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The Necessity of Preventing Harm as Much as Possible
(A Comparative Study in Hanafi and Ja'fari Jurisprudence)

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Abstract

The necessity of preventing harm to the extent of one's ability is a rational, religious, and comprehensive principle applied across all branches of Islamic jurisprudence, including acts of worship and transactions. The ruling to avoid harm as much as possible or to minimize it when complete prevention is difficult is not only a rational command but also supported by Qur'anic and hadith evidence and is among the principles recognized by various schools of Islamic law. This rule serves as a secondary and supplementary foundation to many other jurisprudential principles, particularly those concerning the obligation to remove harm. It also functions as a moral and legal criterion for defining the boundaries of responsibility. The main idea is that every person—whether as an individual, ruler, or responsible institution—is religiously and rationally obligated to prevent harm to the extent of their capability. However, they are not accountable for harm that they cannot avert. The necessity of preventing harm within the limits of one's ability has widespread applications in all fields, such as legitimizing preventive measures to stop the spread of diseases, protecting society from harm, promoting positive social conduct and preventing aggression, drafting occupational safety laws, and preventing construction that harms neighbors. Although the explicit meaning of the rule indicates the obligation to prevent harm as much as possible, its implicit meaning also includes removing existing harm, observing the degrees of harm, and preventing harm through the easiest possible means.

Keywords: *Prevention; Harm; Capability; Necessity; Extent*

Introduction

The principle of "the necessity of preventing harm as much as possible" is grouped under several related jurisprudential principles, such as "the obligation to remove harm," "the permissibility of prohibited acts in cases of necessity," "the priority of preventing harm over achieving benefit," and "committing the lesser harm when faced with two evils." These are considered complementary and subsidiary rules under the general maxim of "no harm and no harming" (lā zarar wa lā zirār).

Despite its secondary nature, this rule has been explicitly discussed as an independent principle in Majallat al-Aḥkām al-'Adliyyah (The Ottoman Civil Code). It establishes that in cases where harm is

likely or certain, one must prevent it as much as possible. When multiple means of prevention are available, the easiest method should be chosen.

Given the rule's applications in various legal and ethical matters and its significant role in defining the responsibility of the obligated person (mukallaf), it is necessary to analyze it carefully and clarify its position within jurisprudential reasoning. Because of its subsidiary nature and its placement under broader principles, it has often received less attention, and authors have seldom discussed it independently.

This study seeks to review the rational and religious foundations of the rule, its complementary nature, its relationship with other comprehensive maxims, and its textual and rational evidences. It also aims to explore practical applications of the obligation to prevent harm to the extent possible, even in brief form.

1. Vocabulary of the Rule

Before explaining the content and implications of the rule, it is necessary to define some of its key terms according to the traditional linguistic approach.

1-1) The term "Daf' " (Prevention):

The word daf'—derived from the Arabic root dāl, fā', 'ayn—means to repel, push away, remove, or set aside. Lexicographers such as Ibn Fāris and Rāghib define it as "repelling, rejecting, or keeping away." Some also include meanings such as "destroying, eliminating, or nullifying with force and intensity." In various contexts, daf' has been used to mean "to ward off," "to refute a statement," or "to come to an end." In summary, the comprehensive meaning relevant to this rule is "prevention and rejection."

1-2) The term "Zarar " (Harm):

The word zarar , the opposite of benefit, means loss, damage, hardship, poverty, deficiency, or distress. It can also refer to harm or injury in any form. Scholars commenting on the maxim lā zarar wa lā zirār interpret zarar as any form of hurt, damage, or suffering—whether material or spiritual.

1-3) Qadr (Extent or Measure)

Among the Arabic words used in the rule is "Qadr" (قَدر), derived from the three letters qāf, dāl, and rāʾ. It means measure, degree, and limit, signifying the boundary, amount, depth, or utmost degree of something. When it is said "the qadr of a thing," it means the amount or limit of that thing (Ibn Fāris, 1404 AH, Vol. 5, p. 63). The term qadr—whether pronounced with a sukun or fatḥa on the dāl—means the extent, amount, or degree of something. In the Qur'anic verse "They have not appraised Allah with true appraisal" (Qur'an 6:91), it means that they have not given Allah the level of reverence, honor, and glorification He deserves (Jawharī, 1376, Vol. 2, p. 786). Similarly, in the verse "Let the wealthy man give according to his means and the poor man according to his means" (al-Baqarah 2:236), qadr refers to one's capacity — the rich give according to their ability, and the poor according to theirs (Azharī, 1421 AH, Vol. 9, p. 38).

