

Rulings on Harm and Its Rules in Islamic Fiqh

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Abstract:

The evolution of life and the invention of machines have brought great benefits to humanity, saving effort and time. However, along with these advantages, they have also resulted in numerous and diverse harms. This raises the main research question: What are the legislative measures introduced by Islam, in terms of rulings and maxims, to address the issue of harm? The study aims to explore these rulings and maxims using a descriptive and analytical approach, structured into two main sections, each with its own subdivisions. The first section examines the rulings on harm in Islamic jurisprudence, while the second focuses on the legal maxims related to harm in Islamic law. The study concludes that Islamic law strictly prohibits causing harm to oneself or others by any means and mandates its removal once it occurs. This includes preventing its continuation, eliminating its effects, repairing the damage caused, and compensating for any deficiencies it creates.

Keywords: Harm, Causing Harm, Rules, Rulings.

Introduction

A good human life is based on physical well-being, security in one's home, and peace of mind, as well as stability in society as a whole. However, life has never been free from harm, hardship, and difficulties—ever since the creation of humanity, even when life was simple.

The advancement of life and the invention of machines have brought great benefits to humanity. They have saved effort and time, connected distant parts of the world, and made people feel as if they were living in a small village. This development has encompassed communications, transportation, production machinery, weaponry, and tools in various fields, including medicine, education, astronomy, climate studies, and agriculture, among others.

However, alongside its advantages, this progress has also led to numerous and diverse harms. These harms may sometimes stem from the very nature of modern products, while in many cases, they result from their misuse. One of the most significant issues is negligence and failure to take proper safety and precautionary measures.

The Importance of the Topic and Reasons for Its Selection:

- **Physical harms**, such as injuries resulting from accidents, chronic diseases, exposure to toxic substances, and malnutrition, have increased and diversified. Consequently, appropriate legislative and technical measures must accompany these issues to mitigate their effects.
- The **clear shortcomings of man-made legislations** necessitate demonstrating the completeness and perfection of divine legislations in addressing these matters.

Research Problem:

In light of the above, the main research question arises: **What are the legislative measures introduced by Islam—through rulings and legal maxims—to address the issue of harm?**

From this, the following sub-questions emerge:

- What are the principles of **harm and causing harm** in Islamic law?
- What are the causes and types of harm?
- What are the most significant rulings related to harm?
- What are the key **fiqh (jurisprudential) maxims** related to harm and causing harm?

Research Objectives:

- To highlight the most important **legislated rulings** for addressing harm and causing harm.

- To identify the **fiqh maxims** governing harm and causing harm, with a brief explanation of each.
- To emphasize the **comprehensive nature of the Islamic approach** in addressing these issues deeply and from a purely Islamic perspective.

Research Methodology:

The most suitable approach for addressing this topic is the **descriptive-analytical method**.

Research Procedures:

In addition to the standard research procedures, I have translated the texts, used the **King Fahd Edition translation** for Quranic verses, and referenced **the Hadith translations from the "Encyclopedia of Prophetic Hadiths" website**, and <https://sunnah.com/>, citing the book, chapter, and hadith number sequentially.

Previous Studies:

There is an abundance of Arabic literature on **fiqh maxims**, including those related to harm. However, most works focus on compensation for harm, which necessarily involves discussing harm and its types. One such work is *Compensation for Harm in Islamic Jurisprudence* by Dr. Mohammed Bousak. I have not found any equivalent studies in English, making this research a contribution, albeit not a very significant one.

Research Structure:

Apart from the introduction and conclusion, the research is structured as follows:

First Section: Rulings on Harm in Islamic Jurisprudence

First Section: General Principles of Harm

- **First Issue:** Definition of harm.
- **Second Issue:** The standard for considering harm.
- **Third Issue:** Types of harm.
- **Fourth Issue:** Causes of harm.

Second Section: Legal Rulings and the Prevention of Harm

- **First Issue:** The general prohibition of causing harm in Islamic law.
- **Second Issue:** Prohibition of self-harm.
- **Third Issue:** Prohibition of harming others.

Second Section: Legal Maxims on Harm in Islamic Jurisprudence

- **First Maxim:** “No harm and no reciprocating harm” (لا ضرر ولا ضرار).

