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INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA  
بِوَسِيْلَتِي اِسْلَامُهُ اَنْبَارًا يَجْنِبًا مُلْدِيْنَا

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## ABSTRACT

This study deals with one of the most important sources of Islamic jurisprudence known as *Dharā'ī* ' or the Theory of Means as discussed by the classical and modern Islamic jurists. This theory is closely related to the objectives of *Sharī'ah* or *Maqāṣid*, due to the cause-effect relationship between means and objectives. The aim of this study is to compile the essential components of the Theory of Means as a tool of *ijtihād* which could be applied on current issues. In the classical literature, the jurist mainly focused on those means which are lawful but lead to prohibited ends or unlawful results, terminologically known as *Sad al-Dharā'ī* ' , or blocking the means. As the prevention of evil requires greater prominence in their discussions, the other part of the theory, the opening of the means to beneficence did not receive equal treatment from the jurists in their writings. Thus, it is the aim of this study to discuss the Theory of Means in its broad meaning, encompassing the blocking the means to evil and opening the means to beneficence, both at the theoretical and practical level. One of the most important results of the study is the need to differentiate between means and *Maqāṣid* as the former are the ways that most probably lead to the latter in their normal conditions, and not the objective itself. This is because the rule of *Dharā'ī* ' is based on the judgment of the possible results of actions to either evil or good which, unlike *Maqāṣid*, is flexible and might differ from one situation to another. This study also deduced some methodological regulations, which governed the theory that can be used in contemporary *ijtihād*. The application of the Theory of Means is exemplified in selected forms of modern financial transactions, namely Contract of Adhesion, Deferred Payment Sale, Bank Deposits and Insurance to portray the relevance of the theory in contemporary Islamic economy. This study establishes the importance of reliance on the Theory of Means in determining the rulings of those transactions based on their practical results. Thus, the permissibility or otherwise of Contract of Adhesion and Insurance depends upon the predominance of either beneficence or evil ends. With regards to Deferred Payment Sale and Bank Deposit, despite the availability of texts on their permissibility, some aspects of these transactions which are subject to changes according to different circumstances and places need to be revised in accordance with the application of the Theory of Means.

# APPROVAL

The thesis of Akhtarzaite bt. Abdul Aziz has been examined and approved by the following:

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## **DECLARATION**

I hereby declare that this thesis is the result of my own investigations, except where otherwise stated. Other sources are acknowledged by footnotes giving explicit references and a bibliography is appended.

Name: Akhtarzaite bt. Abdul Aziz

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