1-4) Imkān (Possibility or Capability)

The word imkān means feasibility, practicability, ability to perform something, capacity, or power. In Arabic, when it is said "makkana al-amr fulānan" or "li-fulān", it means the matter was made easy for someone, or that he was able to accomplish it. The phrase "fulān lā yumkinuhu an-yahduth" means "he is unable to rise." "Yumkin an ya'ti" means "it is possible that he may come." The phrase "akthar mā yumkin" means "as much as possible," and "al-mumkin" refers to what is possible, probable, or achievable. "Ghayr mumkin" means "impossible," and "bi-qadr aw ʿalā qadr al-imkān" means "to the extent of one's ability" (Bustānī, 1375, p. 133).

2. Meaning of the Rule

The meaning of the mentioned rule — "the obligation to prevent harm to the fullest extent possible using all available means and tools" — is that a Muslim must, while considering the existing religious guidelines in the Qur'an and Sunnah and understanding his own circumstances and abilities, exert effort to prevent harm. If he cannot completely remove the harm, he must at least strive to prevent it as much as possible. Beyond this, he bears no responsibility.

This rule applies both to individuals and to governments; therefore, it is obligatory upon both to prevent harm to the extent of their ability. Naturally, capacities differ — a person without authority does not have the same ability as one who possesses power. In short, the rule implies that the obligation to prevent harm applies to whoever is capable of doing so within their means (Ḥusayn, Bī-tā, Vol. 1, p. 12).

Some scholars explain the rule as follows: "Preventing harm is religiously obligatory if it can be done without causing another harm; otherwise, one must prevent harm to the extent possible." Hence, the rule indicates that harm should be prevented before it occurs, using all available means and in accordance with the principles of maṣāliḥ mursalah (public interest) and siyāsah sharʿiyyah (Islamic legal policy) (Abū Ḥārith, 1416 AH, Vol. 1, p. 256; Zarqā, 1425 AH, Part 1, p. 992).

The distinction between this definition and the previous one lies in two emphasized points:

1. The necessity of preventing harm before it occurs, and
2. Its connection to the principle of public interest (maṣāliḥ mursalah).

In some sources of Hanafi jurisprudence, the meaning and implication of this rule are stated as follows: Since harm is considered an evil (mafsadah), removing it when it occurs is obligatory — just as preventing it before it happens is obligatory. This is because the continuation of harm leads to the persistence of corruption (mafsadah). The Sharīʿah gives greater importance to removing corruption than to achieving benefit. Therefore, the substance of the rule is that preventing and removing harm to the extent possible is obligatory. If it is possible to remove harm completely, then full removal is obligatory; but if complete removal is not possible, one must still minimize it as much as possible (Abū Ḥārith, 2007 CE, p. 259; Zarqā, 1409 AH, p. 207).

The most significant distinction between this definition and the earlier ones lies in its emphasis on the two terms "dafʿ" (prevention) and "rafʿ" (removal). Based on this, the obligation to address harm is not limited to before its occurrence — rather, both prevention (dafʿ) and removal (rafʿ) of harm are obligatory to the extent possible. This reflects the generality of the principle: the obligation to eliminate harm applies both before (preventing) and after (removing) its occurrence, as far as possible.

Furthermore, in addition to the comprehensiveness of this rule — covering both preventing and removing harm — the phrase "to the extent possible" implies not only using one's utmost ability but also considering the degree and level of harm. Thus, when harm can be removed through simple means, one should not resort to more dangerous or extreme measures. "To the extent possible" means that eliminating harm by any effective means suffices. This will become clearer through examples: if a person is attacked by a thief, he should first defend himself using a stick. If this is insufficient, then he may use a sword to repel the danger — and so forth.