- **Second Maxim:** “Harm should be prevented as much as possible” (الضرر يدفع بقدر الإمكان).
- **Third Maxim:** “Harm must be removed” (الضرر يزال).
- **Fourth Maxim:** “Greater harm is removed by a lesser harm” (الضرر الأشد يزال بالضرر الأخف).
- **Fifth Maxim:** “Private harm is endured to prevent public harm” (يُتحمل الضرر الخاص لدفع الضرر العام).
- **Sixth Maxim:** “Preventing harm takes precedence over attaining benefits” (دفع المفسد مقدم على جلب المصالح).

First Section: Rulings on Harm in Islamic Jurisprudence

First Subsection: General Principles of Harm

First Issue: Definition of Harm

Linguistically, "harm" (al-Ḍarar) is the opposite of benefit. It can be either positive or negative; negative harm includes injustice and its like, while positive harm includes actions such as drinking bitter medicine in hopes of recovery—drinking medicine is harmful but not evil (Al-‘Askari, 1979, pp. 192-193).

In *Lisan al-Arab*, it is stated: “Ḍarr and ḍurr are two linguistic variations, both meaning the opposite of benefit” (Ibn Manzur, 1301 AH, pp. 192-193).

Thus, the linguistic meanings of *ḍarar* primarily revolve around being the opposite of benefit, which is its most widely recognized definition. (Bousak, 1999, p. 21).

One of the scholarly definitions of *ḍarar* in Islamic jurisprudence is: “Any harm inflicted upon a person, whether it affects valuable and protected property, an inviolable body, or an honored reputation” (Bousak, 1999, p. 28).

Accordingly, harm can be understood as any deficiency affecting life, limbs, reputation, or wealth.

Second Issue: The Criteria for Considering Harm

The primary reference for determining whether an act or attribute constitutes harm is **Islamic law (Shari’ah)**. Anything prohibited in Islam is inherently harmful, such as engaging in intercourse during menstruation, which is described as causing harm (أذى), or consuming alcohol, which is deemed impure (رجس). There are many other examples beyond the scope of this discussion.

Harm can also be established through reason, experience, and customary practice, as affirmed by experts in their respective fields. For instance:

- Medical experts confirm that tobacco consumption is harmful.
- Environmental specialists recognize the damage caused by emissions from vehicle exhaust.
- Customary knowledge confirms that excessive speeding leads to severe harm to both lives and property.

Second Issue: Types of Harm

The harm that affects a person is not of a single type; rather, it varies based on its source, scope, magnitude, subject, and effects.

- **Based on its source**, harm can be either natural (divinely ordained) or man-made.
- **Based on its scope and domain**, it can affect religion, morality, health (including physical, mental, and reproductive well-being), or wealth.
- **Based on its magnitude**, harm can be either severe or ordinary.
- **Based on its subject**, harm may affect the person directly or others. When it affects others, it can be general (public harm) or specific to an individual.
- **Based on its reversibility**, harm can be either reparable, such as financial harm that can be compensated, or irreparable, such as the loss of a limb.
- **Based on its nature**, harm can be either tangible (physical) or intangible (moral or psychological).
- **Based on how it occurs**, harm can be either direct or indirect.

This is not the place to elaborate further on these classifications.

Issue Three: Causes of Harm

Harm and adversity in life occur due to various reasons. Some are inherent to the nature of life itself, some result from human actions, and some stem from the will and decree of Allah as a test for individuals. However, all of these occur according to divine predestination and decree.

Understanding the causes of harm is crucial to avoiding, as much as possible, those that can be prevented. It is also important to recognize that causes differ in their degree of influence in bringing about harm—some serve as primary causes, while others are secondary.

Second Section: Legal Rulings and the Prevention of Harm

Introduction:

Islamic law has established rulings concerning harm that address its existence, causes, wisdom behind its occurrence, the necessity of

preventing it by avoiding its causes, mitigating its effects, and the consequences it entails—both in the Hereafter, such as incurring sin, and in this world, such as the obligation of compensation and, in certain cases, the imposition of disciplinary measures on the perpetrator.

Islamic jurisprudence is distinguished by imposing an otherworldly consequence on unlawful intentions or motives; thus, the intent to cause harm or to manipulate the principles of Shariah results in sin, in addition to worldly punishment. In fact, the spiritual consequence is fundamental, as Shariah, being rooted in religious belief, prioritizes the concept of what is lawful and unlawful. Alongside this, it establishes binding legal rules that must be enforced judicially, making it both a spiritual and a civil system. (Alldurayny, 1977, p. 288).

First Issue: The General Prohibition of Causing Harm in Islamic Law

Islamic law prohibits causing harm, contributing to it, and mandates its removal if it occurs.

