping Allāh ﷻ and His Messenger. Such are indeed truthful (Qur'ān 59:8).

5. Islamic Organisations in Cape Town Combatting Poverty

There are several organisations in Cape Town striving to combat poverty, namely the South African National *Zakāh* Fund (SANZAF), Islamic Relief, Muslim Hands, Nakhlistān, Gift of the Givers, the *al-Imdād* Foundation, and several smaller organisations. Among these smaller organisations (including mosques and individuals) are the Naqshabandi *ṣūfi ṭarīqah* (gnostic path), the Qādirī Shadhilī *ṣūfi ṭarīqah*, the Chistī *ṣūfi ṭarīqah*, as well as many sports clubs who regularly feed those in need in underprivileged areas. These organizations perform this service for three main reasons: first, to please Allāh ﷻ; charity work is a means of *da'wah* (outreach) and may also boost the self-esteem of the people. Some of the modes of achieving this are by engaging with those receiving charity or feeding those who are afflicted with poverty as ways of combatting this epidemic.

One might question why there are so many organisations, but not much change is witnessed. What are the reasons for an apparent lack of change? Are these organisations effective? Can our *zakāh* truly make a difference? Certainly, on a small scale, lots of qualitative changes have come forth, but are perhaps not substantial enough to be quantifiable. As noted, South African Muslims constitute approximately 2%- 3% of the country's population with a large percentage of them residing in the Western Cape.

5.1. South African National Zakāh Fund (SANZAF) is the largest Muslim non-government organisation (NGO) with a national (as opposed to provincial) presence. SANZAF deals mainly with zakāh receipts and distribution. The 2021/2022 annual report of SANZAF states that it received R122 million in zakāh and a further amount of R52 million in non-zakāh funds.

The strategy and objectives of SANZAF are to change lives and reach out to the destitute and needy, for the pleasure of Allāh ﷻ. Its leadership has dedicated their time over several decades to achieving two important strategic objectives: to build a culture of empowerment and development, and to make the organisation administratively self-sufficient. As for national projects, SANZAF has a programme in place that aims at educational development.

SANZAF's Education Empowerment and Development Programme (SEED) directs its attention at early childhood development, where spending on tertiary education for 2021 was over 30 million Rands and increasing, compared to the previous year benefitting many candidates. Amongst other programmes, they have included investments in agricultural development programmes to create a culture of self-sufficiency. Their regional programmes have wider spectra designed for skills development and empowerment of communities with a concerning emphasis on children, the elderly, and families (*Annual-Financial-Statements-2016*).

5.2. *Nakhlistān* is a Persian word that means "oasis." Like an oasis that provides sustenance in the desert, *Nakhlistān* assists the less fortunate within the communities they serve. Their assistance is manifested in soup kitchens, feeding schemes, *Ramaḍān fiṭrah* parcels, *Iftār* (breaking of the fast during *Ramaḍān*) to the underprivileged, monthly necessities distributed to needy families, and *ʿĪd al-Fiṭr, ʿĪd al-Aḍḥā,* and *Muḥarram* feeding schemes.

They also offer *Janāzah* (burial) services, including establishing *ṣalāh* facilities to ease the funerary process for the people. *Nakhlistān* was founded in 1991 by a group of friends who identified the need within the community. On the eve of *'Īd al-Fiṭr* in 1984, they decided to cook two pots of food to be distributed to the poor and needy on the day of *'Īd al-Fiṭr*.

Since their establishment, *Nakhlistān* has become a household name in the South African Muslim community, synonymous with caring for the needy and cooking huge pots of food for distribution amongst the less fortunate. In 2021 *Nakhlistān* fed 90 000 needy people. Furthermore, when disaster strikes, whether natural (storms, floods, etc.) or social (xenophobic attacks), *Nakhlistān* responds to the need and assists wherever and whenever needed. *Nakhlistān* is still growing with the community, serving as a trusted and reliable avenue for channelling assistance to those in need.

Nakhlistān is an NGO and is solely dependent on donations from the community. It has been through their generosity that *Nakhlistān* has been able to run all these activities (Nakhlistan, n.d.).

5.3. Muslim Hands South Africa is an international aid agency and NGO established in South Africa in 1996. It is affiliated with Muslim Hands established in 1993 in Nottingham (UK) in response to the devastation of the Bosnian war. The organisation grew from a grassroots movement and since its beginning, they have responded to countless emergencies, as well as established long-term projects such as schools, healthcare clinics, and livelihood programmes worldwide. Muslim Hands works in over 50 countries and have field offices in over 30 of these. In 2019, Muslim Hands globally distributed over R460 million in aid.

They have many projects, like the water project. Over 800 000 people die every year due to water-related illnesses, so Muslim Hands provide clean water and dig wells in communities where they are needed. They have established primary and secondary schools for both boys and girls (Horoz, 2015) which serve 850 pupils, 700 of whom are orphans. All the orphans in the schools are part of the Muslim Hands orphan sponsorship scheme. In 2021 Islamic Relief spent 121 million Rands on its programmes and projects (Muslim Hands, 2022).

5.4. Islamic Relief South Africa (IRSA), an independent registered NGO affiliated with Islamic Relief Worldwide (IRW), is the world's largest independent Muslim humanitarian organisation that manages projects worldwide. Islamic Relief South Africa (IRSA) continued its fight to alleviate abject poverty and address socio-economic injustice (Reliefweb, 2016).

5.5. Gift of the Givers is the largest disaster response NGO on the African continent. The organisation was established under the instruction of a *ṣūfi* Shaykh, Muhammed Saffer Effendi al Jerrahi in Istanbul, Turkey in 1992. Gift of the Givers has delivered lifesaving aid in the form of search and rescue teams, medical personnel, medical equipment, medical supplies, medicines, vaccines, anti-malaria medication, high energy and protein supplements, and food and water to millions of people in 42 countries, including South Africa. Over the past 30 years Gift of the Givers has spent approximately R4 billion on its projects.

Originally established as a disaster response agency, the organisation now has 21 categories of projects which include bursaries, agricultural self-sustainability, water provision, counselling and life skills services, entrepreneurship and job creation, the establishment of primary health care clinics and medical support to hospitals, winter warmth and distribution of new clothing and shoes, sports development, feeding schemes and food parcel distribution, household and personal hygiene pack distribution, educational support and toy distribution, provision of housing, care of the physically and mentally challenged, orphans and the elderly among their diverse activities.

Gift of the Givers actively seeks to build bridges between people of different cultures and religions, engendering goodwill, harmonious coexistence, tolerance, and mutual respect in keeping with the divine injunction:

> Oh, Mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise each other). Verily the most honoured of you in the sight of Almighty is (he who is) the most righteous of you (Qur'ān 49:13).

5.6. The *Al-Imdād* Foundation is a non-profit humanitarian aid relief organisation and NGO registered in South Africa, dedicated to providing humanitarian services in crisis and non-crisis situations to needy orphans, widows and destitute people, irrespective of race, religion, culture, creed, or geographical boundary. The *Al-Imdād* Foundation aspires to excel in humanitarian relief by providing humanitarian services with the highest level of compassion, professionalism, and care under the supervision of a team of professionals from South Africa and abroad (*Al-Imdaad Foundation*, n.d.).

5.7. The *Mustadafin* Foundation, known to be established in 1986 in response to political unrest and violence in Crossroads, Cape Town which had a devastating effect on the local community, particularly women and children. A group of concerned friends started providing services such as accommodation, food and clothing, medical care, and trauma counselling. *Mustadafin* Foundation is a non-profit organisation that works across the Western Cape to uplift destitute communities.

Through education, feeding schemes, health care programmes, youth interventions, and skills development, the organisation empowers impoverished people to strive for self-sufficiency, self-reliance, and independence. They encourage every person to participate in the development of the broader community, standing for dignity for all people. (*Mustadafin* Foundation - ChangeMakersHub) The Foundation feeds 15 000 needy people daily.

5.8. Africa Muslims Agency (AMA). Since January 1987, the Africa Muslims Agency has operated in 29 countries across Africa. A key part of the organisation's mandate is to institutionalise relief work. It assists 1.5 million needy people globally. Some of the situations AMA has responded to include the Somali civil war in the 1990's, crises in Sudan and Kenya, floods in Mozambique, as well as drought-stricken areas. Thousands of mosques have been built and water projects completed in Niger, Mozambique, and Malawi. In South Africa they work to alleviate the challenges that poor people face, focusing on the provision of essentials such as food, toiletries, blankets, sanitary packs, and stationery for school children.

6. State efforts for poverty alleviation in South Africa

The Expanded Public Works Programme (EPWP) of the South African government has its origins in the Growth and Development Summit (GDS) of 2003 (Swartland Municipality Expanded Public Works Program Policy). At the Summit, four themes were adopted, one of which was More jobs, better jobs, and decent work for all (EPWP | Department of Public Works). The GDS agreed that public works programmes can provide poverty and income relief through temporary work for the unemployed to carry out socially useful activities (Expanded Public Works Programme, 2018). The EPWP is a key government initiative, which contributes to Governments Policy Priorities in terms of providing uplifting work and sustainable livelihoods, education, health, rural development, food security and land reform, and working to reduce crime and corruption. EPWP subscribes to Outcome 4 which states: "*Decent employment through inclusive economic growth*" (Expanded Public Works Programme, 2018).

The grant system benefits many and includes child support grants, where 11.9 million recipients receive R720 per month for children under 18 years of age. Older person's grants assist 3.1 million people who are above the age of 60; they receive R1,900 per month. Disability grants are given to 1.1 million people between the ages of 18 to 59 who receive R1,900 per month. Grant-in-aid is given to 126,600 recipients who receive R480 per month. Care dependency grants are given to 129 000 recipients who receive 1,500 monthly for a caregiver of a child with a severe permanent disability. Finally, foster child grants are paid to 533 000 people receiving R1,050 per month (Staff, 2017).

All these NGOs are doing admirable work, but the outcomes are not adequate for poor communities in South Africa. Strategies will be mentioned later, but if these organisations were to unite and stand together as one unit, the possibility of eradicating poverty could be raised to a much higher level in Muslim communities. This might seem simple and there are known reasons why they are not united, but unity would undoubtedly have a greater impact on the crisis.

As for government projects, there are some disadvantages. The first is that only participants who have completed high school receive certificates of completion for their work on the project. Secondly, those in training earn a very minimal wage over a period of two years.

7. Poverty Eradication Strategies in *Islām*

M. Kabir Hasan stated in his article, that the Islamic approach to eradicating poverty involves three distinct sets of measures: 1. Positive measures, 2. Preventative measures, and 3.Corrective measures (Hassan, 2010).

7.1. Positive Measures:

In *Islām* there exist a variety of positive measures in the alleviation of poverty: 1. Income growth, 2. Functional distribution of income, and 3. Equal opportunity.

7.1.1. Income growth: in *Islām* emphasis is placed on cultivating a behavior of moderate consumption at the individual level that ultimately results in essential savings for both the individual and the overall economy. The necessity for *ḥalāl* earning is also emphasised.

The Qur'ān teaches us that: *A person gets what he or she strives for* (Qur'ān 53:39). Earning a *ḥalāl* living is *farḍ* (obligatory) after obligatory rituals (Al-Bayhaqi and Al-Ṭabarāni). Do not make your hand tied to your neck, nor stretch it forth to its utmost reach, so that you become blameworthy and destitute (Qur'ān 17:29).

7.1.2. Functional distribution of income: this implies that equitable distribution of income among all the factors of production in the absence of that which high-income growth alone may not be able to alleviate. Islamic norms ensure that the principle of factor pricing is based on justice and fairness.

The Qur'ān teaches us that: *Allāh ﷻ commands justice and benevolence* (Qur'ān 16:90). Woe to those that deal in fraud; those when they receive from man take full measure, but when they give by measure or weight to others give less than due (Qur'ān 83:1-3).

The Islamic approach recommends measures for an equitable distribution of income across several factors of production, such as profit sharing. *Islām* prohibits *ribā'* (usury) and emphasises the distribution of profits on the basic definition of ratio, rather than a nominal fixed interest among stakeholders (Hassan, 2010).

7.2. Preventative Measures:

In an Islamic approach to economics, preventative measures must be taken so that wealth is not concentrated in a specific section of a population, such as 1. Control over ownership, and 2. Prevention of malpractices.

7.2.1. Control of ownership: In *Islām*, ownership of everything belongs to Allāh ﷻ. Humans have secondary ownership as trustees, for utilising resources per the terms and conditions of the trust. In an Islamic economy, resources identified for public use, such as natural resources, cannot be privately owned. Ideally, the state should own such resources so that they are accessible to all sections of the population when necessary. However, *Islām* also allows private ownership in business and industry as long as they are established upon an Islamic ethos.

7.2.2. Prevention of malpractice: in *Islām* malpractices that lead to economic disparity, such as gambling, hoarding, cheating, bribery and interest or *riba'*, are identified and prohibited.

The Qur'ān teaches us*:* "Oh ye believe! Squander, not your wealth among yourselves wrongfully, except it, be a trade by mutual consent" (Qur'ān 4:29). In modern times, such malpractices take different forms. If all such malpractices, including corporate frauds and other white-collar crimes are prevented, inequality in income distribution could be avoided (Hassan, 2010).

7.3. Corrective Measures of Poverty Eradication

The third set of anti-poverty measures are the so-called corrective measures, which foster wealth transfers so that wealth is not concentrated among the wealthy. These are achieved through; 1. Compulsory transfers, 2. Recommended transfers (charity), and 3. State responsibility (enforcement and basic needs).

7.3.1. Compulsory transfer (*zakāh*): in *Islām zakāh* is compulsory for all wealthy Muslims. *Zakāh* is a unique instrument for poverty alleviation, wherein wealth is transferred from wealthy people to poor people. Anyone denying the obligation of *zakāh* ceases to be a Muslim. According to the Qur'ān:

Zakāh is meant only for the poor and needy, those who collect the tax, those whose hearts are to be won over, for the freeing of human beings from bondage, for the relief of those overwhelmed by debts, for the cause of God, and for the wayfarer: [this is] an ordinance from God- and God is All-Knowing, Wise (Qur'ān 9:60).

7.3.2. Recommended transfers (charity): charity and acts of benevolence are encouraged in *Islām,* rather than mandatory transfers like *zakāh* and *ṣadaqah al-fiṭr* (prescribed annual *Ramaḍān* charity).

The Qur'ān teaches us: 1. *And in your wealth, are obligations beyond zakāh.* 2. *In their wealth, there is a known right for those who ask for it and the deprived* (Qur'ān 70:24-25). "Thus, charity and other acts of benevolence are highly recommended" (Waqf, perpetual charity and poverty alleviation - ResearchGate). In the case of strong economic disparity or poverty, such transfers would become obligatory (Hassan, 2010). 3. State responsibility: In the Islamic system, the state is responsible for maintaining a favourable environment for legal business and economic activities. The state should also protect its citizens from malpractices of any form. Finally, the state should enhance the institution of *zakāh* and provide equal opportunities for all.