In Imami (Shiʻa) jurisprudence, the rule "the necessity of preventing harm to the extent possible" has been invoked in many instances, though not formally treated as an independent jurisprudential maxim. This may be because its rational and textual foundation is so clear that scholars saw no need to elaborate on it. From their perspective, preventing harm to the extent possible is not merely permissible but both a rational and religious obligation — whether concerning one's own life, another's life, or property. As will be discussed later, both general and specific transmitted (naqlī) proofs indicate that Imami jurists accept this rule. The reason it is not often listed independently as "the

obligation to prevent possible harm" may be that it is encompassed within the broader principle of "lā zarar wa lā zirār" (no harm and no harming). Indeed, some Shi'a jurists explicitly state that the rule of "preventing harm to the extent possible" and related principles — such as "need is like necessity," "rights are not nullified due to compulsion," and "the permissibility of committing prohibitions in cases of necessity (only to the extent required)" — all fall under the comprehensive maxim of "no harm" (Āl Kāshif al-Ghiṭāʾ, 1422 AH, Vol. 1, p. 144).

3. Other Expressions of the Rule

The rule under discussion, apart from the previously mentioned expression, has also been stated in other phrases and terms, such as: "Harm is rejected as much as possible," or "Harm is rejected in the Sharia" (Āl Kāshif al-Ghita', 1422 AH, Vol. 1, p. 144). However, the most common formulation is the one mentioned at the beginning, which is: "The obligation to prevent harm as much as possible." This same expression is also mentioned in the text of *Al-Majallah* (the Ottoman Civil Code).

4. Evidence and Sources of the Rule

The rule of "the obligation to prevent harm as much as possible" is one of the agreed-upon legal maxims. Its validity is supported by evidence from the Qur'an, the Sunnah, and reason—especially since this rule is considered a subsidiary or complementary principle derived from the rule of "No harm and no harming (lā zarar wa lā zirār)". Therefore, the evidences of the rule of "negation of harm" can also establish this rule. Nevertheless, specific proofs have been presented for this particular rule, as follows:

4-1) The Qur'an: The Obligation of Military Preparedness among Muslims.

The Qur'anic verse cited is: "And prepare against them whatever you can of force and of steeds of war, by which you may terrify the enemy of Allah and your enemy..." (Al-Anfāl 8:60). The apparent meaning of the verse is: "Prepare, as much as you are able, all forms of power and military strength to frighten the enemies of Allah and your enemies." The reasoning from this verse is that God commands believers to employ all possible strength and means to repel the harm of the enemies, so that they fear attacking or overpowering the Muslims (Ḥusayn, n.d., p. 256).

In Shi'a exegesis, this verse is understood as a universal directive to all believers, obligating them to make necessary military preparations according to their capability. The phrase "to frighten the enemy of Allah" clarifies that the purpose of such readiness is defensive—to protect the Islamic community and its vital interests. Displaying readiness and strength itself instills fear in the enemy, which constitutes a form of defense (Mūsavī, 1374 SH, Vol. 9, pp. 152–154).

4-2) The Sunnah

4.2.1) The Obligation of Enjoining Good and Forbidding Evil

In an authentic hadith, the Prophet (peace be upon him) said: "Whoever among you sees an evil, let him change it with his hand; if he cannot, then with his tongue; and if he cannot, then with his heart—and beyond that there is not even a mustard seed's weight of faith." The reasoning here is that the Prophet (pbuh) guides believers to use every possible level of power to prevent the harm of evil—by hand, speech, or heart—thus making the prevention of harm obligatory to the extent of one's ability (Ḥusin, n.d., p. 256).

In Shi'a jurisprudence, this same hadith is cited as a basis for the legitimacy of *ḥisbah* (public duty), even with slight variations in wording. From this narration, one may deduce both the levels of enjoining good and the various possible means to prevent harm (Hāshimī Shahrūdī, 1432 AH, Vol. 7, p. 334).

4.2.2) Prevention of Disease

Another hadith from the Prophet (pbuh) says: “Do not bring a sick (infectious) animal near a healthy one.” This hadith establishes the principle of prevention and protection from harm caused by disease, which reflects the obligation to prevent harm as far as one is able.

Shi’a jurists have emphasized this in many rulings—for example, in the fifth condition of child custody, they stipulate that the mother must be free from chronic or contagious diseases, citing this hadith. Thus, preventing harm as much as possible is obligatory (Anṣārī, 1415 AH, Vol. 12, p. 435).

4.2.3) The Prophet’s Command to Seek Treatment

Another cited hadith is the Prophet’s command: “Seek treatment, O servants of Allah.” The purpose of this instruction is to prevent anticipated or potential harm (Jum‘ah, 1440 AH, p. 78).