- If harm is anticipated, it must be prevented before it happens. This is the basis for the juristic maxim: **"Harm should be prevented as much as possible"** (الضرر يدفع بقدر الإمكان). The principle of **blocking the means** (سد الذرائع), which all jurists acknowledge, is founded on the prevention of anticipated harm and reinforces the broader concept of **maslaha (public interest)** upon which Islamic law is based.
- If harm has already occurred, the obligation is twofold: first, to remove it by eliminating its causes to prevent its continuation, and second, to provide compensation if justified, as anything unlawful that has materialized must be rectified.

Among the evidences for the prohibition of harm are:

1. **Allah** **says** **(SWT):**

[وَقَاتِلُوا فِي سَبِيلِ اللَّهِ الَّذِينَ يُقَاتِلُونَكُمْ وَلَا تَعْتَدُوا إِنَّ اللَّهَ لَا يُحِبُّ الْمُعْتَدِينَ]

(*Surah Al-Baqarah*: 190)

This means: "And fight in the Way of Allah those who fight you, but transgress not the limits. Truly, Allah likes not the transgressors", (HILALI, p 39-40)

It has been explained in tafsir (exegesis) that this verse commands fighting in the path of Allah while prohibiting transgression. This includes acts such as mutilation, looting, killing women, children, elderly people, monks, burning trees, and killing animals without

necessity. (Al-Sabuni, 1399H, 1/170).
If the prohibition against transgression applies even during war against disbelievers, then how much more serious is the prohibition of harming the wealth, lives, and honor of fellow Muslims in times of peace? (Bousak, 1999, p. 130).

2. **The Prohibition of Corruption:**
Causing harm to others is a form of corruption. Allah (SWT) says:

[وَلَا تُفْسِدُوا فِي الْأَرْضِ بَعْدَ إِصْلَاحِهَا] (Surah Al-A'raf: 56 & 85)

This Ayah means: "Do not do mischief on the earth, after it has been set in order", (Hilali_Khan, p 209)

3. **The Hadith of 'Abdullah ibn 'Amr (RA):**
The Prophet Muḥammad ﷺ said:
"مَنْ سَلِمَ الْمُسْلِمُونَ لِسَانَهُ وَيَدَهُ"
(Al-Bukhari 2/3/10, Muslim, 1/14/65)
This Ḥadīth means: "A Muslim is the one from whose tongue and hand Muslims are safe",
(hadeethenc.com/ar/browse/hadith/10101)

4. **The Prophet's ﷺ Command to Kill Harmful Creatures:**
The Prophet Muḥammad ﷺ instructed the killing of harmful creatures such as snakes and others.

Additionally, there are many other evidences supporting this principle.

Issue Two: Prohibition of Self-Harm

Allah has entrusted human life as a sacred trust, and it is obligatory for a Muslim to choose what is most beneficial and suitable for themselves (Al-Haythami, 1358 AH, p. 267).

Similarly, wealth is also a trust from Allah, and it is impermissible to squander or corrupt it unlawfully. The preservation of life and wealth is a divine right, not a personal one. The sanctity of life, intellect, and physical well-being belongs to Allah, not to the individual, which is why a person does not have the authority to forfeit these blessings (Al-Shatibi, n.d., 2/376).

If Allah grants a person life, a sound body, and a rational mind—through which they fulfill their religious and worldly obligations—it is not permissible for them to forfeit these gifts. Whenever a ruling involves both divine rights and individual rights, a person may not relinquish their personal right if doing so results in the violation of Allah's right.

Thus, no one has the right to take their own life, harm any part of their body, or waste their wealth. Severe warnings have been issued against

suicide. The consumption of alcohol is prohibited because it temporarily impairs the intellect—how much worse, then, is an act that permanently destroys it? The reckless spending of wealth is also forbidden, as the Prophet ﷺ prohibited the waste of resources. All of this indicates that even if something is considered an individual right, it does not necessarily mean one has absolute freedom over it (Al-Shatibi, 2/323; Al-Qarafi, n.d., 2/140; Alldurayny, p. 284).