Although in early Islamic states *zakāh* funds were collected and managed by the state, it has undergone historical challenges after the extinction of those states. After the period of European colonization, a few countries with a Muslim majority population, such as Yemen, Saudi Arabia, Libya, Sudan, Pakistan, and Malaysia opted for mandatory *zakāh* management through the government. Other countries such as Egypt, Jordan, Kuwait, Iran, Bangladesh, Bahrain, and Iraq, formed specialised state institutions where the participation of the public is voluntary.

In most of these countries, the voluntary contribution of *zakāh* from donors to *zakāh* funds is often insignificant because of different reasons, such as: (a) individual *zakāh* donors usually have preferences to whom they should pay *zakāh* - in some cases their close relatives and neighbours; (b) The low credibility of management of funds, often because of government involvement; (c) lack of knowledge regarding the eligibility of recipients (Hassan, 2010).

8. How *Zakāh* can Alleviate Poverty and Starvation

Caliph ʻUmar bin ʻAbdul ʻAzīz, the grandson of *Sayyidinā* ʻUmar ibn al-Khaṭṭāb, was a man that changed the Islamic worldview concerning *zakāh*. He is commonly referred to as the fifth rightly guided Caliph, and was known to be a fair, yet strict enforcer of Islamic law, especially relating to *zakāh*. At a time of the inconsistent application of Islamic law, he was a beacon of hope.[9] In *Islām*, the standard *zakāh* due on agricultural products ranges from 5% to 10% of the yield. There is also *zakāh* due to various types of livestock, such as sheep, cattle, and camels. Imagine if 5%-10% of all agricultural production in the world, plus the required amounts of livestock were distributed among the starving people of this world. The problem of poverty might be solved immediately. In today's systems, some nations intentionally dispose of a part of their agricultural production to maintain higher prices for their produce. It is easy to see the difference between the system driven by human greed, and the *zakāh* system which was imposed by Allāh ﷻ.

Consider the *zakāh* due on savings. *Zakāh* is due at 2.5% on money that has been in one's possession for over a year. Also consider this simple fact: *Forbes* Magazine reported that in 2021, there were 2,755 billionaires worldwide, with a combined net worth of $13.1 trillion (Dolan, 2021). If in 2021 these billionaires worldwide paid *zakāh*, we would have had $327 billion distributed among the poor annually.

Zakāh resources should not only be distributed for immediate relief to the poor. These can also be given in the form of small business loans. For example, poor farmers can be given loans or grants from *zakāh* funds to enable them to purchase the equipment and materials they need to lift them out of poverty; this is already widely practiced by many Muslim charitable organisations. The same can be done for small business owners, or for the poor to set up small workshops or factories to lift them out of poverty once and for all. Within a few years, poverty could be eliminated or at least greatly reduced if this

9 *Zakāh* overflow occurred during the reign of Caliph ʻUmar ibn ʻAbdul ʻAzīz. It was said that most people were not eligible to be recipients of *zakāh*. Yaḥya ibn Sa'īd, who was a governor at the time, said: "I was sent by ʻUmar ibn ʻAbdul ʻAzīz to collect zakāh from Africa. After collecting it, I intended to give it to the poor people. However, I did not find one. ʻUmar ibn ʻAbdul ʻAzīz has made all the people rich during his time. Finally, I decided to use the zakāh fund to buy and emancipate slaves."

practice were to become more widespread. *Zakāh* could be effective in reducing poverty, but it must be used in conjunction with other measures to ensure sustainability.

Education has the potential to result in the eradication of many social ills, the protection of the environment to avoid desertification, and the preservation of sustainable agricultural production. With increased education about sustainable practices, agricultural production will not decline when oil becomes scarcer (that will happen eventually), and the world will be better prepared to deal with its poor as oil becomes less accessible. Investing more in renewable energies and technology, in general, can produce sufficient energy to maintain and improve things like education, healthcare, and social services (Banjoramos, 2015).

9. Social spending

Key findings show that South Africa appears to be a nation of givers: over half of respondents in a national survey (54%) reported that they donate money to charities or other causes, and a third (31%) gave food or goods to charities or other causes, while slightly less than a fifth (17%) volunteered time for a charity or cause. Overall, 93% reported that they gave time, money or goods to a cause, and 77% gave directly to charities, causes, and organisations for the poor (Everatt, 2005).

Religion is very often an important motivating factor where social giving is concerned. Among respondents, 89% said they belonged to a religion or faith. Out of these, an average of 93% reported that they donated money, goods, or services in the month prior to being interviewed. Giving dropped to 80% among atheists, dropping further to 53% of those who declined to answer the question about religion (Everatt, 2005).

The influence of religion on giving is both functional and ethical. Of those who reported being religious, 89% said their religion requires them to make a regular payment or contribution to charity (such as *zakāh* among Muslims, and tithing among Christians); four-fifths (84%) said they make such a payment. When religious people were asked about their attitudes to giving, 86% agreed or strongly agreed with the statement, "*My faith requires me to give to the poor*", while 73%

agreed or strongly agreed with the statement, "*Giving to people in need brings me closer to God*." Atheists were not asked for their views on the matter (Everatt, 2005).

Respondents following a faith or religion tended to agree that "*Religious people give more to the poor than non-religious people*." One-third (33%) rejected the notion, and 43% agreed or strongly agreed (Everatt, 2005: P.7).

Surprisingly, respondents with a faith or religion were divided as to whether or not religions use giving as a way of converting people; a third (33%) rejected the notion, a fifth (22%) neither agreed nor disagreed, while the remaining 55% agreed that giving is a recruitment tool.

An excerpt of the Qur'ān informs us as follows:

> And some hoard gold and silver and do not spend it in the way of Allāh ﷻ, announce to them a most grievous penalty (when) on the Day of Judgment heat will be produced out of that wealth in the fire of Hell. Then with it, they will be branded on their forehead and their flanks and backs. (It will be said to them) This is the treasure which you hoarded for yourselves, taste the treasure that you have been hoarding (Qur'ān 9:34-35).

10. Conclusion

Significant efforts are constantly being made concerning poverty alleviation, yet one must acknowledge that no noteworthy changes are noticeable, at least not as we might like to see it, especially in comparison to the time of 'Umar bin 'Abdul 'Azīz. Hence, South Africa needs more alternatives to change the state of the nation.

There is a demand for the alleviation of poverty through more efficient and effective collection and distribution of *zakāḥ* funds. This is based on observing the state of the *ummaḥ* (community of Muslims) and how they can affect the future.

This multi-dimensional phenomenon should be approached as it was in the first era of *Islām*, as previously discussed, to change the state of the *mustaḥiq* (deserving to receive) to that of a *muzakkī* (benefactor). In

so doing, a liability is considered anyone who is in immediate or long-term need. This could be anything, as long as the goal is to remove an individual from hardship.

Benefactors should distribute to all eight categories. However, should knowledgeable evaluators conduct an annual survey on those in need, and thereby sift out those who possess entrepreneurial skills but do not have the means to exercise them, such as through adequate funding to establish their businesses, *zakāh* funds could be specifically allocated for this purpose. *Zakāh* should be directed towards the neediest of the eight categories, as per the survey conducted. A further advantage is that businesses could employ those who are unskilled, thus, the unskilled will be employed, and the skilled will become benefactors of *zakāh*. It would be a challenge for many businesses to make this adjustment, but the general benefits would be much greater in the long term. Businesses could have a designated area within the company to train intelligent, willing, and inexperienced employees to move up in the economic hierarchy, which could also eradicate economic stagnation.

Increased distribution of wealth should also consist of a portion of income divided between education and the immediate alleviation of basic needs. A united institution for collection and distribution with branches in every province would also be required. In the form of a single system wherein people could be contacted, via any means possible, even if it is door to door. An account number could be given to the masses into which their *zakāh* would be paid annually. The *'āmil* should make his annual visitation to all liable to remind them to give *zakāh* and to collect it. This would surely have a significant impact.

Of the twelve groups classified by 'Umar bin al-Khaṭṭāb, only skilled persons and those in dire financial need should have immediate access to funds amassed through *zakāh*. The surplus could then go to the rest of the groups. Those liable for such grants should be motivated to apply for them of their own volition, to such an extent that persons should be allocated to gather the necessary information on these people[10] and have them registered by the state.

10 These people could be the '*āmilīn* or even other allocated workers to work alongside the '*āmilīn*, like volunteers or temporarily employed '*āmilīn*.

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A Comparative Study of Intentional Homicide *(al-qatl al-ʿamd)* in *Sharīʿah* and the Modern Human Rights Concept of Right to Life for Murderers

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Abstract

This study sets forth the classical positions on the question of *al-qatl al-ʿamd* (intentional homicide), its definition, its scope and the application of the relevant punishment. The extent of compatibility, if any, with the modern human rights concept of right to life for murderers will also be explored. The latter concept is considered alongside the relevant provision of the Bill of Rights contained in the South African Constitution, including relevant case law for consideration to be applied in a modern context. This article advocates the idea that what is suitable for a specific country will be a function of its history, unique culture, and socio-political and legal conventions based on historical experiences and development. It also sets forth what is currently exercised in certain contexts, and whether the concept of *al-qatl al-ʿamd* would imperil the interests of the community. This study also tracks the ways in which leniency and avenues for repentance, recompense and forgiveness (*al-ʿafwu*) are navigated around social expediencies including Islamic notions of justice and fairness and what is appropriate in a modern context.

Keywords: Intentional homicide, *Sharīʿah*, punishment, jurisprudence, murderers

1. Introduction

1.1 Intentional Homicide *(al-qatl al- ʿamd)*

The prevailing present-day position pertaining to intentional homicide in South Africa, and as informed by the right to life provision in the Bill of Rights, is that there is some form of restitution to compensate for the racist, abhorrent apartheid-era measures of brutal suppression of the majority for staging a sustained uprisings against the last remaining colonial project on the African continent:

> South Africa [during apartheid] had the 3rd highest judicial execution rate in the world. Between 1980 and July 1989, 1,109 people have been hanged in South Africa. At the end of July 1989, a total of 283 prisoners were being held on death row at Pretoria Central Prison. 272 of these prisoners were black and 11 were white. According to the Minister of Justice, Kobie Coetsee, death row [was] 43,5% overcrowded. In March 1988, 53 people were on death row for politically related crimes. (Simpson & Vogelman, 2009)

Scholars from the various schools of Islamic jurisprudence provide numerous definitions for *al-qatl al-ʿamd*. Notwithstanding the diversity in choice of phrasing, the concept is fairly straightforward. A formula in the Ḥanafi tradition reads:

> The deliberate killing of a person through the use of a weapon, like a sword or a knife, or something which achieves the same outcome as a weapon in decapitating body parts, like a sharp-edged wooden implement, or rock, or fire, or striking a vital organ with a metal pin" (Al-Kāsānī, n.d. p.233).

Shāfi'ī and Ḥanbali jurists include the following elements in their definition of *al-qatl al-ʿamd:*

> An intentional act of aggression targeted at a person the expected outcome whereof would ordinarily be death; either with a lethal weapon, or a heavy object like a block of wood; directly or indirectly like piercing a vital organ with a metal pin, or a non-vital organ like a thigh which eventually leads to death due to poisonous infection (Ibn Qudāmah,n.d. p.322).

The Māliki school refers to similar elements (Ibn Rushd, 1997). Based on these definitions of *al-qatl al-ʿamd* there is a basic consensus that it comprises three elements: first, that the murder victim must have been a living human being; second, that the homicide ensued as a result of the murderer's conduct; and third, that the murderer had the intention to take life (Auda, 1992). The aforementioned definitions compare closely to definitions for murder as articulated in contemporary secular legal literature. However, the latter definitions generally ascribe to higher degree of succinctness. Some legal academicians in South Africa proceed simply; murder consists of the unlawful and intentional killing of another person (Burchell & Milton, 2003). Consequently, the essential elements for murder are classified as follows: first, the killing must be unlawful, second, that a killing took place, third, that the murder was committed against a person, and fourth, that it was intentional. The consonance between the two sets of essential elements is clear, yet the South African legal definition conveys greater accuracy through the inclusion of the term "unlawful". This thereby automatically excludes killing in self-defence from the ambit of intentional homicide or murder. The latter definition also effectively includes every form of killing and consequently dispenses with the requirement of establishing causation. In the definitions of the *fuqahā* (sing. *faqīh*, jurist) the emphasis placed on a living human being highlights the distinction between the killing of a living human being, and an unborn child. In Islamic jurisprudence, an unborn foetus is not regarded as a complete living human being, therefore unlawful aggression against an unborn foetus is not deemed as *al-qatl al-ʿamd* (Al-tasrī',1992: p.14). The relevant punishment for aggression against an unborn foetus differs and is beyond the scope of this paper.

2. Literature Review

There is a considerable number of studies that dealt with intentional homicide, the death penalty, human rights law, and the global impact of the death penalty. The majority of these studies concentrate on the global abolition of the death penalty which will be surveyed in this section.

Smit (2004) investigates the death penalty in Africa by addressing three important issues. First, to what extent is the death penalty in Africa really a problem that needs to be taken seriously? Second, what

limitations exist on the death penalty in Africa? Third, what can be done to make the death penalty more strictly enforced in Africa? The article also explores the possibility that the abolition of the death penalty will be motivated by article 4 of the African Charter on Human and Peoples' Rights and its associated provisions. It is proposed that strengthening national criminal justice systems, advancing procedural challenges, encouraging open discussion about alternatives to the death penalty, and challenging mandatory death sentences will strengthen restrictions on the death penalty in Africa. The article comes to the conclusion that the best way to eventually abolish the death penalty in Africa is through constructive criminal justice reform as opposed to moralistic condemnation (Smith, 2004:p.1).

Since the end of 1988, an impressive number of countries have abolished the death penalty. The denial of the fundamental human rights to life and freedom from torture, cruelty, and inhuman punishment has been recognized by a "new dynamic," and international human rights treaties and institutions that uphold the abolishment of the death penalty as a global objective have grown (Hood& Hoyle,2009 :p.1-9). Hood & Hoyle (2009) focuses on the political forces that played a significant role in creating the new dynamic, such as the liberation of nations from colonial and totalitarian oppression, the emergence of democratic constitutions, and the development of political institutions in Europe dedicated to the advancement of human rights. When abolition has not yet been formally achieved through legislation, this study discusses how and to what extent the death penalty has been restrained. Finally, it look at the chances of the death penalty being reduced even further and eventually abolished in those nations that still practice it. There is a growing consensus among these countries that the death penalty, if used at all, must be administered with extreme caution and thorough protections in place for the accused to prevent torture and wrongful conviction. Thereafter, it is only a short step from there to the complete abolition of the death penalty worldwide.

The debate around the call to stop the death penalty appears to have incorporated an old and ongoing discussion between religion and international law that asks whether both are allies or enemies. There were two sides to the argument that were opposed to one another. The

first promotes "secular bloc" (Azeez & Saliu, 2017: p.1), represented by the westernized international human rights system, and the second are the opposing ideological force, represented by the Islamic Law system. The question of whether the respective stances of the international human rights system, a secular law, and that of Islamic Law on the abolition of the death penalty are incompatible is therefore intriguing. This is especially important because any time the rejection of the call is mentioned, there is almost always an accusation made against Islam as a religion. In order to fully understand the different position maintained by Islamic Law on the call for the abolition of the death penalty and why it takes that side, this paper examines the various areas of divergence between the two opposing systems. Thus, the study also presents the overall ideal position that should be objectively taken into account from the points of view of the two opposing sides whenever there is a dialogue on the subject (Azeez & Saliu, 2017).