4.2.4) Facing a Thief

Shi’a legal sources also include narrations permitting (and obligating) self-defense of life, property, and honor to the extent possible. For instance, in the narration of Ghayāth ibn Ibrāhīm from Imam Ja‘far (a), from his father (a), the Imam said: “If a thief enters your home intending harm to your family or property, and you are able to strike him first, then do so. The thief is at war with Allah and His Messenger—kill him, and the sin is on me.” This narration establishes that repelling harm, if possible, is not only permissible but obligatory—both rationally and textually. Defending the life, property, and honor of oneself or others also falls under enjoining good and forbidding evil. However, it must be done according to the principle of least harm—one must not go beyond the minimum necessary. For example, if harm can be prevented simply by shouting for help, one should not go further to curse or strike the thief (Muqaddas Ardabīlī, n.d., Vol. 13, pp. 300–301; Collective Scholars, 1423 AH, Vol. 3, p. 199).

4.2.5) Narrations on the Legitimacy of *Taqiyyah* (Dissimulation)

Another textual evidence is the narrations on the legitimacy of *taqiyyah*. Imam Hasan (a) said: “Taqiyyah is permissible for the believers until the Day of Resurrection.” Al-Rāzī, in his *Tafsīr al-Kabīr*, after quoting this, stated that such a concept is proper regarding protection from disbelievers, since preventing harm to oneself as much as possible is obligatory. Among the Imāmiyyah, *taqiyyah* is considered not just permissible but among the necessities of the faith (Anṣārī, 1415 AH, Vol. 10, p. 136).

4.2.6) The Story of Samurah ibn Jundub

From the story of Samurah, it is evident that the only possible way to prevent harm was to uproot and remove the tree. Therefore, preventing harm to the extent possible is obligatory.

This is because there were several potential solutions to eliminate the harm:

1. Samurah could have entered the man’s house "with permission";

2. The ruling could have been enforced "by authority and power", for example, by placing a "guard or officer" at the door to prevent Samurah from entering without consent;

3. Samurah could have been "imprisoned or detained" until he pledged not to enter the house without permission;

4. The "fourth solution" was to "uproot and remove the tree" altogether.

Samurah rejected the first solution (entering with permission). The second and third solutions were not feasible due to the "nascent state of the government" at that time. Thus, the "only viable way to prevent the harm" was the fourth—uprooting the tree.

The Prophet (peace be upon him) himself sought remedies and evaluated the various possible solutions, proposing them to Samurah; but due to Samurah’s stubbornness, none of the proposed solutions were accepted.

Furthermore, in that era and under those circumstances, the Prophet (peace be upon him) was not only responsible for issuing religious rulings (fatwas) but also for "judgment and the execution of laws". Implementation and enforcement of the law, to the extent possible, were among the duties of the judiciary. Since all other options had been closed off by Samurah, the "only remaining solution" was to "uproot the tree and throw it toward Samurah". (Subḥānī Tabrīzī, 1408 AH, p. 80).

4-3) Rational (Intellectual) Evidence

Without doubt, preserving one's life to the fullest extent possible and preventing even probable or potential harm to it is obligatory according to reason, without the need for explicit textual (Shar'i) instruction. This is self-evident to sound intellect: no rational person drinks deadly poison—if he did, he would be blameworthy for bringing about his own destruction. Likewise, a rational person avoids things that cause harm to all, whether or not there is an explicit religious command regarding them, and whether or not he knows the Shar'i ruling in that matter. Therefore, if someone intends to take another's life, it becomes obligatory upon the one threatened to defend himself, if possible. If he is unable to defend himself, he must flee, for flight is one of the rational manifestations of self-defense. The same applies to defending one's family or privacy (ḥarīm) if someone seeks to violate them, or defending one's relatives or fellow believers, provided one has the ability to defend and expects safety without likely harm to oneself (Khawājūʾī, 1418 AH, p. 30).

The rational basis of the principle "the necessity of preventing harm to the extent possible" has also been emphasized by Hanafi jurists, who, after mentioning the rule, cite as their first justification the maxim "prevention is better than cure" (Jum'ah, 1440 AH, p. 78; Zarqā, 1425 AH, p. 293).

In their view, all measures aimed at preventing epidemic and contagious diseases serve the purpose of preventing harm. Similarly, Islamic prohibitions of intoxicants, narcotics, and similar substances are intended to prevent harm (Zarqā, 1425 AH, p. 78; Zuhaylī, 1427 AH, p. 208).