The Prophet Muhammad ﷺ said:
 "مَنْ تَرَدَّى مِنْ جَبَلٍ فَقَتَلَ نَفْسَهُ فَهُوَ فِي نَارِ جَهَنَّمَ يَتَرَدَّى فِيهِ خَالِدًا مُخَلَّدًا فِيهَا أَبَدًا. وَمَنْ تَحَسَّى سُمًّا فَقَتَلَ نَفْسَهُ فَسُمُّهُ فِي يَدِهِ يَتَحَسَّاهُ فِي نَارِ جَهَنَّمَ خَالِدًا مُخَلَّدًا فِيهَا أَبَدًا. وَمَنْ قَتَلَ نَفْسَهُ بِحَدِيدَةٍ فَحَدِيدَتُهُ فِي يَدِهِ يَجَأُ بِهَا فِي بَطْنِهِ فِي نَارِ جَهَنَّمَ خَالِدًا مُخَلَّدًا فِيهَا أَبَدًا." (Al-Bukhari, 79/55/5442).

This Hadīth means: "Whoever throws himself from a mountain and kills himself will be in Hellfire, falling down into it and abiding therein eternally forever; whoever drinks poison and kills himself will be carrying his poison in his hand and drinking it in Hellfire, wherein he will abide eternally forever; and whoever kills himself with a piece of iron will be carrying his piece of iron in his hand and stabbing his abdomen with it in Hellfire wherein he will abide eternally forever." (hadeethenc.com/en/browse/hadith/66204)

Suicide may occur either deliberately or indirectly by causing oneself harm, and both forms are strictly prohibited in Islam.

In conclusion, it is impermissible for a Muslim to expose themselves to the risk of illness or injury in any form. This exposure may occur by engaging with harmful causes, neglecting preventive measures, or failing to maintain their health properly.

Islam has provided clear guidance on this matter and has mandated several obligations, including:

1. Ensuring a Healthy Lifestyle:

- A Muslim must adopt beneficial health practices, such as consuming nutritious food in moderation, maintaining a balanced diet, engaging in physical activities that preserve bodily well-being, and ensuring proper care and rest for the body and its organs.

2. Taking Preventive Measures Against Diseases:

- This includes avoiding sources of illness, such as engaging in adultery, homosexuality, consuming intoxicants, and using drugs—anything that alters the mind. Allah says:

[وَلَا تَقْرُبُوا الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَنَ] (Al-An'am, 151)

This Ayah means: "come not near to Al-Fawâhish (shameful sins, illegal sexual intercourse) whether committed openly or secretly". (Hilali_Khan, p 196)

- Preventive measures also involve avoiding contact with individuals suffering from contagious diseases.
- Vaccination is also considered a valid preventive measure against infectious diseases.

3. Seeking Treatment When Sick:

- The Prophet ﷺ said: (تَدَاوُوا، فَإِنَّ اللَّهَ لَمْ يَضَعْ دَاءً إِلَّا وَضَعَ لَهُ شِفَاءً-أَوْ...)... (At-Tirmidhi, 2038)

This Hadith means: "Seek treatment, for Allah has not created a disease without also creating its cure—except for one disease. They asked, O Messenger of Allah, what is it? He replied, Old age.

In the field of health, Islamic law strictly prohibits any form of self-inflicted harm, whether intentional or accidental. A person is not permitted to wound themselves, amputate a limb, or cause bodily harm in any other way. If they do so, they may face disciplinary punishment in addition to incurring sin.

Since it is forbidden for a person to harm themselves, it is also prohibited for others to assist them in committing such an act (Oudah, 1984, 1/447-448).

Even in religious worship, Islam does not permit self-harm or unnecessary hardship under the pretext of drawing closer to Allah. As Al-Izz Ibn Abdussalam stated, excessive hardship in worship is not permissible (Al-Izz, n.d., 1/26-29-33-34).

In the financial domain (Al-Khatib, 1976, p. 135), Islam has legislated **legal guardianship (ḥajr)** over the **safih** (financially irresponsible person). Allah says:

« [وَلَا تُؤْتُوا السُّفَهَاءَ أَمْوَالَكُمُ الَّتِي جَعَلَ اللَّهُ لَكُمْ قِيَامًا وَارْزُقُوهُمْ فِيهَا وَاكْسُوهُمْ وَقُولُوا لَهُمْ قَوْلًا مَعْرُوفًا] , (An-Nisā': 5).

This Ayah means: And give not unto the foolish your property which Allâh has made a means of support for you, but feed and clothe them therewith, and speak to them words of kindness and justice. (Hilali_Khan, p 106-107)

This ruling is meant to protect the individual's wealth from being wasted due to recklessness, frivolity, or madness, which could set a

negative example for others in misusing wealth and directing it toward harmful ends.