Samudro (2020) intends to examine in depth the legal review of capital punishment in Indonesia from the standpoint of Islamic law. This study is expected to contribute ideas to the literature in the field of Islamic law as well as input for observers and law enforcers in determining policies related to the death penalty law. To achieve the goal, this research was carried out by observing events or facts deemed relevant to the research, as well as collecting primary and secondary data using a juridical-normative approach and qualitative analysis methods. According to a study on this topic, capital punishment (*qiṣaṣ*) reflects justice and balance with the perpetrator's actions against the victim, or the imposition of this punishment is in accordance with the principles of Islamic criminal law, and the soul applies benefit to the level of social life. Islamic law has guaranteed, protected, and safeguarded the benefit of mankind through Islamic criminal law (*fiqh al-jināyāt*, *at-tashri ʿul jināi*) by establishing a number of rules, either in the form of orders or prohibitions.

One of the most prevalent penalties in history is the death penalty, which was once thought to be a useful tool in the fight against crime. The establishment of regimes by international organizations like the United Nations on the justification that there has been no violation of the right to life is seen as a violation of the humanistic approach, which is viewed as being violated by the death penalty. As part of its

adherence to the Universal Declaration of Human Rights, the United Nations calls for the abolition of the death penalty or the imposition of a moratorium on it in Resolution 62/149 (UDHR). Despite the states' adoption of the UDHR and recognition of the right to life as a fundamental human right enshrined in their constitutions, there are domestic pressures that could lead them to lift the moratorium on the death penalty. There are two ways to look at this dichotomy: on the one hand, adopting a moratorium on the death penalty is thought to be humane, but on the other, it puts a strain on a state's counterterrorism system by necessitating immediate action against the terrorists. A qualitative and descriptive study was carried out by the researcher. In order to derive conclusions about the impact of the moratorium on the death penalty in the context of terrorism specifically in Pakistan, both primary and secondary data have been used. The study comes to the conclusion that imposing the death penalty as a punishment to deter crime and violence and lifting the moratorium on its use have not been effective because there are numerous other factors that are equally important in lowering violence (Noor & Ajmal,2022).

The present study primarily focuses on the concept of *al-qatl al-ʿamd,* application and punishment of intentional homicide in *Sharīʿah* and the modern human rights concept of right to life for murderers

3. Discussion

3.1 Sanctity of life in Islam

Intentional homicide or murder has always been the subject of severest censure in human societies throughout the ages. Similarly, in Islam, it is viewed as the most heinous of crimes and is unvaryingly condemned in the Qurʾān and the Sunnah (Prophetic tradition). In one place the Qurʾān confirms the severe abhorrence with which murder is characterised in the revealed law of the Israelites:

> We ordained for the Children of Israel that if anyone slew a person, unless it be for murder or for spreading mischief in the land, it would be as if he slew the whole people (Qurʾān. 5:32).

Related verses provide guidance in the event of intentional homicide:

> Nor take life, which Allah has made sacred, except for just cause. And if anyone is slain wrongfully, we have given his heir authority (to demand retaliation or to forgive). But let him not exceed bounds in the matter of taking life; for he is helped (by the Law). (Qurʾān. 17:33).

Elsewhere the Qurʾān also states:

> Those who invoke not, with Allah , any other god, nor slay such life as Allah has made sacred, except for just cause, nor commit fornication; and any that does this meets punishment. (Qurʾān. 25:68).

The aforementioned texts in no uncertain terms establish the sanctity of life in accordance with the worldview of Islam. As a set of laws of divine origin, the *Sharīʿah* emphasises the fact that the murderer who destroys life invokes upon themself the curse of Allah and His eternal chastisement in the Hereafter, in addition to punishment in this world:

> And one who kills a believer intentionally, his recompense is Hell, to abide therein (forever): and the wrath and the curse of Allah are upon him, and a dreadful chastisement is prepared for him. (Qurʾān. 4:93).

The two verses in the preceding paragraph contain an exceptional phrase which has substantial bearing on the principle of the sanctity of life in Islam. The words, "except for just cause" introduce a legal dimension to the absolute sanctity of life, indicating that circumstances may arise where the taking of life is justified. Jurists identify three scenarios in which this may occur: First, is killing in lieu of an established right, or *qiṣaṣ* (just retaliation) to the *walīy al-dam* (nearest of kin) upon the order of the court. The second instance is , is the taking of life in execution of a court order by a judge in accordance with *Sharīʿah*. The third instance of just cause arises when killing occurs under the operation of the right to self-defence (Kamali, 2007). These circumstances where taking a life is considered to be justified demonstrate a significant distinction in comparison to the modern human rights principle of right to life as enshrined in the South African Constitution, to which the discussion will return later.

3.2 Punishment for *Al-qatl al-ʿamd* in accordance with *Sharīʿah*

The punishment for *al-qatl al-ʿamd* is established in the *Qurʾān* and the Sunnah. The normal format in classical *fiqh* (jurisprudence) when introducing the subject is to state it in relatively broad terms. In this manner, the punishment for *al- qatl al-ʿamd* is *qiṣaṣ*. It is a common outlook that this may afford *qiṣaṣ* a preferred status. This outlook may be explained by the reference to *qiṣaṣ as al- ʿuqūbah al-asliyyah.* (the original punishment). The typical discourse of *fiqh* would thereafter proceed to explain that *qiṣaṣ* may be substituted by *diyah* (blood money), which in this case would be referred to as *al- ʿuqūbah al-badaliyyah* (substitute punishment). According to Mālikiyyah *fiqh*, substitution is valid only after mutual agreement (Al-Zuhayli, 1989). A noteworthy development in this regard, in some contemporary works, is the shift in placing *diyah* in a hierarchical sequence to an approach which deems the two options, at least, of equal weight (Al-Awa, 1998). In many modern contexts, with the ever-increasing emphasis on human rights, the possibility of substituting *diyah* as an alternative to *qiṣaṣ* may be a positive approach. In fact, the above is arguably a more accurate reflection of the relevant provisions in the *Sharīʿah* sources. This is especially true when considering the numerous references to *diyah*, or even *ʿafwu* (pardon), both of which are encouraged for the *waliy al-dam* as the preferred options for punishment (Audah, 1992). Examples of these aspects, and others, will be illustrated in further detail in the following discussion of the relevant source texts. First, it is important to note the Qur'anic references which establish the basis for this *fiqh* in the *Sharīʿah*:

> O ye who believe! The law of equality is prescribed to you in cases of murder: the free for the free, the slave for the slave, the woman for the woman. But if remission is made to one by his (aggrieved) brother, then grant any reasonable demand, and compensate him with handsome gratitude. This is alleviation from your Lord and a mercy from Him, but anyone who becomes aggressive after that shall bring upon himself a painful chastisement. (*Qur'an*. 2:178).

Another verse shows the uniformity of the law of *qiṣaṣ* and *diyah* in previous revealed systems:

> We ordained therein for them: 'Life for life, eye for eye, nose for nose, ear for ear, tooth for tooth, and wounds equal for equal.' But if anyone remits the retaliation by way of charity, it is an act of atonement for him. (Qur'an. 5:45).

The latter reference to *ʿafwu* instead of *qiṣaṣ* engenders a powerful moral and spiritual attitude which is nuanced in the former verse in the description as "…alleviation from your Lord and a mercy from Him". In this instance, *ʿafwu* has been interpreted as occurring either with or without compensation. This point will be discussed in more detail later in this paper.

It is not surprising that the Companions of Muhammad ﷺ transmitted for the sake of posterity the magnanimous spirit which they observed directly from the Prophet. Anas bin Mālik, who was a servant in the Prophet's household, narrates, "No case came before the Prophet wherein he did not advise granting *ʿafwu* (forgiveness)" (Abu Dāwūd, n.d. p.83). In yet another (Prophetic tradition), it is recorded, "Any person whose deceased was slain has the choice of two things, either to take *diyah* or to retaliate (Muslim, n.d. p.86)". A *hadith* dealing with the punishments for homicide reinforces the theory that the various options to be exercised by the heirs of the deceased are of equal value:

> Whoever had been afflicted by murder or injury has the option to select one of three [punishments for the perpetrator], and if he opts for a fourth then apprehend him: retaliation, remission, or blood money. [Thus] anyone, who, after exercising any of the options still commits excess, shall enter Hellfire for eternity. (Al-Tabrīzī, 1977).

Notwithstanding the emphasis often placed on *qiṣaṣ* by jurists, they generally acknowledge the positions of *ʿafwu* and *diyah* based on their textual explicitness, as demonstrated in the hadith above. To this end, (Audah, 1992) states:

> The jurists have reached *ijmāʿ* (consensus) on the permissibility to remit, and that remission is preferred to execution. The authority indicating to such permissibility emanates from the Qurʾān, the Sunnah and the *ijmāʿ*.

The founding jurists of the four major schools of *fiqh* have some measure of debate around the classification of *ʿafwu*. According to the *Shāfi'ī* and *Ḥanbali* views, *ʿafwu* may occur with or without compensation. *ʿafwu* with compensation, i.e., the option of *diyah*, is the first classification. The next is *ʿafwu* without compensation, or a full pardon. Imām Mālik classified the payment of *diyah* as a form of settlement, instead of *ʿafwu*. In the Māliki view, payment of *diyah* may only be determined by an agreement with the offender (Audah, 1992). The basis for the first opinion proceeds from the principle that the right to exercise one of the three options for punishment belongs to the heirs of the deceased. The difference in classifications may appear to be academic.

The survival instincts of humans will hardly allow any offender to reject an offer to pay *diyah* in favour of *qiṣaṣ*. This seemingly obvious dilemma may, however, become complex if the economic situation of the offender is insufficient to pay *diyah*. In the view of all the jurists, the responsibility to pay *diyah* in cases of *al-qatl al-ʿamd* falls squarely on the perpetrator (Al-Zuhayli, 1989). Moreover, unless the government assumes the responsibility in cases where the offender has insufficient resources to pay *diyah*, the law would be patently disadvantageous to the poor – most certainly an untenable situation by any standard, but especially the standard of justice in the *Sharīʿah*.

Imāms Mālik and Ḥanīfah hold the view that the State should impose *taʿzir* (discretionary punishment) in cases of *ʿafwu* without compensation. The other two jurists, Shāfi'ī and Ḥanbal, however, deem the offender to be free from punishment if the heirs of the deceased elect to exercise the option of *ʿafwu* (Audah, 1992).

A brief look at the socio-cultural climate that prevailed at the time when the regulatory framework governing the punishment for the *al-qatl al-ʿamd* was revealed is helpful for gaining a deeper understanding of the reasoning behind these decisions. The prevailing Arab socio-cultural milieu at the time the Qurʾān was first revealed was one of oppression, tyranny, and injustice. It was common for revenge and counter-revenge attacks, especially attacks in retaliation for murder, to continue unabatedly over extended periods of time. Also, tribal prejudices often ran very deep. Accordingly, if one tribe regarded itself superior to another, and someone from the latter tribe killed say, a female

from the former, the female's death would be avenged by killing a male from the latter tribe because, according to the former, their females are superior to those of the other. Similarly, if a slave of the self-declared superior tribe was killed, they would kill as vengeance a free person from the inferior tribe, and so on (Anwarullah, 1997). In this context, when Qurʾān states:

> "The free for the free, the slave for the slave, and the female for the female" (*Qurʾān* 2:178)

This verse illustrates the falsehood of prior practices rather than to narrow the scope of them (Tomuschat, 2010). Thus, the *a priori* intention of the relevant provisions related to punishments for murder, was to establish equality in the value of human life. This notion of equality, or at least equivalence, coincides accurately with the literal meaning of the term *qiṣaṣ*.

The development of the legislative process in Islam at the time sought to radically adjust the existing forms of excessive revenge for murder through the application of *qiṣaṣ*. These adjustments wisely retained some accommodation for the natural human desire for revenge but did not fail to direct the nascent faith community to far more meritorious responses than succumbing simply to the nether levels of human instinct. They were conditioned to gain appreciation for the worldview of Islam, which incorporates the option of forgiveness with or without compensation, as mentioned earlier, which is preferred.

3.3 Classification of *al-qatl al-ʿamd* in *Sharīʿah*

The exceptional approach to punishment for *al-qatl al-ʿamd* in the *Sharīʿah* classifies murder as either a crime or a misdemeanour. Burchell and Milton provide a useful understanding of the concept of crime:

> The word 'crime' comes from the Latin word '*crimen*' meaning 'accusation'. In this sense, it was used in early English law to distinguish legal proceeding involving a claim for damages for harm done (an 'action') from a charge that a person had committed a punishable wrong ('crime') (Burchell & Milton, 2000).

A further definition for 'tort' in the Merriam Webster online dictionary (n.d.) reads: "A wrongful act other than a breach of contract for which relief may be obtained in the form of damages or an injunction."

In *fiqh* parlance, crime and torts are generally referred to as *ḥuqūq-Allah* (truths of Allah) and-*'ibād* (truths of people), respectively. The former denotes those laws which seek to protect the interest of society or the public by imposing punishment for its violation, whereas the latter refers to the laws which protect the interest of the private individual which may be redressed in the form of compensation.

In an attempt to classify intentional homicide, the three options mentioned previously are considered here individually. If the heirs of the deceased elect to demand *qiṣaṣ,* the majority of jurists have maintained that it becomes the right of the heirs to execute the murderer themselves (El-Awa, 1998). The support for this position is most commonly drawn from the verse, " … and if anyone is slain wrongfully, we have given his heir authority." (Qurʾān 2: 17:33). The authority given to the heirs in this instance is the right to kill the perpetrator. Another view, which is more common among contemporary scholars, is that the heirs have the right to demand execution, but only the state is authorised to carry out the killing. Considering the majority view, the notions of crime and punishment give way to the perpetuation of the former practice of revenge outside of the law. The minority view, which enjoys support from many contemporary scholars, allows for a clear classification of *al-qatl al-ʿamd* as a criminal offence (El-Awa, 1998). Should the heirs elect to receive justice in the form of *diyah*, the notion of compensation in lieu of a civil wrong clearly favours the classification of *al-qatl al-ʿamd* as a tort. This dimension is further bolstered when considering that many scholars have also allowed the possibility of settlement on a suitable amount of remuneration, which can be agreed upon independent of the *diyah.* This arrangement is termed a settlement and may occur out of court.

Finally, the heirs of the victim may, with equal authority grant *ʿafwu* without any compensation. To reiterate, the *Sharīʿah* deems this option as one of exceptional virtue through which society may aspire to the higher values and purposes of clemency and mercy. Therefore, in this case it can be concluded that *al-qatl al-ʿamd* neither fits in the category

of crime nor tort as perceived from a Western legal perspective. It seems to straddle both sides thereby ascribing to it a kind of 'dual nature' (El-Awa, 1998). Enquiry on this matter highlights the complexity and peril of drawing over-simplified comparisons between the death penalty in Western legal systems and in the *Sharīʿah*.