Imami (Shi'i) jurists have likewise repeatedly affirmed the rational nature of this rule. As noted in the narrational evidence discussed earlier, they hold that preventing harm from oneself is not merely permissible but rationally and religiously obligatory (Muqaddas Ardabīlī, n.d., Vol. 13, pp. 300–301).

5. Applying Easier Solutions in Implementing the Rule

As previously mentioned, the phrase "to the extent possible" (ta ḥadd al-imkān) implies that one must exert maximum ability and capacity to prevent harm. However, this phrase also conveys another important meaning: if harm can be prevented through an easier and simpler means, it is not permissible to use a harsher or more difficult method. One must always choose the nearest and easiest way to prevent harm, and as long as the harm can be repelled by easier means, one should not move to more severe options.

This principle is recognized by both Imami and Hanafi jurists, and it is explicitly stated in many rulings. For instance, they say: if a thief attacks you, you should repel him to the extent of your ability. If he can be stopped with a stick, you are not allowed to draw a sword. Similarly, if a person has usurped and destroyed someone's property and it is no longer possible to return the item itself, the usurper must compensate in kind (if the property has equivalents) or in value (if it is unique). Another example: if a buyer discovers that the purchased item has a hidden defect that existed before the sale, he cannot annul the transaction entirely if returning the item is impossible; instead, he should reduce the loss as much as possible—that is, by requesting a price reduction equivalent to the defect (Ḥaydar, 1423 AH, Vol. 1, p. 42).

From the Imami perspective, if someone can prevent harm using an easier means but instead chooses a harder and more harmful way, that person bears liability, since they have exceeded the "limit of possibility." For example, if defending oneself from a tyrant's unjust seizure of a trust (wadī'ah) requires paying part of one's own wealth, one must suffice with paying only the amount necessary to avert harm.

If the person negligently allows the tyrant to seize all of it, he is liable for the excess amount beyond what was needed to stop the oppression. Likewise, if the oppressor would have been satisfied with half or one-third of the property but the person gave him more, he is liable for the extra portion (Bahjat, 1415 AH, Wasīlat al-Najāt, pp. 572–573). Therefore, in preventing harm, one must suffice with the minimum action necessary to achieve prevention, and going beyond that is impermissible.

6. Applications of the Rule

The principle "preventing harm to the extent possible"—like other legal maxims—has many applications across various areas of Islamic jurisprudence, both in worship (ʻibādāt) and transactions (muʻāmalāt), as well as in public and private law. Some examples include:

6.1. Preventing a Debtor from Traveling by Judicial Order

In Hanafi jurisprudence, a judge may forbid a debtor from traveling if the creditor requests it, as preventing the debtor's travel averts harm to the creditor, namely, the loss of his money.

In Jaʻfari (Shiʻi) jurisprudence, a judge may also restrict a debtor's travel under certain conditions: when the debt is legally established, the debtor is capable of repayment, and there is a reasonable fear of loss (e.g., the debtor plans a long or risky journey). However, if the debt is unproven, or the debtor is insolvent, or if he provides a guarantor or agent, and there is no risk of loss to the creditor, then it is not permissible to restrict his travel (Mughniyyah, 1421 AH, Vol. 2, p. 649).

6.2. The Obligation of Rulers to Prevent Corruption

In Hanafi jurisprudence, it is obligatory upon the ruler (walī al-amr) to prevent causes of evil, corruption, unrest, and social harm—such as the carrying of weapons, public indecency, reckless driving, and similar actions. The ruler must establish systems that safeguard the public good (Ḥusayn, n.d., p. 256; Zuhaylī, 1427 AH, p. 209; Zarqā, 1425 AH, p. 293).

In Jaʻfari jurisprudence, preventing corruption falls under amr bi'l-maʻrūf wa nahy ʿan al-munkar (enjoining good and forbidding evil). Although this duty applies to all Muslims, there is special emphasis on leaders and authorities, who must vigilantly monitor the community, promote virtue, and eradicate vice and social decay (Muntaẓirī, 1367 SH, Vol. 3, p. 337).

6.3. The Legitimacy of Jihād

In Hanafi jurisprudence, jihād (armed struggle) was legislated in Islam to resist enemies and repel harm from the Muslim community (Zuhaylī, 1427 AH, p. 209).