If a person is excessively wasteful and consistently mismanages their wealth in an unusual and irrational manner, they must be restrained through legal guardianship (**ḥajr**). However, they are still entitled to receive an allowance from their wealth to meet their essential needs, in a manner that aligns with their financial capacity and social status.

Wealth in the hands of an individual is not solely their personal property; rather, it is also part of the collective wealth of society and represents a vital force in the nation's economic stability. If individuals recklessly squander wealth and financial irresponsibility becomes widespread, the economic foundation of the nation will weaken, undermining one of its strongest pillars—**wealth**.

Furthermore, this Islamic ruling serves as a wise educational measure and a practical governmental approach to managing and safeguarding public funds, whether within individual wealth or the public treasury (**Bayt al-Māl**).

Mismanagement of wealth can take various forms: it may involve mishandling liquid assets, misusing machinery and equipment, or recklessly operating transportation means, among other things. To protect both private and public wealth, as well as human lives, a **safih** is prevented from financial transactions. If a **safih** is prohibited from managing their personal wealth, then how much more necessary is it to prevent them from managing public funds, particularly when their actions could endanger lives and national assets?

Issue Three: Prohibition of Harming Others

Harming others includes causing harm to one's family as well as to the broader society.

A- Harming Family Members (Parents, Children, Husband, and Wife)

Allah has commanded kindness toward parents. He says: [وَوَصَّيْنَا الْإِنْسَانَ بِوَالِدَيْهِ إِحْسَانًا] (Al-Ahqaf: 15).

This Ayah means: "ALLAH had enjoined on man to be dutiful and kind to his parents". (Hilali_Khan, p 106-107)

Neglecting their health, which preserves their well-being, contradicts this kindness.

Islam has also commanded parents to care for their children and has enjoined both spouses to treat each other with kindness. The Prophet Muḥammad ﷺ said:

"اسْتَوْصُوا بِالنِّسَاءِ خَيْرًا" (Al-Bukhari, 64/2/3153, Muslim, 17/18/60).

This Hadīth means: "I advise you to treat women kindly". (hadeethenc.com/ar/browse/hadith/3049)

Thus, neglecting the rights of parents, spouses, or children—especially in matters related to their health and protection from illness—is prohibited in Islam.

The Prophet Muḥammad ﷺ said: "كفى بالمرء إثماً أن يضيع من يقوت" (Abu Dawood, 9/1692).

This Hadīth means: It is sufficient sin for a man that he neglects him whom he maintains. (sunnah.com/abudawud/9)

Based on this, an individual is responsible for their family's well-being in the following ways:

1. Taking all necessary precautions to protect them from diseases, including keeping them away from sources of infection and ensuring they receive necessary vaccinations.
2. Ensuring a healthy lifestyle by providing good nutrition, encouraging moderation, and promoting physical activities that maintain their well-being.
3. Seeking medical treatment for them when they fall ill.

B- Harming Society at Large

Harming others is strictly prohibited, as indicated by numerous pieces of evidence, including:

- Allah says: [وَالَّذِينَ يُؤْذُونَ الْمُؤْمِنِينَ وَالْمُؤْمِنَاتِ بَغْيٍ مَا اكْتَسَبُوا فَقَدْ احْتَمَلُوا بُهْتَانًا وَإِثْمًا مُّبِينًا] (Al-Ahzab: 58).

This Ayah means: And those who annoy believing men and women undeservedly, they bear (on themselves) the crime of slander and plain

sin. (Hilali_Khan, p 570)

- The Prophet Muḥammad ﷺ said: "تَكْفُ شَرِّكَ عَنِ النَّاسِ فَإِنَّهَا صَدَقَةٌ مِنْكَ عَلَى نَفْسِكَ" (Muslim, 1/36/136).

This Hadīth means: Desist from doing mischief to the people. That is the charity of your person on your behalf. (sunnah.com/muslim/1)

- The Prophet Muḥammad ﷺ also said: "المسلم: من سلم المسلمون من لسانه ويده" (Al-Bukhari 2/3/10, Muslim, 1/14/65).

The prohibition against harming others is even more emphasized when it comes to neighbors. Abu Huraira ؓ narrated that the Prophet

ﷺ said:

"مَنْ كَانَ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ فَلَا يُوْذِي جَارَهُ" (Al-Bukhari, 70/80/4890, Muslim, 1/19/75).