3.4 Concept of Right to Life

In contrast to various other rights stated in the Constitution of South Africa, its articulation of the right under discussion in this paper says very simply, "Everyone has the right to life." Added to its observation that the rights to life and dignity are "the most important of all rights and that it is the 'ultimate limitation of state power' (Constitution of the Republic of South Africa, 1996).

The Constitutional Court of South Africa has also rendered the punishment of the death penalty as exceedingly difficult to allow, precisely because of the textually unqualified expression of s.11 and s.10 (Currie, 2001).

When the racist system of apartheid was dismantled, it was not long after the installation of the interim Constitution of 1993 that a landmark judgement in S vs. Makwanyane, and another similar ruling in 1995 in case (3) SA 391 CC, the death penalty, in accordance with the then s.277 1(a) of the Criminal Procedure Act 51 of 1977, was declared in conflict with the provisions of the Constitution of the Republic of South Africa Act. 200 of 1993, and therefore unconstitutional. The main thrust employed by the counsel for the defendant was the rights to life and dignity (Constitution of the Republic of South Africa, 1996).

When determining the constitutionality of the death penalty, the court in the above case deemed itself to be guided by international law and conventions. The court also had the foremost responsibility of accurately interpreting the South African Constitution. Of particular note is the court's reference to the position of the United Nations Human Rights Committee (UNHRC), which regards the death penalty as cruel and inhumane (Currie, 2001). Although the attempt by the Attorney General to justify what is inhumane and degrading treatment in the abovementioned case is admirable, ultimately the outlook on what

is considered inhumane is dependent on the perceptions of society; the death sentence in extreme cases of murder would not be deemed repugnant by many members of South African society. In any case, the court expectedly attributed preponderance to the provisions in the Constitution (De Waal, 2001).

The court also asserted that the socio-political context in South Africa at the time, when the multi-party negotiating process crafted the interim constitution before it was officially adopted by Parliament, is a further bulwark as an interpretive guide and framework. This is particularly pertinent since, at the time of constitutional negotiations in the newly democratic South Africa, it could not be resolved whether the death penalty should be sanctioned by the Bill of Rights as a possible sentence for murder and other crimes. Constitutional Court Judge Langa emphasized the intent behind the unqualified terms, particularly regarding the right to life. In his view, the emphasis on the right to and respect for life was informed by the experiences of violence, suppression and indignity still so fresh in the psyche of South Africans. A human rights culture of respect for human life and its inherent dignity, as reflected in the Bill of Rights, had to be cultivated, and the State had to take a leading role. The protection afforded by the Constitution was made applicable to everyone. The death penalty was not only viewed, by consensus of the full bench of Constitutional Court judges, as a violation of the right to life, and a severe slight to human dignity, but also as gratuitous given the availability of the alternative sentence of long-term imprisonment. There was similar consensus in refutation of the proposition that the death sentence wields a margin of effectiveness as a deterrent greater than long term imprisonment.

The Court determined all pre-Constitutional legislation pertaining to the death sentence to be invalid, and that the State is forbidden to execute any person forthwith.

A concerted effort has been put forward in the arguments against the findings of the Constitutional Court in favour of the death penalty from an Islamic perspective. The objective in this paper has been to vindicate the death penalty as punishment for a variety of crimes in the *Sharīʿah*. It is the view of this paper that the death penalty be restricted to one element of the punishment for *al-qatl al-ʿamd* in Islam (Vahed, 2003). One of the specific claims by the Constitutional Court that this

paper set out to refute is the marginal effectiveness of the death penalty as a deterrent compared to long term prison sentences. Statistics, naturally, form an important facet in assailing the claim contained in the judgement. Whilst certain references to the crime rates in some of the neighbouring countries in Southern Africa were adduced in support of his position, these may be negligible and could easily be refuted by the extensive statistics from countries like the United States, for example, which would demonstrate the lack of deterrence of the death penalty in the states which allow this punishment, in comparison to states where it is banned. In fact, a 2009 survey by the New York Times found that states without the death penalty have lower homicide rates than states with the death penalty (Murder Rate of Death Penalty States Compared to Non-Death Penalty States, n.d.).

The most persuasive aspect of Vahed's (2003) presentation is his reliance on the case study of Saudi Arabia to help demonstrate the deterrent effect of the death penalty, and the consequent low rates of violent crime in that country. He drew comparisons between the period pre-1929 and thereafter when fixed punishments and laws were introduced. He states that prior to 1929 anarchy prevailed in Saudi Arabia, compared to the law and order of today. Statistics may not be available for the period before 1929, however, "statistics between 1966 and 1975 show that the crime rate decreased from 32 per thousand of the population to 18 per thousand." (Vahed, 2003).

It is worth mentioning that the statistics of Saudi Arabia's low crime rates are often repeated by visitors to the country who personally experience a sense of security and a crime-free environment during their stay there. If the low crime rate can successfully be singled out to be attributed to the effectiveness of the death penalty as a deterrent in Saudi Arabia, then certainly the differences between this country and others where homicide and other violent crime is more of a problem make comparisons on this basis appear somewhat facile. It would be necessary, for instance to compare South African society with societies who are more similarly placed in terms of other statistics. Before isolating a certain aspect such as the death penalty as the reason for the low crime rate in Saudi Arabia, analysis based on in-depth sociological research would be advisable.

Against the backdrop of the 1948 Universal Declaration of Human Rights proclamation of the 'right to life' and the prohibition of inhumane and cruel treatment and punishment (Schabas, 2000), it is understandable that South Africa would choose to enshrine the inderogable principle of 'right to life' at the centre of its post-apartheid constitutional dispensation, given its history of brutal repression of the indigenous people over centuries of colonialism. It is instructive, though, that on the African continent, in 2002, only two countries, South Africa and Mauritius, were prepared to support the United Nations resolution for the abolition of the death penalty (Van Zyl, 2004). Therefore, this paper proposes that the provisions in the *Sharīʿah* related to the punishment for *al-qatl al-ʿamd* (intentional homicide) may better serve the ends of justice on the African continent and in South Africa, in particular. As will be shown, the right to life in the *Sharīʿah* is inviolable, except for a just cause established under the operation of the law (*Al-Qurān* 6:151; 17:33; 25:68). However, the *Sharīʿah* empowers the heirs of the deceased to exercise their prerogative to either exact *qiṣāṣ* (just retribution), or grant pardon, with, or without *diyah* (compensation), whilst promoting a distinct bias toward the latter.

4. Conclusion

This paper has demonstrated that it appears implausible that the punishment for intentional homicide in Islam seeks to fulfil the function of deterrence. Primary to the support of this assertion is the inability to clearly classify *al-qatl al-ʿamd* as a crime to start with. Moreover, the clearly preponderant attitude of promoting *qiṣaṣ* in favour of *diyah,* or *ʿafwu*, without any compensation further militates against this proposition.

In its unique construction of the punishment for *al-qatl al-ʿamd* the *Sharīʿah* has clearly endeavoured to retain the element of retribution which, from the outset, needed first to achieve the objective of reining in the rampant excesses of limitless revenge attacks in the *Jahiliyya* (pre-Islamic Arabia). As soon as the society realised the essential principle of the inherent value of all life, they were more likely to heed the call of the *Sharīʿah* to partake in the liberating and empowering potential of forgiveness – whether with or without compensation. Given the bias against *qiṣaṣ*, on the one hand, and the complete flexibility of choice afforded to the heir of the deceased, the striking feature of the

punishment for *al-qatl al-ʿamd* that remains is its lack of insistence on any particular form, except a bias toward forgiveness.

The attitude with which one should approach the comparison of intentional homicide in accordance with the two systems ought to mirror the same flexibility. Clearly the fundamental principle of right to life, as provided in the Constitution of South Africa, barring an amendment to narrow the scope of the wording of the said provision, does not permit, as expressly stated by the Court, the death penalty. Of course, the right to life is one of the entrenched clauses in the Bill of Rights, and its scope in the application of, and during the phases, in the transition to democracy in South Africa, permeates and serves as the basis for the entire legal edifice of the country. The right to life provision in the Constitution must also have as one of its primary objectives the right to not receive the death penalty, and to restrict all forms of abuse of power by the State towards its citizens. Moreover, the State also has the positive responsibility, herein, to protect the life of all its citizens from life-threatening attacks.

Given the perennial debate between the advocates of the death penalty and the abolitionists of this punishment, and in light of the restricted scope of this paper, the only plausible conclusion to draw is that there is no clear answer. What should not be accommodated is the coercion by the United Nations of some of its member countries to abolish the death penalty. Nevertheless, the resolution which was passed by the UN General Assembly calling for a moratorium on the death penalty was couched in ostensibly innocuous terms, to "progressively restrict the use of the death penalty and reduce the number of offences for which it may be imposed"(General Assembly of the United Nations: 62nd Plenary, GA 10678.n.d.). The right to determine the suitability and acceptability of capital punishment should be guaranteed to the sovereign authorities in various countries.

What is suitable for a specific country will be a function of its history, its unique culture, its socio-political and legal conventions based on historical experience and development, which may not necessarily be shared by another. In fact, different people will have varied responses to issues even within the same country. It the contention of this paper that when considering *al-qatl al-ʿamd*, the approach of the *Sharīʿah* of affording the *waliy al-dam* the right to choose any one of the three options for punishment

accommodates the diversity of human emotions and opinions on the issue. It is unlikely that an option so exercised would imperil the interest of the community, for example in the case of a particularly grotesque murder. As members of society the heirs of victims are likely to be influenced by the same factors affecting the rest of that society.

Finally, if an heir should opt for forgiveness, and the State believes that in such a case the public interest is not served, the State may exercise its own discretion, under the operation of *al-siyāsah al-sharʿiyyah* (policies of Islamic government) with due consideration for the rule of law, and in accordance with the *Māliki* school to apply *a taʿzir* (discretionary punishment).

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Investigating the Experience of Muslim Widows in Cape Town: *A Maqāṣid al-Sharīʿah* Approach

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Abstract

Injustice and violence are rife in Cape Town, particularly against women who are disproportionately impacted by such issues. The present study investigates the experiences of Muslim widows living in Cape Town and highlights the unfair treatment this group often receives, indicating a critical need for social interventions. This study is qualitative in nature which involved face-to-face interviews with ten Muslim widows. It adopts the *Maqāṣid al-Sharīʿah* approach in navigating the experiences of these ten Capetonian widows and draws on the ideas of Al-Ghazālī (1998); Al-Shāṭibī (1992) and Al-Qarāḍawi (2005) who offer an understanding of the *maṣlaḥah* as a fundamental organising principle of the *Sharīʿah* in all aspects of life. This study concludes that none of the participants received fair treatment, as outlined by the objectives of the *Sharīʿah*.

Keywords: Cape Town, injustice, *Maqāṣid al-Sharīʿah*, Muslim widows

1. Introduction

The suffering of widows is a worldwide phenomenon and is well-documented. These women face many challenges wrought by oppression, widowhood rites, and previous exclusion from socio-economic and political activities (Dube 2016:1; Pemunta & Alubafi 2016). Widowhood rites, community attitudes (perceiving widows as having a lesser status), and traditional practices in different cultures have received

increased global attention highlighted in recent years, especially from the perspective of human rights, coupled with the rise in the understanding that gender-based violence is unacceptable. These factors have become increasingly evident in a wide range of international, regional, and national conventions (Pemunta & Alubafi 2016: p.2).

In South Africa, the circumstances that many widows are compelled to live in due to societal expectations and economic norms are viewed as a humanitarian crisis and a violation of their human rights ("World Widows Report", 2015: p.9). It is crucial to note that South African widows experience unique hardships compared to widowers around the world (Cebekhulu 2015: p.1). Although the difficulties faced by widows in South Africa share some similarities with other societies, there are some unique differences that need to be investigated in order to effectively assist widows in a particular context (Anzaa, Udu & Gbari 2018: p.133). According to the findings of the Commission on Gender Equality's survey on widowhood in South Africa, which covered all the provinces, widowhood was identified as a serious challenge in the province of Limpopo, where "cultural and traditional practices are the norm." Although there are no specific targeted programs offered by the Department of Health and Social Development for these vulnerable women, there are supportive services available (Commission on Gender Equality 2013: p.6).

Islamic law clearly stipulates many rights of women. However, these are not always sufficiently executed due to unawareness or lack of knowledge. Many husbands also often exploit this unawareness. Working wives commonly contribute freely, and of their own accord and kindness, towards living costs and the financial needs of their families. Abu Al Fadl (2005) explains that in Muslim marriages, while support is entirely the husbands' responsibility, if the wife wants to share her earnings, the matter remains her decision. Abu Al Fadl (2005) adds that Islam came and demonstrated the path to fairness. Divine laws replace all human-made laws and Islamic law includes measures to avoid family members from becoming enemies. Islamic law also prohibits malice and deprivation of basic human rights and dignity. In Islamic laws of inheritance, there are stipulated portions provided for the husband and wife upon the demise of either. The law of inheritance

applies to all members without exception or preference. Sallie (2000) states that when it was revealed, it was necessary for the final religion of Allah , to introduce new rules and order, including the order that distributes a deceased's estate with justice, equitability, and respect, and provides all heirs their rightful share.

Women experienced discrimination long before Islam came to the Western Cape in the 17th century. The South African constitution of 1996 also placed women at a disadvantage. During the period of apartheid in South Africa, all Muslims who resided in the Western Cape were denied full citizenship and property ownership based on racist classifications, such as "Asian" or "coloured". Islamic inheritance laws were fixed, but were soon politicised, often being challenged by male descendants. Muslim families depended on a practice called "gifting while alive with reciprocity" as the main motivation. Families conceptualized inheritance of property between generations as a settlement of goods or services rendered (Megannon, 2020).

Islam abolished many of the social practices of polytheistic Arabs and pre-Islamic societies which deprived women and children from inheriting. Furthermore, these customary laws of inheritance were abolished with the advent of Islam (Sallie, 2000). A Muslim wife is in no way compelled to work. The religious responsibility is that Muslim men should take care of women through inheritance shares. This is widely known but little empirical evidence exists as to whether it is commonly implemented (Megannon, 2020). Megannon (2020) discusses that Muslim personal law and Muslim marriages are not legally recognized by the South African state, unlike civil and customary marriages. Therefore, Islamic inheritance practices are often not properly followed as stated in Islamic law, which results in unfairness and injustice.

In the South African Muslim community, as well as globally, it is common to ignore widows and the emotional and financial challenges they endure. Widows often find themselves in an unkind, unsympathetic world of creditors, insensitive friends, and overbearing, indifferent relatives. Family and friends commonly consider widows to be an extra burden on them. Society should therefore be made aware of the humiliation, struggles, and challenges of widows.

A spouse's death is very traumatic. A widow undergoing the *ʿiddah* must seclude herself at home, and only leave when necessary. In addition, during this time a widow must not adorn herself. This is intended as a sign of respect for her deceased husband. Unfortunately, there exists little concern for the wellbeing of widows and their children during this time, not only in Cape Town, but globally as well(Sallie, 2005).

The Muslim community in Cape Town often fails to focus on the ongoing unfair treatment of widows following the demise of their husbands. The community is often unsympathetic and even aversive to the injustices endured by widows, which is in contradiction to Islamic law.

