THE PHILOSOPHY OF *MAQASID AL-SHARI'AH* AND ITS APPLICATION IN THE BUILT ENVIRONMENT

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ABSTRACT

This paper deciphers the application of the philosophy of the Maqasid al-shari'ah (Objectives of Islamic Law) in the built environment. Being seen as a result of human minds and acts towards the environment for the purpose of human needs, wants and values, the built environment is very much related to the Islamic theory of man as vicegerent (khalifah) on earth. Here lies the interconnectedness between the built environment and the Maqasid al-shari'ah. In this regard, the terms Islam and Maqasid al-shari'ah play the same role in the sense that they set a way of life for mankind with the principles of the Qur'an and Sunnah. Human reactions in their daily life basically react upon these elements. Definitely, human wellbeing or maslahah (public interests) for mankind is the ultimate aim of the shari'ah. Thus this paper attempts to assimilate the philosophy of the Maqasid al-shari'ah with the built environment's profession towards the realization of their role as khalifah. Ultimately, this will pave for better human interaction with the environment resulting in utmost quality of the built environment for human life.

 Keywords: Built environment, *Maqasid al-shariah*, and human being

Introduction

Planning and implementation of the built environment negating the Islamic perspectives somehow create cities without souls. This is because basically man needs to relate to his creator and prestigious buildings and spaces, without this kind of facilities, it will cause difficulties for them to perform their obligatory relationship. Recognizing this aspect of the built environment therefore, the Shari'ah Index Malaysia (hereafter referred to as the Index) includes infrastructure and environment as one of the sectors to be scrutinized as complying with the Shari'ah. The Index that was launched by the Prime Minister on February 10, 2015 also covers seven other sectors namely (i) politics, (ii) economy, (iii) social, (iv) culture, (v) education, (vi) health, and (vii) law. The purpose of the Index is to objectively and scientifically assess the state of existence and compliance of the government policies towards the *maqasid al-shari'ah.* The Prime Minister stressed that the Index form as Key Performance Indicators (KPI) in the government's service delivery system and that the government is serious in measuring and monitoring it. His following statement further substantiates this.

"We measure and review whether the policies and programmes set by the government through the ministries and related agencies met the requirements of the maqasid al-shari'ah itself"

(Prime Minister, February 10, 2015, BERNAMA)

For that purpose, an administrative engine was established under the Department of Islamic Development Malaysia (JAKIM) notably the *Unit Index Shari'ah* on April 1, 2015. The study was conducted to gauge the implementation of shari'ah in governmental policies championed by eight experts called the *Jawatankuasa Tadbir Urus Indeks Shari'ah Malaysia.* In March 2016, the result was announced as shown in Table 1:

Table 1: Sectoral score of the Shari'ah Index Malaysia

SECTOR	SCORE (%)				DESCRIPTION
	Policy maker	Policy Implementer	Community	Average	
Law	95.20	78.66	80.19	87.19	excellent
Politics	77.17	81.58	80.43	79.19	good
Economics	76.25	53.43	55.98	65.27	good
Education	85.05	81.45	76.90	82.49	excellent
Health	81.32	68.98	61.64	73.92	good
Culture	69.86	66.29	56.65	66.47	good
Infrastructure & environment	65.22	61.36	55.52	62.31	good
Social	75.51	65.20	54.19	68.52	good

 Source: JAKIM, 2016

The study was done by 133 researchers from 5 public Universities namely *Universiti Kebangsaan Malaysia, Universiti Sains Islam Malaysia, Universiti Islam Antarabangsa Malaysia, Universiti Teknologi Malaysia* and *Universiti Utara Malaysia*. The study surveyed 7,587 respondents grouped under policy makers, policy implementer and community at large. Table 1 shows the sores of the eight sectors under study and the total score of the Shari'ah Index Malaysia 2015 is 75.42% which falls under the category of good. Scores above 80 are considered as excellent- notably they are in the Law and Education sectors. Even though the infrastructure and environment sector scored the lowest at 62.31% compared to the other seven sectors, it is considered as good and in line with the Government's aspiration to apply and meet the requirements of *maqasid al-shari'ah.*

This paper is organised into five parts starting with Introduction, the philosophy of *Maqasid al-shari'ah* in Part Two, the understanding of the built environment in relation to Shari'ah in Part Three, the application of *Maqasid al-shari'ah* in the built environment in Part Four and the Conclusion in Part Five.