This Hadīth means: he who believes in God and the last day should not annoy his neighbour. (sunnah.com/mishkat:4243)

For this reason, it is not permissible for a Muslim, for example, to smoke in a closed space—such as a vehicle, an airplane, or a cabin—since this harms all those around him and exposes them to the dangers of this harmful substance. Even if smoking alone is prohibited because it endangers one's own health, it is even more strictly forbidden when it affects others. A fellow passenger on a plane is a neighbor, people in public places are neighbors, and even family members within the household are considered neighbors in this context.

Similarly, one must not dispose of household waste in a manner that harms neighbors and passersby, nor should a factory owner discharge pollutants into a river, as both actions fall under the category of causing harm.

The Prophet ﷺ forbade all forms of harm and ordered that all necessary precautions be taken to prevent it. He said: "مَنْ مَرَّ فِي شَيْءٍ مِنْ مَسَاجِدِنَا أَوْ أَسْوَاقِنَا بِنَيْلٍ فَلْيَأْخُذْ عَلَى نَصَالِهَا لَا يَعْزُرَ بِكَفِّهِ مُسْلِمًا" (Al-Bukhari, 11/34/441).

This Hadīth means: "Whoever enters our mosque or passes through our market with arrows with him, he should hold them by their heads lest it should injure any of the Muslims", (sunnah.com/riyadussalihin:223)

Section Two: Legal Maxims of Harm in Islamic Jurisprudence

Islamic jurisprudence establishes principles that regulate harm in terms of its prevention, removal, and balancing between harms when they occur simultaneously.

These rules serve as a guide for believers in their daily lives, helping them navigate situations involving harm in accordance with Islamic teachings by choosing the lesser harm when necessary.

These Legal Maxims are studied and explained within the broader framework of Islamic legal maxims, both general and specific, and scholars have written extensively on this subject.

Among the relevant rules concerning harm are the following:

First Maxim: "No Harm and No Reciprocating Harm"

This maxim is derived from a hadith recorded by Imam Al-Nawawi in his collection *Al-Arba'in (The Forty Hadith)*, where he stated: "It is a good hadith (*ḥasan*), narrated by Ibn Majah, Al-Daraqutni, and others with a connected chain. It was also reported by Malik in

Al-Muwatta' in a mursal form on the authority of 'Amr ibn Yahya from his father, from the Prophet ﷺ, omitting Abu Sa'id. However, its various chains strengthen one another." Al-Hafiz Ibn Rajab affirmed this assessment after reviewing its different chains of narration. He also cited Ibn Al-Salah, who held a similar view (*Ibn Rajab, 1408 AH, pp. 285-286*).

Imam Al-Shawkani emphasized the importance of this maxim, stating: *"It is a fundamental principle of the religion, supported by both universal and specific legal evidences"* (*Al-Shawkani, 1973, 5/261*).

This maxim is one of the pillars of Islamic law and is corroborated by numerous texts from the Qur'an and Sunnah. It serves as the basis for prohibiting harmful actions and establishing legal consequences, including financial compensation and punitive measures. Additionally, it supports the principle of *istislah* (public interest) in promoting benefits and preventing harms. It is a crucial tool for jurists, guiding them in formulating legal rulings for emerging issues.

The wording of this maxim categorically negates harm, thereby mandating its absolute prohibition. This includes both public and private harm, as well as the obligation to prevent harm before it occurs through available preventive measures. Furthermore, it requires the removal of harm after its occurrence through appropriate remedies to eliminate its effects and prevent recurrence. Consequently, the application of lawful punishments upon criminals does not contradict this maxim, even if it results in harm to them, as it upholds justice and prevents greater and more widespread harm (*Al-Burno, 1983, p. 78*).

Ḍarar (harm) refers to causing harm to others for one's own benefit, whereas *Dirār* (reciprocating harm) refers to inflicting harm on others without any personal gain, such as preventing someone from benefiting from something that does not harm the preventer but causes harm to the prevented party (*Ibn Abdul Barr, 1387 AH, 2/158-159*).

The Second Maxim: "Harm Must Be Removed as Much as Possible"

This maxim means that harm must be prevented by all possible means according to Islamic law. If harm can be completely avoided, it must be; otherwise, it should be minimized to the greatest extent possible (*Al-Burno, p. 80*).

This principle emphasizes the necessity of preventing harm before it occurs by all available means, in line with the legal principle of *masalih mursalah* (unrestricted public interest) and *siyasa shari'ah*

(Islamic governance). It aligns with the notion that *prevention is better than cure*, applied according to one's capability, as Islamic legal obligations are tied to one's ability to fulfill them.