The aim of this study is to explore and examine the experiences of Muslim widows in Cape Town, South Africa, following the death of their husbands. It investigates to what extent widows are socially and economically disadvantaged, and the impact of the death of their spouses on their well-being and psychological state.

This study seeks to answer the following questions: (1) How does the death of a husband impact the well-being of Capetonian Muslim widow? (2) Is Muslim society cognisant of the difficulties endured by female widows in Cape Town? (3) How do Muslim widows in Cape Town adapt to their new lifestyles after the demise of their husbands?

The purpose of this study is to highlight injustices suffered by Muslim widows and other marginalised women within their society. The main reason for exploring this subject is to understand how Muslim widows in Cape Town deal with widowhood in light of common, sometimes prevailing Muslim societal behaviours that deprive them of their welfare, self-worth, and human rights.

Women are disproportionately impacted by issues such as those mentioned above. One of the issues that is particularly troubling, is the economic, social, and psychological hardships endured by Muslim widows in Cape Town. Following the demise of their spouses, these women are often unable to sustain themselves and their children, and their standard of living commonly worsens. Widows in general are also known to be economically vulnerable and sometimes unable to earn a sufficient income to meet their living expenses.

2. Literature Review

A considerable number of studies deal with the life of widows after the death of their husbands. Some of these studies are briefly surveyed here. Goodkin et.al. (2002) state that women who become widows often suffer from depression and experience significant levels of psychiatric symptoms, especially anxiety and depression within the first two years of bereavement (Jacobs, 1997). They also often suffer from diminishing income, increasing isolation, and loneliness. These injustices often accompany diminished social support in the form of loss of friendships of the couple, as well as family contacts. Such widows are also more likely to be physically abused. Utz et.al. (2002) add that increased physical seclusion, social isolation, and reduction in social activities during bereavement have been found to severely distort perceptions of self-worth and self-esteem.

Eboh and Boye (2005) concentrate on those African customs and habits that are considered by many to be inhumane and shameful to women following the death of their husbands. It is common that women suffer physical, emotional, and spiritual problems when they become widows. For instance, Nigerian widows are known to fear widowhood due to threatening penalties meted out to them by the community. Such practices include things like shaving a widow's head, forcing her to drink the water which was used to wash her husband's corpse, and an enforced period mourning of the husband for three to twelve months, depending on the culture of the community. In some Nigerian cultures, women are not allowed to inherit land or property, nor are they allowed to bathe or cleanse their surroundings while in mourning.

Kristiansen et.al. (2012) expound on a widow's success when dealing with the loss of her husband. They contend that a widow creates meaning from her loss, which enables her to incorporate this loss into her life history. She typically has a large audience who hears her story about overcoming the loss of her husband, and how her religious beliefs continue to shape her life following this loss. Similarly, Assous (2013) states that a widow's understanding in accepting death and expressing emotions can make grief easier. For example, the Algerian custom of speaking about death and the deceased following their passing may assist the bereaved in accepting death and overcoming the loss of a loved one. Algerians are known to prepare for death per Islamic religion and culture.

In a similar vein, Al-Rub'iy (2015) identifies social problems faced by Iraqi widows that threaten social harmony and place them at risk of immediate and future challenges. The repercussions of these volatile situations victimise not only widows themselves, but also their children and their families. The study shows that widows are commonly unable to manage household affairs due to a shortage of food, essential supplies, and weak kinship relations. Because of these factors, widows and their children are often unable to obtain material and immaterial assistance from relatives, which puts widows at greater risk of severe psychological and social crises.

Van de Walle (2017) analyses the experiences and wellbeing of widows, focusing on the treatment of widows in Africa where women undergo unique challenges. In many African countries, property is commonly owned and passed along by men. Female widows and divorcees rarely inherit in these contexts. They are also commonly deprived of sufficient access to nutritious food, especially in East and West Africa, the areas most impacted with HIV/AIDS. For example, Senegalese widows typically do not remarry, because they are usually not fully compensated for the economic loss affiliated with widowhood. In Nigeria, Muslim widows are commonly persuaded to remarry, often presented with favourable inheritance rulings and less maltreatment (Van de Walle, 2017).

Megannon (2020) studies the issue of inheritance for Muslim widows and interprets how these experiences relate to the governing principles of equality and diversity in the South African Constitution. He finds that fairness and reciprocity commonly serve as guiding principles of inheritance practices in middle class Muslim families in Cape Town. The findings indicate that the experiences of inheritance practices for Muslim women are generally aligned with the principles of equality and diversity outlined in the South African Constitution. Megannon's study contributes to the developing body of literature on Muslim family practices in South Africa, providing a lens through which the links between family history and established social and institutional systems can be viewed. This ultimately allows for an evaluation of the role of transformative justice in the context of widowhood.

Ugwu et.al (2020) investigates how childless widowers often experience substantial distress that possibly transcends widowhood in general. They are often more alienated and secluded from society than widows with children, especially in resource-scarce regions, as demonstrated by the widows in this study. Instead of sympathy and empathy, childless widows often receive harsh treatments from relatives and experience a variety of difficulties in their communities. Cultural beliefs and practices that vilify childless widows are still common in many cultures, despite government laws proscribing them. The study suggests that there is a need to provide additional protective measures for childless widows. These widows often identify religious groups as playing significant roles in supporting them. Studies about these groups could be useful for educating communities to become more supportive and accepting of widows.

Dube (2022) explores how women's lives change shortly after their husbands die. Following the loss of their husbands, widows face tremendous isolation, which may prevent them from participating in critical socio-economic decisions. Dube examines how widows in low-resource communities in Zimbabwe's Binga District are separated and excluded from relevant socioeconomic sectors, as well as actions that have detrimental impacts on their lives, and the lives of their children. The study, which employed a qualitative research approach, a phenomenological research design, and a purposive sample strategy, included 24 widows. Ten widows took part in individual interviews, while fourteen participated in two different focus group interviews, each with seven widows, to provide insights into how they were isolated after their husbands died. Susceptible to isolation, thematic data analysis findings reveal that widows are vulnerable to exclusion from crucial decisions related to accumulating money, socioeconomic amenities, and activities required for their optimal well-being and the welfare of their children following the loss of their husbands. The findings highlight the importance of organized and integrated negotiated professional and community social interventions.

The present study differs from the above studies in the sense that it is limited to the application of the principle of *maqāṣid al-sharīʿah* and the impact of this approach on the contemporary Muslim community widows of Cape Town.

3. Conceptual Framework

Maqāsid al-shari'āh is used in this study as an analytical framework, drawing on the approaches of some scholars such as Imam Al-Ghazālī (1994); Ibrahiīm Al-Shāṭibī (1992); and Yusuf Al-Qarāḍawi (2005). They provide insight into the importance of *maṣlaḥah* (public interest) and the preservation of religion as among the *sharī'ah*'s fundamental organizing tenets. According to Al-Shāṭibī, "essential *maṣaliḥ* are those on which the lives of people depend, whose neglect leads to total disruption and chaos" (Kamali, n.d.,p 61).

The goal of Islamic rulings is to protect and preserve public interests *(maṣlaḥah)* in all aspects and segments of life. A comprehensive and careful examination of *sharīʿah* rulings on any subject entails an understanding of this objective. According to Al-Ghazālī (1998), everything that leads to the preservation of the five principles is *maṣlaḥah*, and everything that leads to the disruption of these principles is *mafsadah*. Auda (2008: p.40) states that "a purpose is not valid unless it leads to the fulfilment of some good *(maṣlaḥah)* or the avoidance of some mischief *(mafsadah)*".

A detailed analysis on the concept of *maṣlaḥah* and *maqāṣid al-sharīʿah* principles reveals that the two concepts are complementary and interdependent. *Sharīʿah* principles are related to the protection of basic human rights, while *maṣlaḥah* is the level of protection of those rights. It is notable that Islamic legal experts have agreed on the role of these concepts as a common factor where all *sharīʿah* rulings are directed in a coherent manner (Jalil, 2006: p.6). Figure (1) illustrates the relationship between the two concepts.

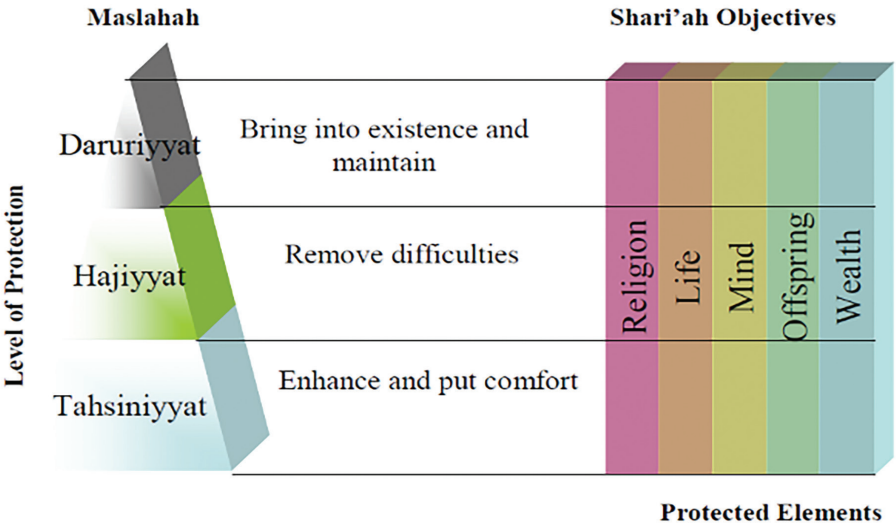

Figure 1: *The relationship between the principles of maṣlaḥah and maqāṣid al-sharīʿah (2006).*

The purposes or *maqāṣid* are divided into three levels; necessities *(ḍarūrāt),* needs *(hājiyāt),* and luxuries *(taḥsīniyyāt).* Necessities are further classified as the preservation of religion, life, wealth, mind, and offspring. Human life is threatened if the minds of people are threatened. Thus, alcohol and intoxicants are strictly banned. Human life is endangered if no system is devised to protect the human soul, health, and environment; because of this, starting from the time of Prophet Muhammad (peace be upon him), a variety of things were deemed as *ḥarām* (forbidden), to all humans, animals, and even plants. He was simply delivering Allah 's message to sustain human life in this world as well as in the afterlife.

Life in Islam is viewed as a journey of which one part is earthly and the remainder is the hereafter. A goal of the *sharīʿah* is to promote the wellbeing of all humankind, which lies in safeguarding *al-kuliyyāt al-khamsah:* religion *(ḥifẓ al-dīn)*, life *(ḥifẓ al -nafs)*, intellect *(ḥifẓ al--ʿaql),* offspring *(ḥifẓ-al-nasl)* and wealth *(ḥifẓ-al-māl).* Whatever safeguards these five principles and serves public interest is considered desirable (Auda, 2008).

Safeguarding these five principles is of the utmost importance when considering the welfare of the people and the country. These principles must be carried out in accordance with the priorities within the *maqāṣid al- sharīʿah* (Al-Ghazālī, 1998; Auda, 2008).

3.1 *Maqāṣid* Principles

3.1.1 Religion *(ḥifẓ al -dīn)*

The protection of religion (*al-dīn*) at the level of *ḍarūriyyāt* prevents anything from intruding upon and destroying its essential tenets and status. Islam is a religion which instructs its followers to practice tolerance towards other religions, and to remain nonviolent and pleasant towards non-Muslims. It is a belief within Islam that the government of a country should place religion at the highest level. Within this context, safeguarding the faith of Muslims should be the primary focus, because piety and faith in Allah and His messenger are priorities related to loyalty to the ruling authorities.

3.1.2 Life *(ḥifẓ al -nafs)*

The protection of life at the level of *ḍarūriyyāt* involves the prohibition against anything that threatens and damages human life, such as suicide or murder. Included in this is the legislation of *qiṣāṣ* (retaliation) in cases of murder. Governments should ensure peace and stability and prevent violence developing from unfair and unjust causes. Injustice and inequality in any country towards the health, wellbeing, wealth, property, environment, etc., of its citizens have the potential to result in undesirable consequences such as collapse, or damage to peace and security.

3.1.3 Intellect *(ḥifẓ al-ʿaql)*

The human mind must be safeguarded at the level of *ḍarūriyyāt* against anything that is harmful. The mind should be protected and tended to with noble values and beneficial knowledge. Everything that influences the loss and destruction of the mind and reason (alcohol, drugs, intoxicants, etc.) must be annihilated and banned. Quality education and mastery of knowledge should form the foundation for advancement and a civilised society.

3.1.4 Offspring (*ḥifẓ al -nasl*)

This concept requires the defence and protection of family descendants. Offspring contribute to a healthy, productive, and successful society. Lineage must be protected in order to safeguard the social systems of society. When a lineage is damaged or corrupted, traditions are put at risk of becoming chaotic or even destroyed.

3.1.5 Wealth *(ḥifẓ al-māl)*

Protecting the wealth of society from destruction and theft, as well as preventing injustice and negation of rights, is the responsibility of the government. Similarly, it is also the government's responsibility to protect against and forbid all forms of persecution, usury, embezzlement, corruption, violation of intellectual rights, and all matters that are unjust and cause financial damage.

The purpose of these principles is for protection and advancement of essential human rights, and to justify all courses of action required for their continuation and safeguarding. Muslim families of female widows, as well as society in general, should adhere to all these principles. Supporting and safeguarding the rights of women provides a special opportunity to maintain and improve strategic planning for the protection of society and human rights.

An additional goal of this study is to investigate whether these five Islamic principles i.e., religion, life, mind, offspring, and wealth, have been maintained and achieved while investigating the experiences of the widows who were interviewed. This study also highlights the need to protect these five principles from destruction.

4. Methodology

The present study employed a qualitative method that involved in-depth face-to-face interviews with ten female widows in Cape Town, South Africa. This approach includes exploring and interpreting the experiences of the widows who were interviewed. Langellier (2001) stated that narrative style is appropriate for examining the experiences of marginalised and oppressed people. In order to identify Capetonian Muslim widows' rights and address the causes and driving forces behind the injustices committed against them, this study adopts a *maqāṣid al-sharīʿah* approach.

4.1 Sampling Technique

In-depth interviews with ten female widows were conducted in 2020 using a homogeneous purposive sampling strategy. This was the most effective sampling strategy for ensuring that only female widows took part in the study. Respondents were chosen using this method, based on their shared expertise and ability to provide relevant data (Padgett, 2017, Yegidis et al, 2012). Although this study's intended participants numbered fifteen, data saturation occurred at ten participants only, leading to the inclusion of information from ten widows. Subjects were selected based on shared characteristics (e.g., race, gender, educational attainment, etc). Table (1) shows the distinct characteristics of the sample for the study:

Pseudonym	Age	Race	Religion	Education	Occupation
Mrs A	35	Coloured	Islam	Matric	Teacher
Mrs B	70	Coloured	Islam	Grade 8	Tea lady
Mrs. C	64	Coloured	Islam	Matric	Shop assistant
Mrs. D	58	Coloured	Islam	Matric	Bank clerk
Mrs. E	60	Coloured	Islam	Matric	Admin clerk
Mrs. F	62	Coloured	Islam	Grade 8	Maid
Mrs. G	65	Coloured	Islam	Matric	Shop assistant
Mrs. H	55	Coloured	Islam	Matric	Shop assistant
Mrs. I	50	Coloured	Islam	Matric	Kitchen assistant
Mrs. J	49	Coloured	Islam	Honours	Teacher

Table (1): *Widows' Socio Demographic Characteristics*

4.2 Ethical Considerations

Research ethics are important for scientific integrity, human rights and dignity, and science-society collaboration. The set of principles that direct research designs and procedures are known as "ethical considerations" in this study. Voluntary participation, informed consent, anonymity, confidentiality, disclosure of possible risk of harm, and communication of results are some of these guiding principles.