The Philosophy of *Maqasid al-Shari'ah*

In principle, *Maqasid al-shari'ah* (the objectives of Islamic law) appears and evolves hand in hand with the revelation of al-Qur'an and al-Sunnah. Setting a value system, al-Qur'an and al-Sunnah embodied what is considered needful for the constitution of a justly balanced community (*ummatan wasatan*). Allah S.W.T. knows best of His creation and provides a comprehensive manual i.e. al-Qur'an and al-Sunnah for His servants to refer to in order to survive on earth. *Shari'ah* is a way of life in Islam and its objectives are summarized as the *Maqasid al-shari'ah*.

Maqasid al-shari'ah is the ultimate aim of the Islamic law. It can be said as a synthesis made by Muslim jurists on the Quranic verses and Prophetic Reports. The 4th until 7th century after Hijrah, marked the evolution of the theory of *Maqasid al-shari'ah*. The theory of *Maqasid* can be traced back to the administration of the second caliph, Umar bin al-Khattab (d. 644) and the Maliki School of Islamic jurisprudence, which emphasized public interests or *maslahah*. Its conceptual idea was first developed by the twelfth century theologian Abu Hamid al-Ghazali (d. 1111) in reference to the five fundamental aspects of human life i.e. protection of life, religion, intellect, progeny and property. He also pioneered the categorization of *Maqasid-al-shari'ah* into three descending categories of significance: the *daruriyyah* (the essentials), the *hajiyyah* (the complementariness) and the *tahsiniyyah* (the desirables or the embellishments). *Daruriyyah* are seen as absolute requirements for the survival and the spiritual well-being of individuals and communities. These objectives are musts and basic for the establishment of the general human welfare of this world and the world hereafter. If they are ignored then the world's coherence and order cannot be established and chaos, disorder and loss will prevail (Kamali, 1991; Chapra, 2008; Jasser, 2008). *Daruriyyah* relates to five things for human wellbeing and development:-

1) Protection of Faith/Belief

2) Protection of Life/Body

3) Protection of Reason/Intellect

4) Protection of Posterity/Lineage

5) Protection of Property/Wealth

The preservation of faith is the most crucial that lead people to embrace the presence of Allah SWT in every human undertaking, acts or omissions. The preservation of self, enable a person to embrace the greatness of Allah SWT in human creation thus directing him to perform his role as *khalifah* religiously; towards his fellow men as well as the environment. Meanwhile, preservation of intellect paves the way for people to acquire intellectual skills and knowledge and to be able to appraise right and wrong. Islam pays great attention on societal life through the preservation of lineage. This involves the marriage institution, principles of inheritance and family relationships. Lastly, preservation of property outlines certain behaviours and ethics regarding economic transactions and business dealings in fair, non-corrupt equitable distribution of wealth and wise use of natural resources and environment.

While these five essentials are being preserved within the three main categories of the *Dharuriyyat* (necessities), the *Hajiyyat* (complementary) and the *Tahsiniyyat* (embellishment), they are being governed by the Islamic Law comprising of *Fiqh al-Ibadat* (personal law), *Fiqh al-Munakahat* (family law), *Fiqh al- Muamalat* (societal law) and *Fiqh al-Jinayat* (criminal law). These are to be practiced under the realm of *Iman* (faith), Islam (submission) and *Ihsan* (inner-consciousness). Figure 1 show the conceptual ideas of the five essentials of the *Maqasid al-shari'ah* juxtaposed with the concepts of the personal, family, societal and criminal laws set against the Islamic values and morality of *Iman*, *Islam* and *Ihsan*. It must be noted that the three groups of principles are closely interwoven and interconnected.