- **In public interests**, jihad has been legislated to repel the harm of enemies, punishments have been prescribed to suppress crime and maintain security, and blocking the means to corruption in all its forms has been mandated.
- **In private interests**, the right of *shuf'ah* (preemptive buying) has been prescribed to prevent potential harm to a partner, and legal interdiction (*hajr*) has been established on a spendthrift to prevent the harm of financial mismanagement.

Ahmad Al-Zarqa stated: *"Harm must be removed as much as possible; if it can be eliminated completely, then that is required. Otherwise, it should be reduced to the extent possible. If it involves compensatory matters, then compensation must be provided for the harm done"* (Al-Zarqa, 1983, p. 153).

He illustrated this with the example of a usurped item: if the item is intact, it must be returned; otherwise, it must be replaced with an equivalent or its monetary value.

Thus, he considers this maxim to be a **restriction** on the broader maxim *"Harm Must Be Removed"*, indicating that the focus is not necessarily on preventing harm before it occurs, but on mitigating it afterward.

Expected harm must be prevented, whether it arises from an act that is originally lawful or unlawful. Likewise, it must be prevented whether it is intentional—based on indications and evidence—or unintentional. Any action that is likely to lead to *overriding harm*, either certainly or probabilistically, must be stopped. This principle forms the basis of *Sadd Al-Dhara'i* (blocking the means to harm) (Alddurayny, pp. 231-232).

The Third Maxim: "Harm Must Be Removed"

This maxim emphasizes the necessity of eliminating harm and alleviating its effects after it has occurred (Al-Burno, pp. 81-82; Al-Zarqa, p. 125; Alddurayny, p. 227).

Among its applications is the removal of harm caused by someone directing their water spout onto a public road, thereby disturbing pedestrians. Similarly, if a person encroaches upon a public pathway by constructing a structure or digging a drain, such actions must be rectified.

Additionally, Islamic law has prescribed *khiyar al-ghabn* (option of rescission due to price deception) and *khiyar al-'ayb* (option of rescission due to defect) to remove harm inflicted upon one of the contracting parties.

At times, removing harm requires balancing competing harms, as eliminating one harm may lead to another. In such cases, a conflict arises that necessitates prioritization (*Alddurayny, p. 228*). This occurs when the harm to be removed or prevented conflicts with another harm resulting from its removal. Jurists have formulated principles to address such situations, stating that if the harm in question is public or private, different rules apply. If it is private, it must be assessed whether it is greater, lesser, or equal, with each scenario having its own legal ruling. However, if the harm is public, it must be prevented outright.

Several legal maxims have emerged from this principle, including:

- *"A private harm is endured to prevent a public harm."*
- *"A greater harm is removed by enduring a lesser harm."*
- *"When two harms conflict, the lesser harm is committed to avoid the greater one."*
- *"Preventing harm takes precedence over acquiring benefits."*

These will be elaborated upon shortly, God willing.

These maxims rely on balancing the benefits of a legally permissible action for its doer against the harm it may cause to them or others, whether individuals or the community (*Al-Burno, p. 233*). If an action yields no benefit to its doer, then these maxims apply even more strictly.

Applying this maxim necessitates removing anything that endangers public health and well-being. For instance, individuals suffering from leprosy may be prohibited from accessing shared water sources (*Ibn Al-Qayyim, p. 306*).

This maxim is applicable across all aspects of life. In **urban planning**, for example, if harm can only be eliminated by expanding a road to twenty cubits or more, this becomes necessary. The width prescribed by the Prophet ﷺ was not meant as a fixed limit but rather as a guideline to ensure harm is removed.

Abu Hurairah رضي الله عنه reported:

عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ قَالَ قَالَ رَسُولُ اللَّهِ ﷺ إِذَا تَشَاجَرُوا فِي الطَّرِيقِ بِسَبْعَةِ أَدْرُعَ (Al-Bukhari, 51/30/2341).

This Hadīth means: he Prophet (ﷺ) judged that seven cubits should be left as a public way when there was a dispute about the land. (sunnah.com/bukhari:2473)

The Fourth Maxim: "A Greater Harm is Removed by Enduring a Lesser Harm"

This maxim means that if an action results in greater harm than the harm caused by prohibiting it, then the action must be prevented, as refraining from it entails a lesser harm.

It is mentioned in the hadith of Samura (τ), where the Prophet ﷺ ruled that his date palm should be uprooted because its presence was causing harm to the owner of the orchard. The Prophet ﷺ initially proposed various solutions aimed at reconciliation and compensation between the two parties. However, when *Samurah* refused, the Prophet ﷺ ordered the tree to be removed, as keeping it would have caused greater harm than cutting it down. The ruling was based on the principle of preventing harm (*Alddurayny*, pp. 233-234).