Most of the participants did not want to be recorded but agreed to a face-to-face interview. Face-to-face is best used to assemble high quality data and is generally the preferred method for gathering information about delicate, or sensitive matters (Fox, 2009). In this study, Muslim female widows between the age of 30-75 who reside in Cape Town were chosen as participants. The participants were required to provide consent in the form of a signed document in order to participate. The consent form outlined the purpose of the study, and stipulated that participation was completely voluntary. The questionnaire that was distributed to the participants was reviewed and approved by the International Peace College South Africa (IPSA) to ensure that there were no risks involved in participating in this study. Fox (2009) explains that an interviewer must assure the respondents of concealment and anonymity in the findings, should they not wish to be identified.

4.3 Research Procedure

Participants of this study were interviewed about their experiences as widows. The aim in conducting interviews was to establish a clearer understanding of any hostile or unfair treatment of widows, and to evaluate potential ways in which Capetonian Muslim widows' social status may have been influenced by or related to their experience of widowhood. They were encouraged to talk with minimal interruption. Verbal probes and prompts were occasionally used to elicit deeper responses and additional information from the interviewees. Some participants believed it to be improper to divulge information about their struggles, as their way of honouring their deceased spouses. Others willingly responded to the questions posed by the interviewer, and generally responded positively.

Interview questions were designed and phrased to establish rapport, but also to address the research questions (Mohammed, 2018). Each interview was followed by a survey questionnaire that consisted of twenty open-ended questions. Questions were simple, yet structured to avoid cross-examination, affording the interviewees greater opportunity to relate their experience.

5. Data Analysis

Data was analysed using the qualitative method, by examining the transcripts of all the interviews. Thereafter, the transcribed details were thematically and systematically categorised by identifying the main concepts which emanated from the interviews. These were then analysed and developed into common themes (Fox, 2009).

As mentioned, interviews with ten Muslim widows were conducted. The interview questions were planned in such a way that enabled the widows to reveal their experiences and convey their opinions about the experiences, as well as cultural and inheritance practices related to widowhood.

5.1 Interview Results

The participants were divided into groups based on the similarity of problem areas as shown in Table (2). All widows pointed out that they underwent the *ʿiddah* period as prescribed in the *Qur'ān* by staying indoors for a period of four months and ten days. This study also revealed the widows' viewpoints and feelings about education and research. Most of the widows completed high school and well-educated in Islamic knowledge. They reported that it was their knowledge of Islam which strengthened their potential for resilience. The widows were enthusiastic to participate in the research so that it might raise the awareness of others.

5.2 Discussion of Results

This study investigates the experiences of Muslim widows regarding financial and emotional support, and rules of inheritance as part of Muslim cultural mourning practices following the death of their spouse. This study argues that there should be just treatment of widowers according to *maqāṣid al-sharīʿah* which includes mutually beneficial outcomes when determining inheritance, as well as culturally and emotionally supportive mourning practices among Muslim families in Cape Town. The experience of inheritance for many Muslim widows is line with the principles of equality according to the South African constitution. Megannon (2020) states that weak legal protection for Muslim widows in occurrences of unjust inheritance practices is the

consequence of the deficiency in transformative direction in the public sphere. This study adds to the body of literature regarding Muslim family customs in South Africa; this inquiry mainly provides information which contributes to the scarce research focusing on the experiences, viewpoints, and perceptions of Muslim women in South Africa in general. Concerning inheritance in contemporary South Africa, this study reinforces the meagre understandings about how Muslim men care for their families, particularly their wives, while they are alive, as well as in event of their demise.

This section explores the responses of the participants and examines whether they were treated according to the principles of *maqāṣid al-sharīʿah* as stated by Al-Ghazālī (1994); Al-Shāṭibī (1992); Auda (2008); and Kamali (2008). The laws of the *Qur'ān* and the Sunnah are intended to instil justice, abolish prejudice, grant ease in the face of difficulties, and foster collaboration and social support in the family and the community. Empathy (*raḥmah*) is displayed in the awareness of benefit (*maṣlaḥah*) which jurists have ruled to be a common value and purpose of the *sharīʿah* and is similar to compassion. Education (*tahdhīb al-fard*) is another vital purpose which takes precedence even over justice and benefit. The search for knowledge guarantees its expansion and ensures that one lives a stimulating and successful life. These benefits personify the main purposes of the *sharīʿah* (Kamali, 2008).

The interviewees' answers to the interview questions showed that all participants suffered severe financial implications upon entering widowhood to such an extent that they were compelled to seek employment. They became the sole providers for their children, suddenly burdened with financial responsibilities such as paying school tuition fees, providing food, clothing, and sufficient living conditions. These are financial responsibilities which ought to be agreed upon at the start of any marriage. The social life of interviewees upon entering widowhood was also affected; many preferred to stay away from social gatherings due to feeling uncomfortable. This was reflected in their responses, where they often reported feelings of oppression and distress.

Five interviewees reported that religion had a positive impact as they entered widowhood. These widows were able to endure despite their difficult circumstances. They reported that their belief in God, and

how being educated helped them to cope with their challenges and find motivation. Fortunately, participants who had the lowest level of education (grade 8), were nevertheless the most knowledgeable about Islam. In all the responses, interviewees reported that the demise of their spouse seemed to strengthen their belief and foster greater resilience. This indicates that religious beliefs have an impact on how grief is displayed and among the bereaved (Kristiansen & Sheikh 2012).

Mrs. A, F and J shared the common experience of being forced to return to live with their mothers and families when their husbands unexpectedly passed away. In these cases, their families and close friends were the widows' main support because their children were very young at the time. Although Mrs. A and Mrs. J were supported by their families and close friends, they both reported feeling marginalized in society, and did not receive support from other ladies due to their young ages. They all reported needing a lot of help taking care of their children. One of the children of Mrs. A was sick and had to depend on her mother for assistance. Mrs. A claimed that her daughter became withdrawn and failed to adequately develop communication skills. Mrs A also mentioned that her husband's death was unexpected and therefore, at the time of the interview she had not yet overcome the shock. Mrs. A also indicated she would have preferred to be knowledgeable of the unexpected death, even though her husband was ill before he died. Mrs. A, F and J claimed that the death of their husbands was an extremely traumatic experience, finding their husband's demise exceedingly difficult to accept. Although there was a clear psychological impact on all the participants, this group claimed that their spirituality helped them to cope with the situation in a relatively short period of time.

Both of Mrs. F and J experienced confiscation of their husbands' property and were forced to leave their houses as a result. In these cases, the principles of *maqāṣid al-sharīʿah*, *ḥifẓ al-māl, ḥifẓ al-ʿaql* and *ḥifẓ al-nasl* were not met. Promoting these objectives would have influenced the purpose of both *māl* (wealth) and *nasl* (posterity), which are endorsed by the approach of *maqāṣid al-sharīʿah*. The economic wellbeing of people is expected to promote social wellbeing. If people receive an income which is fixed, they are more likely to have access to

nutritious food and sufficient living conditions for their family. This often results in a more favourable situation to pursue education and maintain good health.

Both Mrs. B and Mrs. G reported that their spirituality and their strong belief in God helped them to cope and accept their husband's demise easily. Mrs. B experienced a short period of depression until after her *ʿiddah,* whereafter she was supported and guided by her in-laws moving forward. Similarly, Mrs. G fell ill for two months after the death of her husband, but her steadfast faith enabled her to recover. Both Mrs. B and Mrs. G stated that if they had experienced this loss at a younger age, they might have been better able to cope. However, they claimed they found new direction more quickly through their strong belief in God. Mrs. B confirmed that one's treatment by others has an impact on one's resilience. Finally, Mrs. B alluded to the significance of how educated people and the *aʿulamā* convey knowledge of Islam, saying; "Life is a gift and we as parents must also teach our children the value of the lives of others." (Mrs.B, 2020)

Mrs. B and Mrs. G shared similar experiences. Both reported that they were treated with dignity and respect by their in-laws. Mrs. B was an orphan when she married, and therefore did not have an option besides moving in with her husband's parents after his death. In this case, the principles of *maqāṣid al-sharīʿah* were partly met, except for the principle of *ḥifẓ al-māl.*

Mrs. I, C and H reported being deprived of everything, following the death of their husbands. Irrespective of their education level, both academically and religiously, they were still subjected to some of the more negative and damaging cultural practices of widowhood. They were left with no inheritance and did not contest the matter. Mrs. C endured her *ʿiddah* alone, during which no one spoke to her, or was allowed to visit her until after her mourning period ended. Nevertheless, she reported having no guilty feelings, nor any feelings of hostility toward God. The three widows claimed that their husbands' demise was difficult to accept. They stated that their husbands' families mistreated them, and that they did not care for them.

In their cases, it can be noted that none of the *maqāṣid al-sharīʿah* principles were followed. Even though Mrs. C had already experienced the death of her own parents, she claimed that her husband's demise was completely different. At the time of their husbands' deaths, Mrs. C, H, and I felt that they were mature enough to cope with mourning and grieving and therefore, did not suffer much depression. Mrs. C suggested that everyone should be knowledgeable about death and follow the proper procedures of completing the deceased's last will. All the participants indicated that matters regarding inheritance, debts, distribution of property, and most importantly, treatment of the family who are left behind, should be clearly outlined in the will.

In the same vein, Mrs. D who identified as being of Indian descent, reported that an important cultural practice for a female widow is to remain indoors for a designated period and wear black for a certain period. However, she also specifically mentioned how she was not required to participate in these practices as they are no longer commonly practiced. Mrs. D claimed to have suffered severe shock and could not control her emotions. She attended therapy sessions with two different psychologists to help her overcome her trauma. Her marriage spanned thirty-four years, which she explained she was appreciative of, and reported no feelings of guilt or hostility against anyone or God. Her main support was her family. Following her husband's death, she occupied herself with online gatherings, *dhikr* (remembrance of Allah) prayers, *Qur'ānic* recitation, and helping the poor. She agreed that her spirituality assisted her greatly with grieving, mourning, and anxiety. According to Mrs. D, death is not a choice; it happens when God wills it. Life and death, she claimed, are consistent with the will of Allah , as also mentioned by Kristiansen and Sheikh (2012).

Mrs. D reported that she was treated with respect and dignity by her family, and she underwent a peaceful *ʿiddah*. Her family's compassionate treatment indicated how the family was generally supportive to its members. She went back to work to support her children, who still lived in the family home. Mrs. D claimed that in other contexts outside of the home, she was treated unfairly, such as by her colleagues at work and those with whom she socialised. They felt threatened by her presence because as a widow (and thus unmarried), she was free to

marry again. It was also for this reason that Mrs. D rarely socialised after her husband's death, instead immersing herself in religion and spending time with her family. Another reason was also because she inherited the house she shared with her husband, so she claimed that her friends felt envious of her and did not treat her according to the Islamic principles of *sharīʿah*. *Sharīʿah* instructs Muslims to be just to each other, promote wellbeing *(ḥifẓ al-nafs)* and virtue of humankind, and maintain the social order in the community to ensure its healthy progress. However, other principles including *ḥifẓ al-dīn*, *ḥifẓ al-ʿaql*, and *ḥifẓ al-māl* were upheld in the case of Mrs. D.

Achieving *maqāṣid al-sharīʿah* creates a harmonious, constructively competitive society whereby every member participates in achieving their own success and obtaining happiness in life.

Mrs. E and Mrs. I reported being treated poorly by their in-laws. Following their deaths, their husbands' property was removed from the houses they shared with them. Both were expelled from their family home because they did not have any official inheritance documents. Mrs. E reported being verbally abused by her in-laws outside her home during her period of *ʿiddah*. Islam urges preservation of human dignity by refraining from verbal or physical violence in all its forms, especially with one's family, and orders Muslims to protect their souls and forbid transgressions upon them. Mrs. E mentioned that her daughters' performances declined at school and went into a state of depression for a long time following the death of their father. Similarly, Mrs. I's son, was unable to cope with the loss of his father and developed depression, visiting several specialists for a year after his father died. Mrs. E claimed that the shock of her husband's demise might have been easier if she and her children had been treated with compassion, respect and consideration. Nevertheless, she reported that such ill treatment did not provoke anger in her because she believed that her spirituality contributed toward her mourning and grieving. Despite going through depression, she claimed that her spiritual maturity, and the knowledge that death occurs by the will of Allah was comforting and assisted her in coping with her grief. Both widows also mentioned the stigma which their in-laws attached to them upon entering widowhood, having claimed that they were responsible for their husbands' demise. In such

cases, all the *maqāṣid al-sharīʿah* principles were not upheld. It is the aim of *maqāṣid al-sharīʿah* to achieve good, happiness, and benefits, to protect people from evil, damage, and *ḥarām* things, and to enjoy the advantages not only in this world but also in the hereafter.

Based on the interview questions, this study addresses the following problem areas as shown in Table (2):

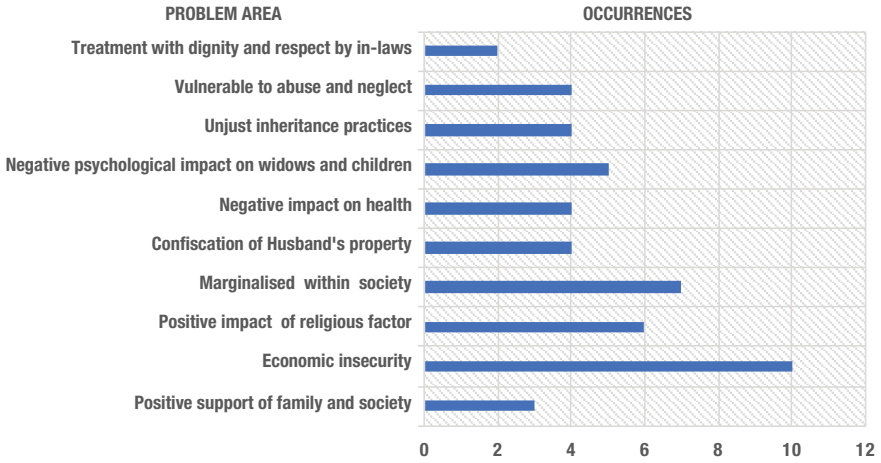

Table (2): *Results of the Interview by Similarity in Problem Areas*

Based on the widows' answers, often several of the principles of *maqāṣid al-sharīʿah* were not met. In some cases, only a few of the principles were met, but sometimes only partially. According to Auda (2008), a high level of importance is given to the care and safeguarding of progeny. Furthermore, Kamali (2008) explains that the laws are designed to safeguard and to promote advancement and betterment in human existence. The *Qur'ānic* directives and the Sunnah mainly encourage cooperation and mutual support within the family and society. As noted, educating humanity is another significant purpose of the *sharīʿah* which takes precedence over benefit (*maṣlaḥah*) and justice.