Figure 1: Conceptual Framework of *Maqasid al-Shari'ah*
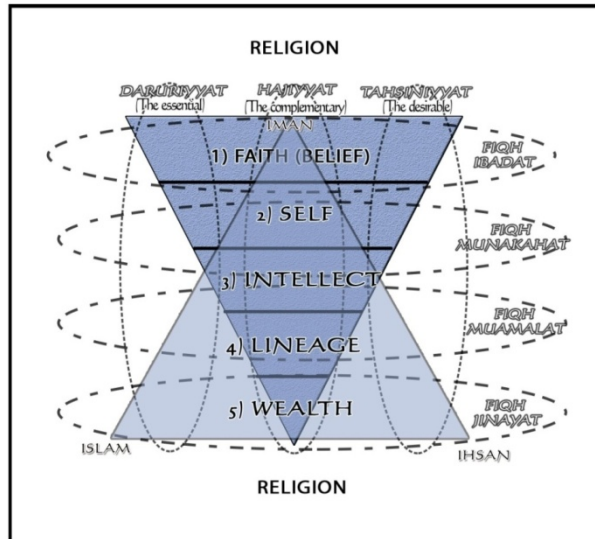
Daruriyyat : Absolute requirements to the survival and spiritual well-being of individuals, to the extent that their destruction or collapse would precipitate chaos and the demise of normal order in society.
Hajiyyah : Benefits that seek to remove severity and hardship in cases where such severity and hardship do not pose a threat to the very survival of normal order.
Tahsiniyyah ; Seek to attain refinement and perfection in the customs and conduct of the people at all levels.

*Fiqh Ibadat (*Islamic Personal Law): Relationship between man and his creator by performing worships which the creator obligate them on specific time, in particular places and in exact pattern.
*Fiqh Munakahat(*Islamic Family Law): Relationship between man and his family.
Fiqh Muamalat (Islamic Transaction Law) : Relationship between man and his society
Fiqh Jinayat (Islamic Criminal Law): A set of rules by Allah related to wrongdoings and crimes.

Source: Azila et. al., 2015

Understanding the built environment in relation to *Shari'ah*

It is the ultimate aim (*maqsud* singular of *maqasid*) of the *shari'ah* to set a value system for the *maslahah* (benefit) of the people. As the Creator of the universe (Al-Mulk: 15)[1], Allah SWT knows best of His creations, therefore the Qur'an and Sunnah are revealed as a source of knowledge for man to manage the earth (Al-Furqan: 1, Yunus: 57)[2]. In realizing man's role as *khalifah* on earth, man is reminded on the concept of trustee (Al-An'am: 165)[3] and not an owner of the earth (Al-Thoha: 6)[4] thus shaping the constant interaction between man and the environment. There is no doubt that the earth is created for man's sustenance (Al-'Araf: 10, Al-Baqarah: 60)[5] but with limit and purpose. If man transgresses this limit, the implication is on man itself (Al-Rum: 41)[6]. Similarly, the Prophet SAW promotes the idea of sharing water, pasture and fire among Muslims as they are the basic necessities for human beings. In the planning of towns and cities, the Prophet SAW had pointed out that "Four things that contribute to happiness are righteous wife, spacious home, righteous neighbour and comfortable means of transport" (Ali, 1986, p.29). Wife, home and neighbour are all about good public facilities provision and friendly neighbourhood layouts while transport is reflected in good and efficient transportation planning.

The above Quran verses and Prophetic Reports tell us about the nature of the environment created by Allah SWT, its functions and how people should deal with it. The verses also elucidated the impacts or the results of human intervention following its consumptions either reasonably or excessively. These products and processes of human creation are much related to the area of knowledge in a modern world called the built environment. Collectively, tasks considered to be central to the built environment work include the planning, design, management, maintenance and monitoring of functional and aesthetic layout of built environments. In fact, on the latter, the term built environment has become an integral part of a new definition of landscape architecture approved in 2003 by the International Federation of Landscape Architects.