In Shiʻi jurisprudence, the purpose of jihād is to protect the religious community from the harm and sedition of the enemies of faith. The legitimacy of jihād is based on verses such as: "Fight them until there is no more persecution (fitnah)" (Al-Baqarah 2:193) and "Were it not that Allah repelled some people by means of others…" (Al-Ḥajj 22:40). These verses indicate that the goal of jihād is to defend divine worship, preserve sanctuaries, and protect the light of faith (Research Group, 1423 AH, Vol. 17, p. 283).

6.4. The Legitimacy and Function of Punishment

In Hanafi jurisprudence, the purpose of punishment is to eliminate crime and deter others. Imami jurists likewise state that the philosophy of criminal punishment—whether during the presence or absence of the Imam—is to prevent corruption, deviation, and social chaos, and to promote order and security (Musawī Khalkhālī, 1383 SH, p. 460). Some add that both theoretical and practical measures are necessary to prevent crime: theoretical measures refer to the existence of legal codes, while practical ones refer to the functioning of a judicial system. Without courts, laws have no effect; and without laws, judgments become arbitrary and oppressive. Therefore, precise legal and judicial systems are essential for justice (Ṣadr, 1430 AH, Vol. 9, p. 144).

6.5. The Legislation of the Right of Preemption (Shufʿah)

In Hanafi jurisprudence, the right of shufʿah (preemption—the right of a co-owner to buy out a new buyer) was legislated to prevent harm to a neighbor or co-owner. In Shiʿi jurisprudence, the purpose of shufʿah is not limited to this; rather, preventing harm is considered its wisdom (ḥikmah), not its cause (ʿillah). They distinguish between cases where harm and shufʿah coincide, cases of harm without shufʿah (e.g., more than two partners or partnerships outside land and houses), and cases of shufʿah without harm (e.g., when the new buyer is better for the partner) (Ḥusaynī, 2007 CE, p. 147).

Some Shiʿi scholars reject the objection that harm cannot be the cause of shufʿah because harm is accidental, not permanent. They argue that harm to the partner upon transfer of ownership is neither rare nor accidental—it is inherent in joint ownership itself, which naturally exposes partners to the risk of harm or encroachment by others (Zāraʿī Sabzawārī, 1430 AH, p. 145).

6.6. Forgiveness in Retaliation (Qiṣāṣ)

In Hanafi jurisprudence, if one of the heirs of a murder victim forgives the killer, this converts the right of the remaining heirs to financial compensation (blood money) to prevent harm to them. In Shiʿi jurisprudence, a similar view holds: if there are multiple heirs and one pardons the killer, the others may still execute qiṣāṣ (retaliation) provided they pay the pardoning heir's share of the blood money (Musawī Rūḍātī, 1432 AH, Vol. 2, p. 512).

Why should the shares of those heirs who pardon the murderer be paid to the heirs who seek qiṣāṣ (retaliatory justice)? The reason is that the heirs who forgave the killer became owners of their share of the offender's life (i.e., the right of qiṣāṣ) by virtue of their pardon. Thus, when others insist on executing qiṣāṣ, they must compensate those forgiving heirs for their now-forfeited right. The basis of this ruling is found in transmitted narrations (aḥādīth) (Subḥānī Tabrīzī, 1391 AH, p. 451).

6–7. Return of the Equivalent or Value of Usurped Property

In Hanafi jurisprudence, returning the exact usurped item (ʿayn al-maġṣūb)—if it remains intact—is obligatory to prevent harm to the owner.If the usurped property has perished, the harm is compensated by returning an equivalent item (if the property is fungible) or its value (if non-fungible). This applies whether the loss is actual—for example, the usurper eats the food—or constructive, such as slaughtering and cooking a stolen sheep, or grinding stolen wheat, etc.

In Imami (Shiʿi) jurisprudence, it is likewise stated that if the usurped property is destroyed, the usurper must pay its equivalent, and if an equivalent is not possible, then its value must be paid. However, there are different opinions regarding which value should be considered: the highest market value, the value at the time of destruction, or the value at the time of the judge's ruling, and so on (Kāshif al-Ghiṭāʾ, 1388 AH, p. —).