Ibn Al-Qayyim ρ affirmed this principle, stating: *"The harm caused to the orchard owner by keeping the tree is far greater. The wise legislator removes the greater of two harms by enduring the lesser one. This is true jurisprudence, sound reasoning, and a matter of public interest, even if some may object to it."* (*Ibn Al-Qayyim*, 1999, p. 233).

The Fifth Maxim: "A Private Harm is Endured to Prevent a Public Harm"

This maxim means that if an individual's legally permissible action benefits them or protects them from harm but results in public harm—whether to the Muslim community as a whole, a specific region, a town, or a significant group of people—and this harm is likely to occur, then the individual must refrain from such an action. In this case, they must bear the private harm to prevent a greater public harm (*Alddurayny*, p. 235; *Al-Burno*, p. 84; *Al-Zarqa*, p. 143).

The evidence for this maxim comes from an inductive study of Islamic legal rulings, including the Prophet's ﷺ prohibition of hoarding essential goods (*iḥtikār*), intercepting goods before they reach the market (*talaqqī al-rukbān*), and a local resident selling on behalf of a non-resident trader (*bay' al-ḥāḍir lil-bādī*), among other examples.

Applications of This Maxim:

- **Legal interdiction (*al-Ḥajr*) on a spendthrift** who irrationally manages their wealth. This prevents harm to themselves first, then to those who depend on them, and to others they transact with.

- **Expropriation of private property** (such as a house or land) to expand a mosque, build a hospital, or construct or widen a public road when required for the public good. This must be done with fair compensation to balance both rights as much as possible (*Al-Shātibī*, 2/350; *Alddurayny*, pp. 236-237).

The Sixth Maxim: "Preventing Harm Takes Precedence Over Acquiring Benefits"

Meaning of the Maxim:

If harm (mafsadah) and benefit (maslahah) are in conflict, preventing harm takes precedence unless reconciliation is possible (*Al-Burno*, p. 85; *Al-Zarqa*, p. 151; *Alddurayny*, p. 238).

Origin of the Maxim:

This principle is derived from the saying of the Prophet ﷺ:

(دَعُونِي مَا تَرَكْتُكُمْ، إِنَّمَا هَلَكَ مَنْ كَانَ قَبْلَكُمْ بِسُؤَالِهِمْ وَاخْتِلَافِهِمْ عَلَى أَنْبِيَائِهِمْ. فَإِذَا تَهَيَّئْتُكُمْ عَنْ شَيْءٍ فَاجْتَنِبُوهُ، وَإِذَا أَمَرْتُكُمْ بِأَمْرٍ فَأَتُوا مِنْهُ مَا اسْتَطَعْتُمْ). (*Al-Bukhari*, 99/2/68/58, *Muslim*, 10/73/73)).

This Hadīth means: The Prophet (ﷺ) said, "Leave me as I leave you, for the people who were before you were ruined because of their questions and their differences over their prophets. So, if I forbid you to do something, then keep away from it. And if I order you to do something, then do of it as much as you can." (sunnah.com/bukhari:7288)

Implication of the Hadith:

The Prophet ﷺ **conditioned obedience to commands on ability**, whereas he **categorically prohibited disobedience to prohibitions**, except in cases of necessity. This demonstrates that avoiding prohibitions is given priority over fulfilling obligations when they are in conflict.

Scope of the Maxim:

This maxim applies **when a significant harm outweighs a benefit**. However, if the **harm is negligible** compared to the **substantial benefit** resulting from an action, then **pursuing the benefit is prioritized** (*Alddurayny*, p. 239).

Conclusion

This study has led to the following findings:

- Islamic law strictly prohibits causing harm to oneself or others by any means. It also warns against negligence and failing to take precautions that may result in harm to life or property.
- Just as Islamic law forbids initiating harm, it also mandates its removal once it occurs. This includes preventing its

continuation, eliminating its effects, restoring what was damaged, and compensating for any losses.

- Islamic law has established a comprehensive framework for addressing harm, both in terms of specific rulings and general legal maxims derived from them.
- These maxims indicate that Islam integrates both prevention and remedy in dealing with harm.

Recommendations

The researcher recommends further exploration of the Islamic approach to addressing contemporary harms in all their forms, both in terms of legal rulings and jurisprudential principles.

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