Three of the widows reported receiving no closure due to the circumstances of the Covid-19 pandemic, sudden death, and illness. Everyone reacts differently to loss, but Muslims should be consoled by knowing that Allah is aware of their suffering and that distress and sorrow are indications

of love. The bereaved are also consoled by the lasting connection which is preserved through prayers *(duʿā)* and their willingness to move on. Bereavement is considered a time to contemplate social and spiritual associations and the values steering one's life and to bring about change. The unpleasant experiences in life, such as the demise of loved ones, are all meant to revert us to humility, weakness, and the essential longing that brings us closer to our creator. During periods of great loss, Allah extends His mercy which provides consolation and understanding to the living (Kristiansen & Sheikh, 2012).

Widows should be able to continue residing in their family home if they so choose and be treated with love and compassion. Families should be obligated to ensure that a widow is financially stable and provide support where necessary. The significance of social support for the bereaved and their relatives is important. Professionals in healthcare centres should be knowledgeable regarding the end-of-life practices of various religious groups and be aware of any potential involvement required to supply a service. Deprivation and loss extend beyond the family affected by the loss; it involves the community that is expected to provide support to those left behind. Support such as aiding the bereaved in coping with their loss, preparing food, and caring for their children are all forms of emotional and tangible support. Such support enables relatives to focus on their grief and bereavement (Kristiansen & Sheikh, 2012).

In Islam, it is believed that life on earth is a test and life in the hereafter is where one will reap the benefits. Death must be accepted and not be fought against. Moreover, death is not a topic that must be avoided, instead one should contemplate it often (Sheikh, 1998).

A major aim of this study is to implore for the alleviation of the hardships and plights of female widows, and to enhance the economic empowerment of women and encourage men to write their wills early in their marriage. Public, community, and family support, health awareness campaigns, and other organizations that support women should enlighten the masses about the plight of female widows. Raising awareness may help in reducing the dehumanising traditional practices and unjust treatment of widows in Cape Town and lead the way towards concrete changes in the unequal power dynamics between men and women.

6. Conclusion

This study explored the experiences of Muslim female widows in Cape Town from the perspective of *maqāṣid al-sharīʿah*. The results showed that none of the participants were treated according to the principles of *sharīʿah*. In some cases, one principle was upheld but others were not.

Giving special importance to the religious characteristics sometimes associated with the oppression of Muslim women, this study proves the essential significance of *maqāṣid* for the survival and wellbeing of humankind in this world and their success in the hereafter. Neglect of these principles will lead to disruption and disorder and could lead to an undesirable end.

This research highlights the importance of Capetonian female widows to be self-sufficient despite their position within patriarchal systems. Various academics highlight how females perform special tasks that benefit others by which they can become empowered and be in control of their lives. The opinion of social psychologists Campbell and Mannell (2016), state that women's actions which are self-motivated is a means of bringing about social change. They view the idea of marginalised women as being ostracized from social connections inclusive of family, friends, colleagues, and siblings. The interviews conducted in this study illustrate that widows often depend on their social acquaintances to assist them in coping with their deprivation and grief. This study has also shown that widows can cultivate self-sufficiency and resilience. In this way, the role of resilience is to adapt and recover quickly when faced with adversity, trauma, and tragedy. In addition, every married couple should have a conversation about death. This strategy will guarantee that, in the event of death, the deceased's last will and other pertinent records will be easily accessible (Stockton, 2015).

This study indicates that there is a need to provide protective measures for widows. Organizing widows into small associations could be a way of educating communities to become more supportive of widowers and proactively pursue their well-being. Future research could identify and offer ways to challenge belief systems that uphold dehumanizing practices against widows. Findings of such studies will undoubtedly help in developing intervention strategies to advocate for and design programmes that will target the specific needs of female Muslim widows in Cape Town.

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Book Review: The Killing of the *Imām*

Barney Desai and Cardiff Marney

The Killing of the Imām, London, 1978:168

ISBN 13: 9780704332126

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Keywords: Cape Town, fight, *Imām* Haron, political activist, racism

This book is about *Imām* Abdullah Haron, who fought against the racist system of apartheid political rule in South Africa until he died of injuries caused by severe torture while incarcerated in a Cape Town prison in 1969. The book details an account of some of his political activities, his detention, and the apartheid security police's subsequent torture of *Imām* Haron. The book also provides insights into the political climate in South Africa during the 1950s and 1960s, particularly in the Western Cape.

Haron's appointment as the *Imām* of the *Al Jāmia Masjid* in Claremont in 1956 begins the book. He is described in the book as a simple, modest, and pious man who enjoys rugby, comedy, and movies. It also discusses the complex cultural dynamics of the Muslim population, of predominantly Malaysian and Indonesian ancestry, in Cape Town. Haron's unavoidable participation in politics and the fight against apartheid is made abundantly evident.

As his understanding of the Holy *Qur'ān* and the history of Islam expanded, many were drawn to *Imām* Haron's teachings despite some congregation members' concerns about his youth and secular interests. He established a *madrasah* where he taught Arabic to children so that they could read the *Qur'ān* with comprehension, as opposed to merely memorizing lengthy parts of the text. He was open to learning from those whose political consciousness had been cultivated by secular education. In what turned out to be a stroke

of genius, he declared, at a Muslim Judicial Council[1] meeting, that *Masājid* are sacred forever and can never be sold or demolished. As a result, *Masājid* were exempted from the Group Areas Act[2] because of the fear by the apartheid government that their demolition could start a "holy war".

By his third year as an *Imām*, Haron had established a thriving congregation. His awareness of the long-standing Muslim tradition of participation in community politics encouraged him to look outside his own community. He made it his mission to connect with African migrant workers that inspired him to seek a deeper knowledge of their conditions. His mission allowed him to find innovative ways of circumventing the "pass laws", which were established under the Pass Laws Act of 1952. The laws were designed to segregate the population, by requiring black South Africans over the age of 16 to carry a passbook, known as a *dompas*, everywhere and at all times. Haron ventured into black townships where he discovered an increasingly pervasive expression of disdain for Christianity, due in large part to the cruelty of the State, whose policies were often justified using Christian rhetoric. Later, many found the inclusivity and equality in *Islam* appealing and eventually converted.

"The Brotherhood of Man" became a recurring theme for *Imām* Haron's lectures and study sessions that he had incorporated into the *masjid's* daily schedule. His political consciousness gradually increased; under his leadership, many young Muslims discovered a space where their activism and faith could coexist. At the same time, he also had to carefully consider the tone of his political pronouncements while continuing his unwavering commitment to the fight against tyranny and oppression, because the apartheid government had begun to position police informants in his

1 The Muslim Judiciary Commission (MJC) is a Muslim judicial body whose primary role is Islamic guidance, education, rulings, propagation, *ḥalāl* certification, and social development (especially marriage counselling). In a country where Muslims are a minority, it is a non-profit organization. The MJC follows the *Sunnī* system of belief. It is the most prominent Muslim religious group in the Western Cape, and its religious, cultural, and organizational activities in South Africa are acknowledged locally, nationally, and worldwide.

2 The Group Areas Act which came into law in 1950, was the title of legislation passed by the South African Parliament under the apartheid regime. The policy had the effect of excluding people of colour from the most developed neighbourhoods, which were reserved for Whites.

mosque. By 1965, his Friday *khuṭab* (sermons) had developed into significant occasions that were eagerly awaited and hotly debated afterwards. He quickly rose to idol status among young Muslims. This drew the attention of the police, who decided that he was a security risk.

Haron left for a fourth *ḥajj* at the end of 1966. He was in desperate need of a break from the oppressive political atmosphere in South Africa, as well as a chance for social, political, and spiritual revitalization. Arrangements were made to meet a friend, identified in the book only by the name Abraham, who was living in exile in Mecca. Abraham convinced Haron to first travel to Cairo, to meet representatives of the Pan-African Congress and then to London, before returning to South Africa. It was also an opportunity to approach members of the Islamic World Council, who happened to be in Cairo for a meeting, to inform them about the situation in South Africa and urge them to lobby their governments to join the fight to end apartheid.

When searching for ways to bring aid to South Africa, Haron met Canon John Collins of the Defence and Aid Fund, in London. They forged an important alliance despite their contrasting religious styles. Haron then returned to South Africa reenergized and eager to tackle the tasks at hand.

The book's later chapters recount the heart-breaking story of how the security police thwarted all his political endeavours. He made every attempt to deflect the attention of the police, committing himself to the spiritual activities of his *Masjid* as well as his career as a salesperson. However, he had become visible on the radar of the security police. Many of his previous friends and supporters abandoned him, frightened of the repercussions of being associated with him.

Eventually, he was constantly under surveillance. His bank accounts and documents were monitored, and even the *Masjid* and its library were meticulously searched. However, no incriminating evidence was ever discovered. Nevertheless, he was summoned to Cape Town's police headquarters in May 1969, where he was interrogated. He was stunned to learn that they knew many details about his travels. They even knew the names of his contacts, Abraham and Mujaheed. Such was the level of scrutiny placed on his travels to Mecca, Cairo, and the UK.

After the interrogation, the police surveillance intensified so much that Haron considered fleeing the country. The tension was exhausting; more than what any normal person could bear. Ultimately, he placed his trust in Allah to protect him and accepted whatever might happen to him, submitting to the will of Allah. He was arrested on 28 May 1969, which was followed by months of interrogation and brutal torture, which resulted in his death on 27 September of the same year.

Although the book is noticeably lacking in resources, the author makes up for this by skilfully reconstructing the horrific account of the last four months of Haron's life using two letters he managed to smuggle out of prison. The author also drew on similar experiences of others who were detained, tortured, and interrogated in the same detention centres and by the same people, using information acquired from the hearing held after Haron's death.

The ending of the book is incredibly painful because of the graphic depiction of the effects of apartheid policies on the majority of South Africans. Nevertheless, this is an essential read for young South Africans in particular, so they will know the sacrifices made by anti-apartheid leaders and activists, so they can appreciate the freedom they have today.

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مراجعة كتاب: السنة النبوية بين أهل الفقه وأهل الحديث ...

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عنوان الكتاب: السنة النبوية بين أهل الفقه... وأهل الحديث

الناشر: دار الشروق، الطبعة الأولى، عام 1409هـ – 1989م

بيروت- برقيا: دار الشروق

منذ سبعينيات القرن المنصرم، وانصداحها على رقعة العالم الإسلامي، وطرقها أبواب أوروبا والأمريكيتين، نتأ على جسمها شباب أنصاف علم، ولغُوا كثيرا في كتب السنة واغترفوا منها إلى حد الارتواء، بينما لم يفعلوا الشيء نفسه في ما يتعلق بالقرآن الكريم الذي هو الأصل، والسنة شارحة ومبينة له، وهذا انحراف عن طريق جهابذة الفقه وأئمة العلم؛ مما نبا منهم فتوى شاذة تخالف ما عليه جمهور الفقهاء والمفسرين؛ إما لاعتمادهم على أحاديث الأحاد فيما يتعلق بالعقائد التي لا تبنى مسائلها إلا على ما تواتر عليه روايةً وتوافق عليه عقلًا، أو الأحاديث الضعيفة سندا أو متنا فيما يتعلق بالأمور التشريعية، أو اكتفاء بحديث واحد في فتواه دون الرجوع إلى الأدلة الأخرى التي وردت في الموضوع؛ ليرى مدى انسجامه مع ما ورد في القرآن الكريم. مما أحدث بلبلة في أوساط المشغلين في حقل الدعوة، ونتج عنه اعوجاج في الفهم. وعدم إعطاء الأولويات أهميتها اللائقة؛ لانشغال العاملين في حقل الدعوة بمسائل جانبية لا تقدم للدعوة ثمرة، مما أدى إلى انحراف قطار الدعوة عن مساره الصحيح.

في هذه الأجواء الملبدة بالأفكار الغريبة، والتي اختلط فيه الحابل بالنابل، حيث صار ما كان مباحا حراما، ويكفر المرء بفعل شيء لا صلة له بالعقائد، وساد فيه الفقه البدوي الذي يسعى أنصاره إلى جعله جزءا من الدين، في هذا الجو انبرى الشيخ الأديب والعالم الجليل محمد الغزالي ليتصدى لهؤلاء المتطفلين على مائدة السنة؛ ليعيد الماء إلى مجاريها، ويزيح عنها الطحلب الذي غطى نصاعتها؛ ليقول لهم انسحبوا من هذا الميدان، واعطوا القوس باريها، وتصدى لهم ببيان الطريقة المثلى لاستنباط الأحكام، ومنهج الفقهاء في استخراجها من مظانها، وتخريج الفتاوى من منابعها، حيث كانوا يعتمدون على دراسة موضوعية، وليس مجرد نزع حكم من رواية قد لا تكون صحيحة السند أو معلولة المتن،

كما أراد أن يلفت عناية المنشغلين بالدعوة إلى إعطاء الأولوية بقضايا الأمة الكبرى، فمن إجحاف الدعوة اعتراك حملتها في مسائل فرعية، قد لا تجدي للدين نفعا فيما سفينة الأمة تفتقد إلى ربان، وقضايا الأمة الكبرى: العدل والمساواة والحرية، وتكافئ الفرص والديموقراطية كالحة على أرضها، والتخلف العلمي والصناعي تجثم على صدرها هذه القضايا مغيبة في خطابات هؤلاء لا تكاد تجد لها مساحة تذكر، بل ما يولونه اهتمامهم ويؤسسون جمعيات وهيئات لأجله، هو مسائل تتعلق باللحية والنقاب ورفع الإزار إلى نصف الساق والسواك ...الخ .كما حرص على التنويه بأن الداعية، عليه معرفة بيئة المدعو، والعرف السائد في بيئته، فهو ثمة جزء من الإسلام ما لم يخالف نصا صحيحا، كما أن عليه معرفة الثابت والمتغير، فالغايات ثابتة والوسائل متغيرة حسب الأزمنة والأوضاع.

فلندخل الآن في الموضوع بدءًا بالكاتب:

يُعَدُّ الغزالي أحد أهم أعلام الفكر الإسلامي في النصف الثاني من القرن العشرين؛ وقد عُرِفَ عنه تجديدُه في الفكر الإسلامي، ويتميز فكر الغزالي بأنه يعتز بالمصلحين ويُقِرُّ بفضلهم، ويُقَدِّرُ مواقفهم، ويتخير من آرائهم، ولكنه لا يتحيز لفكرهم. تقوم فلسفة الغزالي التربوية على الإيمان بالفروق الفردية، ورعاية المواهب الإنسانية وتشغيل الطاقات المعطلة .كما يُعد الغزالي من أبرز الدعاة المنافحين عن اللغة العربية في هذا العصر، وكان يصرخ بحرقة: "اللغة العربية في خطر، أدركوها قبل فوات الأوان" أثرى الشيخ محمد الغزالي المكتبة الإسلامية بالعديد من الكتب التي لا نظير لها في تنوعها، وسهولتها مع عمقها الفكري، وبلاغتها، وجِدَّة مواضيعها، ونفاذها إلى القلب، كل ذلك في آنٍ واحد. وقد ناهزت مؤلَّفاته أكثر من خمسين عملًا، في محال العقيدة والسياسة والاقتصاد .. الخ، وكان لها تأثير قوي على الأمة الإسلامية كلها. تُوُفِّي الإمام محمد الغزالي يوم السبت (٩١ من شوال ١٤١٦هـ الموافق ٩ من مارس ١٩٩٦م) في السعودية أثناء مشاركته في مهرجان الجنادرية الثقافي بالمملكة العربية السعودية، حول موضوع الإسلام وتحديات العصر، ودُفِنَ بالبقيع، (راجع سيرته الذاتية على موقع الشيخ الغزالي على الشبكة الدولية).