Bartuska and Young (1994) generally defined the built environment by four interrelated characteristics:
1. It is extensive, it is everywhere, it provides the context for all human endeavours more specifically it is everything humanly created, modified or constructed, humanly made, arranged, or maintained.
2. It is the creation of human minds and the result of human purposes; it is intended to serve human needs, wants and values

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[1] Al-Mulk: 15; "It is He Who has subdued the earth for you to see it; so walk about its regions and eat of His provisions; and (remember) to Him (you shall return after) the resurrection, (so you must take the best use of His bounties and fear His punishment)"

[2] Al-Furqan:1; "Blessed is He Who has revealed Al-Furqan to His servant (Muhammad), to serve as a warning to all the inhabitants of the universe": Yunus:57; "O mankind! The Qur'an has come to you from your Lord as an admonition, a healing for what is in the hearts, a guide and a blessing to the believers"

[3] Al-An'am: 165; "And He has made you vicegerents in the world, and exalted some of you above others in rank, so that He might try you with His gifts. Indeed your Lord is Most Swift in punishment, and yet He is Most Forgiving, Most Merciful"

[4] Al-Thoha: 6; "His is what the heavens and the earth contain, and all that lies between them and underneath the soil"

[5] Al-'Araf: 10; "And indeed We have established you (mankind) on earth (by giving you authority), and We have provided for you (various) means of livelihood (that you may be thankful, yet) how seldom are you thankful": Al-Baqarah: 60; "...Eat and drink of that which Allah has provided and do not corrupt the land with evil"

[6] Ar-Rum: 41; "Corruption has appeared on land and sea because of what the hands of men have done. (These happen) so Allah may make them taste a part of the result of their bad deeds and so that they may return (to the truth by repenting to Allah, and begging His pardon)"

3. Much of it is created to help us to deal with and to protect us from the overall environment , to mediate or change this environment for our comfort and wellbeing
4. An obvious but often forgotten characteristic is that every component of the built environment is defined and shaped by context; each and all of the individual elements contribute either positively or negatively to the overall quality of environments both built and natural and to human-environment relationships.

Nonetheless in the context of this paper, the interpretation of the built environment is very much governed by the theory of man as *khalifah* on earth evidenced in the aforesaid Quran verses. Being a *khalifah* entrusted with an obligation to prosper the environment, *baldatun thayyibatun wa rabbun ghafûr* as purported in the Quran verse Al-Saba': 15 is most desirable when Allah SWT said to the effect; "*Indeed for the people of Sheba there was a sign (of Allah's generosity) in their homeland [...] pleasant is your land (peaceful and harmonious) and Forgiving is your Lord*". People in the profession of the built environment especially the town planners, architects, quantity surveyors, engineers and landscape architects must therefore exert themselves in translating the Islamic principles into their undertakings. Working collectively with other professions, *baldatun thayyibatun wa rabbun ghafûr* could be materialised not only in creating liveable cities and superb built environments but as an investment in the Hereafter.
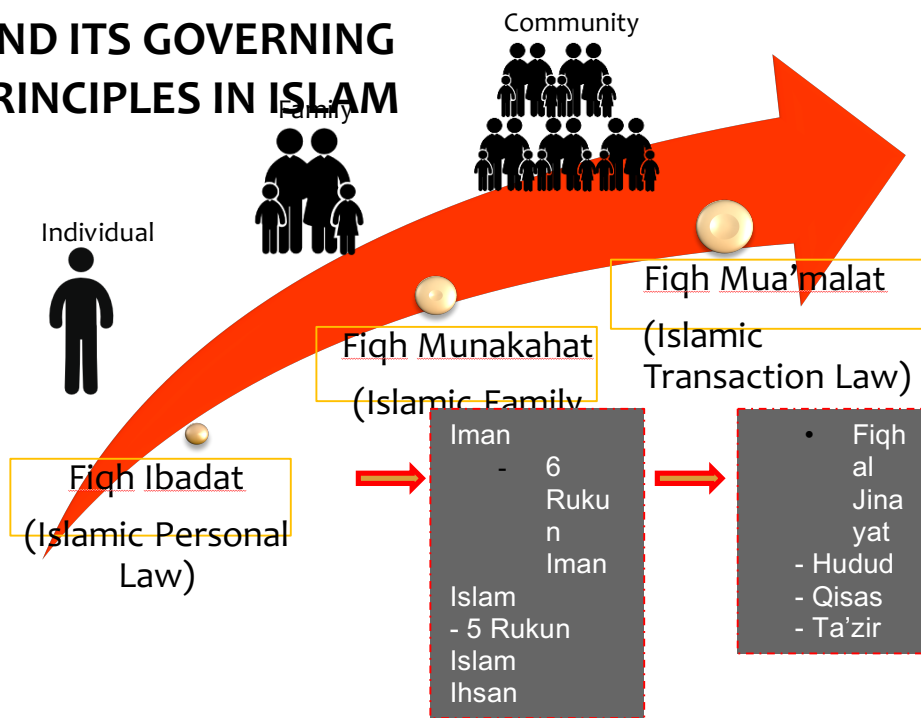
Maqasid al-Shari'ah and the Built Environment
Reviewing the literatures, however, very few studies could be found on the application or translation of *Maqasid al-shari'ah* into the built environment, notable exceptions being *takaful* (Ahmad Faizal and Shaifulfazlee, 2013), Islamic finance (Asyraf, 2009), economic (Patmawati et. al., 2002), government administration (Abdullah, 2014; JAKIM, 2015; IDE, 2016), health products (Nurdeng, 2012) and conventional bioethics (Shaikh Mohd Saifuddeen et. al., 2013).