6–8. Legal Incapacity of the Bankrupt (Muflis)

In Hanafi jurisprudence, a bankrupt person (muflis) is prevented from managing his assets in order to protect creditors from harm. However, according to al-Khilāf by Shaykh al-Ṭūsī, it is reported that Imam Abū Ḥanīfah did not allow such restriction; rather, he held that the judge may imprison the debtor until he repays his debt. In Jaʿfari (Shiʿi) jurisprudence, the restriction (ḥajr) of a bankrupt person is legitimate. The judge may legally prevent the debtor from disposing of his property to protect the rights of creditors (Ṭūsī, 1435 AH, Vol. 2, p. 79).

6–9. Imprisonment of a Father Who Refuses to Support His Child

According to Hanafi jurists, if a father who is capable of providing financial support refuses to do so, he should be imprisoned to prevent harm to the child (Ṭūsī, 1435 AH, Vol. 2, pp. 208–209; Zarqā, 1425 AH, pp. 292–293; Abū Ḥārith al-Ghazzī, n.d., p. 260; Zarqā, 1409 AH, pp. 207–208).

In Jaʿfari jurisprudence, providing nafaqah (maintenance) for a child is obligatory upon the father, provided certain conditions are met. The child's condition must be such that they are needy or

incapable—due to poverty, disability, or immaturity (e.g., a blind, crippled, or minor child). The father's condition must include having sufficient means to provide maintenance beyond his own daily needs. If the father possesses wealth or the ability to earn, he is obligated to provide for his child's living expenses (Ibn al-Barrāj, 1406 AH, Vol. 2, p. 349).

According to Imami law, if a person is able to pay nafaqah but refuses, the ruler (ḥākim) must first compel him to pay. If he persists in refusal, the ruler should force him to pay. If he still does not comply, he must be imprisoned indefinitely until he fulfills his duty. The term "indefinitely" here means that the imprisonment is not fixed in duration, but continues until payment is made. As soon as the person pays, the imprisonment ends, and he is released (Anṣārī, 1415 AH, Vol. 12, p. 88).

6–10. Judicial Compulsion to Divide Joint Property

In Hanafi jurisprudence, one example of this rule's application is the legitimacy of court-ordered division of jointly owned property when one partner requests it, in order to prevent harm resulting from co-ownership.

Division (qismah) can be of two types:

1) Voluntary (riḍā'iyyah) – when both partners agree to divide.
2) Compulsory (ijbāriyyah) – when one partner wishes to divide, but the other refuses.

If the refusing partner is taken to court and the judge, acting according to Shar'i principles, enforces division, it is termed compulsory judicial division (qismah qaḍā'iyyah ijbāriyyah) (Ḥammād, 1429 AH, p. 366).

In Ja'fari jurisprudence, it is well established that a judge can compel a partner to divide the property when another partner requests division—provided that such division does not cause harm or loss to the property itself. The justification for this coercion lies in the maxim "the obligation to deliver rights to their rightful owners," under the condition of no harm or harassment. However, if division would damage the property, forced division is not permissible (Research Group, 1423 AH, Vol. 5, p. 142).

What has been stated are clear examples and instances of the rule 'the obligation to prevent harm as much as possible.' Besides the mentioned cases, many other instances can also be recalled, which would prolong the discussion, so we will suffice with these cases.

Conclusion

From the above discussions, the following conclusions can be drawn:

1) The principle of "the obligation to prevent harm to the extent possible" (wujūb dafʿ al-zarar ta ḥadd al-imkān) is a subsidiary and complementary rule derived from the general maxims of lā zarar wa lā zirār ("no harm and no harming") and similar principles.
2) The meaning of the rule is that both reason and Sharīʿah obligate the prevention of harm within the limits of one's capacity and ability. The criterion in applying this rule is the capability and means of the responsible person (mukallaf).
3) The rule has been expressed in various forms, but the most common expression remains "the obligation to prevent harm to the extent possible."
4) The rule is supported by strong evidences—Qur'anic, Prophetic, rational, and jurisprudential—that affirm its validity and authority.
5) The rule not only establishes the duty to prevent harm before it occurs, but also to remove harm after it occurs. Thus, it has two dimensions: An explicit meaning: preventing harm to the extent of one's ability. An implicit meaning: removing harm by considering its degrees and using the easiest and most practical means.
6) Both Hanafi and Ja'fari jurists agree on the general content and application of this rule. Minor differences in interpretation do not affect the rule's essence or legal validity.

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