هذا الكتاب يُعَدُّ من أشهر كتب الغزالي، وأكثرها تداولا وقد أحدث ضجة فكرية كبيرة بين الباحثين؛ إذ جمع فيه المؤلفُ الكثير من أفكاره النقدية في موضوع المرأة، ونقده اللاذع لمن كان يسميهم بأنصاف العلماء، الذين يتصدرون الفتوى دون رسوخ أقدامهم في العلم.

يتكون الكتاب من ١٦٠ صفحة من الحجم المتوسط. ولم ينسجه على شكل أبواب وفصول ومباحث؛

لأنها ليست موضوعات تسلسلية، وإنما يجمع نسيجها ميدان الدعوة، وكونها تتناول موضوعات اجتماعية إذا ما استثنينا موضوع (القدر والجبر) و(أحاديث الفتن) (وفقه الكتاب أولا) وقد يبدو للقارئ أنها موضوعات كتبت في مناسبات مختلفة، ثم جاء الكتاب ليحزمها في حزمة واحدة.

يشتمل الكتاب على: تمهيد ومقدمة ويليهما الموضوعات التالية: نماذج للرأي ... والرواية، في عالم النساء، معركة الحجاب، المرأة والأسرة والوظائف، حول شهادة المرأة، الغناء، آداب الملابس، آداب البيوت في البناء والسكنى، المس الشيطاني حقيقته وعلاجه، فقه الكتاب أولا، أحاديث الفتن، وسائل وغايات، القدر والجبر.

وكما ذكرت ليس هناك تسلسل موضوعي للكتاب؛ لأن الكاتب يتناول موضوعات شغلت الساحة الإسلامية من فترة السبعينات إلى يومنا. هذا وما زالت هذه الموضوعات موضع خلاف ونقاش، وإن قلت حدته بعد النقلة النوعية التي أحدثته الحركة الإسلامية، فموضوع النقاب والحجاب في العالم الإسلامي -على الأقل– خفت حدته، وإن كانت معركته ما زلت محتدمة في الغرب بشكل آخر، وهو محاربتهما ومنعهما؛ لأنهما –بزعمهم- مخالفتان لثقافة العري الذي نشأوا عليها.

صاغ المؤلف الكتاب بلغة أدبية راقية، تدل على رسوخ قدمه في الأدب، وتملكه ناصية العربية، ويظهر ذلك جليًا في جزالة القول، وقوة العبارة، وأحيانا وعورة بعض كلماته، حتى أكاد أزعم أن القارئ العادي، قد يحتاج مصاحبة القاموس لفهم بعض الكلمات والعبارات، وأرى أن خلال منازلته لمخالفيه ألقى عليهم حمما من العبارات وألسعهم بأوصاف تمنيت لو أن الكاتب لم يوردها، كوصفهم بالدهماء أو طفيلين، وغيرها من العبارات التي لو خلا منها الكتاب –على الأقل– في رأيي لكان أفضل. ولربما نبا عنه هذه الكلمات بسبب الغيرة على السنة، وما يسببه هؤلاء من انطباع سيء للإسلام، وسوء الأدب الذي يتميز به معظم هؤلاء.

في التمهيد أشار إلى الدافع الذي دفعه إلى وضع الكتاب، والعلاقة التي تربطه بمعهد الفكر الإسلامي في أمريكا، ورسالة هذا المعهد التي تتمثل في: ربط ما انقطع من الفكر الإسلامي بعد تنقية منابعه وضبط مساره، والاستفادة بما هو نافع من المعرفة الإنسانية. فجاء الكتاب تلبية لإيعاز المعهد له بوضع كتاب ينصف السنة ويذود عنها، ويزيل ما علق عليها من مفاهيم معوجة، التي نسجها أصحاب العقول الكليلة حولها. وأنهاه بالقول: (... رأيت أن أتحمل وحدي مسئولية الأحكام التي قررتها، وأن أواجه ما يثور من اعتراضات..!) ص٦.

وأما المقدمة فقد بدأها بذكر الميول التي تربطه بشباب الصحوة الذي ينتظر منهم مزيدا من الجهد والعمل، فعلى الرغم من انتصارهم على الاتحاد السوفييتي

في أفغانستان، وقبله الاستعمار الفرنسي في الجزائر إلا (أن المعركة لا يؤذن ليلها بصبح، والمعاناة مستمرة) ص ٧، فجراح فلسطين ما زال ينزف والصحوة (تحاك لها المؤامرات العالمية، ويتعرض أبطالها إلى ظلم بعد ظلم وألم بعد ألم).

٢- إن الهدف الأسمى لطلائع الإسلام الذي يريده، هو (إعلاء الوحي الإلهي، وإنصاف الفطرة الإنسانية، وترشيد الحضارة؛ كي ترتبط بربها وتسير على هداه ... فالتراث الذي قاد العالم دهرا لا بد (أن ينهض من كبوته، ويستأنف رسالته، ويغسل الأرض من أدرانها).

٣- وأن سبب وقوع العالم الإسلامي في براثن الاستعمار هو فساد الأنظمة الحاكمة، وغياب الحرية والعدالة؛ ولذا كان يولي اهتماما كبيرا بجو الصحوة السائدة، ويرى التعامل معها برفق وأناة؛ لتوجيهها الاتجاه الصحيح. فكثير من الأنظمة الاستبدادية تريد أن تشغل شباب الصحوة بالمسائل الفقهية الخلافية -التي لا تهز عروشهم- بدلا من إعطاء الأولوية لقضايا العدل ورسالة الدولة في خدمة الناس. وهذا ما نتج عنه شيوع الأقوال الضعيفة وترجيح الأقوال المرجوحة، مما أدى إلى انتشار التزمت والجمود! ونتوء شباب ساذج، يرفض أقوال الأئمة ويدعي أنهم رجال والأئمة رجال. وقد ظهر هؤلاء الفتيان بعد اضمحلال دور الأزهر الذي يمكن لعلمائه القدامى تصدي على أعشار المتعلمين هؤلاء.

واختتم المقدمة بالقول: إنه (مع القافلة الكبرى للإسلام التي يحدوها الخلفاء الراشدون، والأئمة المتبوعون، والعلماء الموثقون خلفا بعد سلف، ولاحقا يدعون لسابق).

وقد أقتصر حاليا على تلخيص الموضوع الأول الذي هو رأس الكتاب، وهو (نماذج للرأي ... والرواية) أورد الشيخ تحت هذا العنوان عدة نقاط مهمة، وهي كالتالي: صحة الحديث وشروطه - هل يعذب الميت ببكاء أهله عليه؟ - دائرة القصاص – تحية المسجد - حديث دنى الجبار فتدلى – تحقيق لعائشة – فتوى رعناء ... – موسى وملك الموت - متهم بريء - هل نعي الموتى حرام؟ - فضل الشام ...! – نفقة المطلقة ثلاثة - إكراه الفتاة على الزواج ممن تكرهه.

يقع الموضوع في ثلاثين صفحة بدءًا من صفحة ثلاث عشرة إلى صفحة ثلاث وثلاثين. بدأه بالقول إن المسلمين أولوا عناية فائقة في توثيق الأخبار، خصوصا فيما يتعلق بسيرة نبيهم وما ينسب إليه من قول أو عمل؛ لأن نيل رضا الله ومحبته يتحقق باتباع نبيه عليه الصلاة والسلام، ويعد الكذب على رسول الله ليس كالكذب على أحد من الناس، فهو طريق للخلود في النار، كما أنه تزوير على الدين؛ لذا وضع علماء السنة شروطا خمسة صارمة لقبول الأحاديث النبوية، ثلاثة منها في السند، واثنان في المتن، فلا بد في السند من راوٍ واعٍ

ضبطٍ، متين الخلق في جميع السند، وأما المتن فيجب ألا يكونَ شاذًا، أو به علة قادحة. وقد هيأ الله للسنة علماء بلغوا الشأن في هذا الصدد، فكانت غربلتهم للسنة محل ثناء وتقدير. ولم يسجل في تاريخ البشرية جهد مثله، في تحري الثقة عن تدوين الأخبار. كما انبرى الفقهاء في ملاحظة المتون في استبعاد الشاذ والمعلول. ذلك؛ لأن سلامة المتن يتطلب علما بالقرآن.

والسنة منه المتواتر والصحيح المشهور، ومنه الصحيح سندا والضعيف متنا. والذي يكشف ذلك هم الفقهاء. وقد ابتليت الأمة في عصرنا بفتيان سوء، يتطاولون على الفقهاء باسم الدفاع عن السنة مع أن الفقهاء ما حادوا عنها. وكل ذنبهم أنهم اكتشفوا عللا في بعض المرويات فردوها. وهذا نهج الصحابة. وقد يرد الحديث عند الصحابة والفقهاء للأسباب الآتية:

١- مخالته للقرآن كما فعلت عائشة -رضي الله عنها- حينما رد حديث الذي يقول (...أن الميت يعذب ببكاء أهله...) لمخالفته لقوله تعالى: ((ولا تزر وازرة وزر أخرى)) الأنعام: ١٦٤.

٢- إذا كان حديث الأحاد صحيحا وفيه علة قادحة، أو شاذًا كحديث (لا يقتل مسلمٌ بكافر) فيرى الحنفية أن من قتل ذميا يقتص منه مع صحة سنده. لقوله تعالى: ((النفس بالنفس)) المائدة آية: ٦، فقول الأحناف أدنى للعدل، وموافق لمواثيق حقوق الإنسان، واحترام النفس البشرية.

أهل الحديث يجعلون دية المرأة النصف من دية الرجل، وقد رفض ذلك الفقهاء المحققون، فالدية واحدة للرجل والمرأة في القرآن. والمالكية والأحناف يكرهون تحية المسجد والإمام يخطب، مع ورود حديث يطلب ذلك. عَلل الشيخ سبب ذلك بكون الرسول ' يخطب الناس بالقرآن، والله يقول: ((وإذا قرئ القرآن فاستمعوا له وأنصتوا لعلكم ترحمون)) الأعراف: ٢٠٤.

الرواية المتواترة لدى جمهور العلماء وعامة المسلمين بأن الذي نزل بالوحي على قلب رسول الله ' هو جبريل، وهو ما أشار إليه القرآن في غير ما موضع، ومع ذلك هناك أحاديث مستغربة، نقلت عن طريق الأحاد أن الذي دنا فتدلى هو الله.!!! والرواية تخالف المتواتر، فلذلك ردته عائشة –رضي الله عنها- والفقهاء. وكذلك ردت عائشة –رضي الله عنها- الرواية التي تقول: ((ما أنتم بأسمع منهم)) لقوله تعالى: ((وما أنت بسمع من في القبور)) فاطر: ٢٢، وإن كانت الرواية قوية إلا أن عائشة –رضي الله عنها- ردته لمخالفته ظاهر النص القرآني، ومثله حديث موسى –عليه السلام- الذي يذكر بأن موسى –عليه السلام- لما جاءه ملك الموت لقبض روحه غضب ولطم ملك الموت ففقأ عينه ... الخ، الحديث صحيح السند، ويقول الشيخ الغزالي (الحديث صحيح السند ولكن متنه يثير الريبة أن موسى –عليه السلام- يكره

الموت ولا يحب لقاء الله...) الخ، ناقش متن الحديث بقوله: إن الصالحين يحبون لقاء الله، فكيف بواحد من أولي العزم؟! ثم تسآل: هل الملائكة تتعرض لعاهات كما يتعرض البشر؟ وسرد التبريرات التي أوردها العلماء لفعل موسى وردها بالقول: (هذا الدفاع كله خفيف الوزن، وهو دفاع تافه لا يساغ ...، والصحيح أن في متنه علة تنزل به عن مرتبة الصحة.

والعلة في المتن يبصرها المحققون لا أصحاب الفكر السطحي. ومنهج الأئمة يرفضون الأحاديث الذي صح سندها واعتل متنها، ورفض الأحاديث أو قبولها خلاف فكري لا عقائدي.

ومن ضمن الأحاديث المردودة في هذا الباب ما رواه أنس أن رجلا كان يُتهم بأم ولد، فأمر الرسول بقتله. ثم تبين أنه مجبوب. فمستحيل أن يحكم على رجل بقتل في تهمة لم تتحقق، ولم يواجه بها المتهم، هذا أمر يأباه الإسلام ... وفروعه، ومن الأحاديث المردودة تحريم نعي الموتى، إذ أن النعي المكروه ما كان استعراضا للمآثر والمفاخر. وما أكثر الأحاديث المنتشرة اليوم بين الشباب يستنتجون منها أحكاما سيئة، إن قبل سندها فإن متنها لا يصح قبوله. فيما يتعلق بالمرويات التي تتحدث عن فضل الشام والترغيب في سكناه، أو المرابطة فيه، يرى بأنه يكون ذلك عند ما يتعرض الإسلام للخطر من قبله، أو تحدث ثغرة في حدوده كما هو الحال الآن في فلسطين الذي هو جزء من الشام، وللمدافعين عن الإسلام في أي بقعة، لهم كل الحقوق التي لعرب فلسطين أو لأرض الشام.

ومن ضمن الأحاديث التي ردت بسبب علة متنها، حديث فاطمة بنت قيس التي طلقت ثلاثا ولم يجعل لها رسول الله سكنى ولا نفقة كما قالت، فرده عمر بقوله: لا نترك قول ربنا وسنة نبينا لقول امرأة لا ندري حفظت أو نسيت. لها السكنى والنفقة. ومن الغريب أن هناك من يترك الفقه والنقل معا في بعض الأحكام، كما ذهب الشافعية والحنابلة إلى جواز إجبار الوالد ابنته البالغة على الزواج بمن تكرهه، انسياقا مع تقاليد إهانة المرأة وتحقير شخصيتها. بينما الحديث صريح في ترك الخيار للبنت إذا أجبرت على الزواج بمن تكرهه في أمضاء العقد أو إبطاله، والأحناف أعطوا المرأة حق مباشرة عقدها إمضاء لظواهر القرآن.

يمكن إجمال ما تقدم على أنه لا يجوز أن يتصدر للإفتاء إلا من رسخت قدمه في القرآن، وعلا كعبه في السنة، وأن الحديث قد يكون صحيح السند عليل المتن، ولا يدرك ذلك إلا جهابذة الفقهاء، وأن الصحابة والفقهاء المجتهدين كانوا يردون الحديث الصحيح سندا، إذا تعارض مع القرآن ولم يمكن جمعهما، الفتوى الشاذة الصادرة من أنصاف العلماء، كثيرا ما يكتفي هؤلاء بالحديث الواحد في الموضوع دون العودة إلى القرآن، أو الأحاديث الأخرى الواردة في الموضوع.

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