In the built environment, the *Maqasid al-shari'ah* may be viewed through the presence of a strong relationship between the terms *din* (religion) and *madinah* (city). *Din* refers to a way of life encompassing all practices of Man's submission to Allah, the Creator, and his/her interactions with other human beings and with the environment. *Madinah* refers to a place wherein those practices and interactions are being carried out. According to Syed Muhammad Naquib Al-Attas (1992, p.2) the relationship between *din* and *madinah* has four primary significations namely (i) indebtedness, (ii) submissiveness, (iii) judicious power, and (iv) natural inclination. He argued that "the above significations including their contraries inherent in *dana* are practicable possibilities only in organised societies involved in commercial life in towns and cities denoted by *mudun* (plural of *madinah*)".

Here lies the idea of city planning in Islam, the prayer read by Mawlay Idris al-Azhar in the opening of Fez city in Morocco (Ahmad Farid Moustapha, 1986, p.6);"*Oh my lord, You know that I don't intend by building this city to gain pride or to show off, nor do I intend hypocrisy or reputation or arrogance but I want You to be worshipped in it, Your laws, limits and the principles of your Quran and the guidance of your Prophet to be upheld in it as long as the world exist*". This prayer reflects truly the city planning in Islam if man really upheld the teachings of Islam embodied in the Al-Quran and the Al-*Sunnah*. Comprehensively then, a city becomes a place where religion is practiced in every aspect of human life be it at individual, family institution or community setting as depicted in Figure 2 below which explains the social structure and its governing principles in Islam.

Figure 2: Social Structure and Its Governing Principles in Islam

SOCIAL STRUCTURE AND ITS GOVERNING PRINCIPLES IN ISLAM

Community

Family

Individual

Fiqh Mua'malat
(Islamic Transaction Law)

Fiqh Munakahat
(Islamic Family

Fiqh Ibadat
(Islamic Personal Law)

Iman
- 6 Rukun Iman
Islam
- 5 Rukun Islam
Ihsan

- Fiqh al Jinayat
- Hudud
- Qisas
- Ta'zir

In tandem with the Islamic teachings and the Malaysian government initiatives to assimilate the built environment with *Maqasid al-shari'ah* through the infrastructure and environment sector, this paper studies the public facilities provision as a case. Public facilities sector was selected with a belief that they facilitate the dwellers to enjoy more quality of life and wellbeing. Nevertheless, Islam always put *maslahah* to mankind at the utmost position thus require the provision of amenities and facilities in the process.

A Case of public facilities provision and their Maqasid al-shari'ah
In Malaysia, the town planning standards of GP004A enlists public facilities as shown in Table 2 below:

Table 2: List of Public Facilities

Health Facilities	1. Hospital 2. Health clinic 3. Rural clinic 4. Maternal and child health clinic 5. 1 Malaysia clinic 6. 1 Malaysia mobile clinic
Educational Facilities	1. Pre-school/ kindergarten 2. Primary school 3. Secondary school 4. Special education schools 5. Universities/ colleges/ polytechnic
Safety Facilities (Police Station)	1. Contingent headquarters 2. District police headquarters, 3. Police station, 4. Community police station/ police booth 5. Police beat
Fire and Rescue Facilities	1. Fire station type A 2. Fire station type B 3. Fire station type C 4. Fire station type D

Community Centre	1. Multipurpose hall 2. Public hall 3. Community hall
Public Libraries	1. State libraries 2. Metropolitan libraries 3. Regional libraries 4. Branch libraries 5. Town library 6. Rural library
Welfare Facilities	1. Child care center 2. Elderly center 3. Disable person community rehabilitation

Source: Public facilities guideline, JPBD (2012)

Delving into 7 types of public facilities and 32 kinds of building typology, they facilitate human life to the extent that their provision helps to preserve the five essentials of *Maqasid al-shari'ah* namely faith, self, intellect, lineage and property. The underlying principles of their provision according to *Maqasid* are depicted in Table 3 below:

Table 3: Underlying Principles of *Maqasid* in Public Facilities Provision

Maqasid al-shari'ah: Preservation of				
Faith	**Self**	**Intellect**	**Progeny**	**Property**
The provision of public facilities that would enable self and the community to;				
embrace the presence of Allah SWT in every human undertakings, acts or omissions, directed by His revelation through the *Al-Qur'an* and *Al-Sunnah*.	embrace the greatness of Allah SWT in creating human beings thus directing people to perform their role as *khalifah* in acts or omissions towards fellow man and the environment.	acquire intellectual skills and knowledge to understand the subject matter and able to appraise what is right and what is wrong towards the pleasure of Allah SWT.	appreciate the collective and instinctive nature of human beings for family life thus giving rise to the practice of Islamic values and etiquette in society , inviting good and forbidding bad.	acquire, accumulate, distribute and manage wealth according to the Islamic *mu'amalat* towards achieving value for money in the long run.

All in all, the provision of public facilities is aiming at human wellbeing of which *Maqasid al-shari'ah* is an integral part of it and under the essence of *maslahah* to mankind. Apart from those facilities mentioned in **Table 2**, the provision of worship places, cemetery and crematorium and parks and recreation are also meant for human wellbeing regarded as public **facilities**. These physical facilities and amenities are provided towards upholding Islamic teachings in promoting healthy living environment in a city so that it conforms to the Quran verse "*They will ask you (O Muhammad): What they should spend (and on whom). Say: "Whatever you bestow in charity that is good (and lawful) must go to your parents and your kinsmen, the orphans, and the needy and the wayfarer in need." And (remember) that Allah is aware of whatever good you do (and you shall be rewarded for it)* (Al-Baqarah: 215).

Again, about doing goodness to people and collectively working on community building and wellbeing for the sake of Islam, Allah SWT said to the effect; "*And (Allah said again). Had the people of those countries believed and kept away from evil, We would have surely opened for them (the gateway) to the blessings out of heaven and earth. But they rejected (Our Messengers), so We seized them because of what they had been doing*" (Al-'Araf: 96). Interconnectedness between the built environment and the *Maqasid al-shari'ah* through the public facilities provisions in the sense that they contribute to human wellbeing is further illustrated by Figure 3 below:

**Figure 3: Relationship between public facilities, *Maqasid al-shari'ah*,
and the planning sectors**
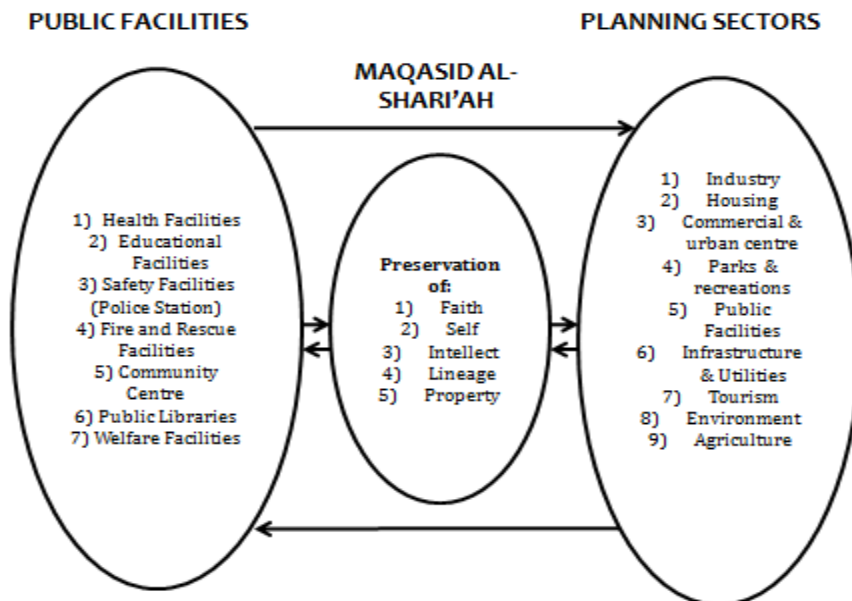
There is no doubt that the public facilities, *Maqasid al-shari'ah* and planning sectors are intersected components in the planning of a city. However, the challenges faced by contemporary built environment's professions are their application and implementation. The provision of public facilities within the planning sectors must be fulfilling the *Maqasid al-shari'ah* and this requires inputs from the religious department. Information in Table 3 could form as the basis for the development prerequisites to be eventually developed into development proposals for implementation. For that matter, a good synergy between the planning departments and the religious authority as well as other related agencies are very much in need. Finally, with the incorporation of *Maqasid al-Shari'ah* fundamentals into the built environment to produce *Shari'ah*-based Malaysian Standards like MS 2300:2009[7], MS 2393:2013[8], MS 1900:2014[9] and MS 2610:2015[10] is therefore welcomed for the meaningful integration of Islam into the built environment professions spearheaded by the planning fraternity in Malaysia.

Conclusion

The essence of *maslahah* to mankind embodied in the philosophy of *maqasid al-shari'ah* binds the *maqasid* with the built environment area of knowledge. People in the profession are religiously bound to render its duty towards prospering the world. They must be able to grasp the following ideas to ensure better application of *Maqasid al-shari'ah* in the built environment:

  i.   Built environment profession as a *khalifah*

  ii.   Built environment's work as an *ibadah* (Allah worshipping)

  iii.   Al-Qur'an and al-Sunnah as a source of decision-making

  iv.   Interconnectedness between *din* (religion) and *madinah* (city) as a basis of place making and liveability.

  v.   Belief in reward and punishment in the Day of Judgement for every undertaking.

In a nutshell, the above five points help to conceptually synchronise the built environment and the *Maqasid al-shari'ah*. The case of public facilities provided within the realm of the planning sector testify the real needs to fulfil the five essentials of *Maqasid* (Figure 3) thus enlightening the former synchronisation. From this study, the policy maker should be able to relate the aspect of the built environment with the elements of *Maqasid al-shari'ah*. This will help to create an environment that is in line with the Quran and Sunnah. Further study on the policy implementation by integrating both built environment and *Maqasid al-shari'ah* need to be more emphasized. Within this context, the main findings of this study will contribute to the current body of knowledge in practising the normal standard for the built environment by incorporating the Islamic elements within the ambit of *Maqasid al-shariah* that help produce better *khalifah* on earth.

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[7] Value-based Management Systems- Requirements from an Islamic Perspective
[8] Islamic and halal principles- Definitions and interpretations on terminology
[9] Shariah-based quality management systems- requirements with guidance (First revision)
[10] Muslim friendly hospitality services- Requirements

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