

DOI: 10.53555/ks.v12i4.3283

The Law of Prohibition And Theory Of Prevention of Injury/ Harm: In The Light Of Islamic Shri'ah And Contemporary Laws Analytical Study

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Abstract

The implementation and enforcement of the law of prohibition on harmful transactions completely halt the financial activities of individuals who are insane, incompetent, or unqualified, and those whose interference in property causes harm to the general and specific public. By imposing certain restrictions and limits on these transactions, it ensures that human behavior remains regulated and balanced. Considering these benefits, the conclusions drawn from this research paper are as follows:

1. Any individual, who, due to insanity, mental disorder, ignorance, or physical and mental weakness, is unable to manage property transactions beneficially and causes disruption on an individual and collective level through the exercise of ownership rights, will have a wise person appointed to oversee their financial affairs. This ensures the best personal and social interests related to their property. In this context, the statutory term "Interdiction" is closely related to the Islamic concept of legal disability (ḥajr). However, this law is silent on imposing restrictions on the foolish (safih), the feeble-minded (ma'tūh), and others besides the insane and bankrupt.
2. Verbal transactions related to property by someone legally incapacitated (maḥjūr al-taṣarruf) are considered null and void because they have no actual existence. However, it is impossible to nullify actions once they have been physically executed. Islamic jurists agree that if a minor causes any bodily or financial harm, they will be held responsible, and compensation will be taken from their property.
3. A child, an insane person, and a fool cannot differentiate between beneficial and non-beneficial financial transactions due to their lack of wisdom, understanding, and experience. Therefore, the validity or invalidity of the transactions made by a child or a fool depends on the consent of their guardians.
4. There are natural and physical signs of puberty, and upon their appearance, both boys and girls are considered to have reached maturity. If no physical signs are evident, the determination of a boy or girl's maturity will be based on their age.
5. Abundance is a psychological virtue that requires the protection and management of wealth, while also preventing its loss and destruction.
6. Islamic law does not specify a particular age for the attainment of maturity, unlike statutory laws. Achieving maturity and understanding depends on the circumstances and conditions. In environments where a child demonstrates a mature mind and understanding at the time of reaching puberty, they will attain growth as they mature. Moreover, any period after reaching puberty where a child exhibits awareness and understanding will be considered the time for their maturation.
7. A foolish person can spend their obligatory funds, such as for Hajj and Zakat, on acts of goodness and welfare, as well as on necessities, provided that the spending does not involve extravagance or wastefulness.
8. In such a disposition of personal property which causes harm to others, in this case his powers can be limited and this is present both in Shariat and law.
It has been discussed in detail in this article

Key Words: Law of Prohibition, Theory of Prevention, Islamic Shri'ah, Contemporary Laws

1. Introduction

The law prohibiting dispossession is called "*Hajr*" in *Shari'ah*. In this sense, the "law prohibiting dispossession" refers to those who do not know the proper way to dispose of their property due to their ignorance. The Islamic Shari'ah is tolerant of the fact that the Hajr (prohibition) law will be applied to those whose actions and dispositions are harmful to others and harmful to the public interest. Common harm comes like the clumsy doctor, the ignorant mufti and the crafty bankrupt because each of them is harming the common interest. Ignorant physician means the doctor who gives deadly medicines to

people and prescribes medicines to people without knowledge. And that he does not have the ability to remove harm from the patient, i.e. the patient, during a disease. And in the same way, it is mentioned about the free-thinking Mufti that *Mufti Majin* means the Mufti who is free-thinking and teaches people by illegal methods. Those who become a source of moral harm for the people in terms of *Shari'ah*, and in this way, he issues fatwas without caring about the halal and haram. In Pakistan Penal code: "Negligent act likely to spread infection of disease dangerous to life: Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both" Similarly, Section 290 and 291 of the same law prescribe severe financial and physical punishments for those who create an environment against human health.

According to the existing laws, an age limit is set for attaining maturity, where every person is considered to be sane and mature, while the Islamic law does not determine any specific age limit in this matter, but rather it depends on the circumstances. And it depends on the circumstances, family ties, upbringing and climate.

The scope of *Shari'ah* law is not so narrow that it is limited to a few specific reasons, but also due to the existing laws, financial appropriations against the public interest and the use of property rights that cause public harm are prohibited by the law prohibited under.

Problem statement and Basic Questions Regarding the topic:

1. In addition to some specific reasons for the prohibition of possession by *Hijr* or the law, the reasons for *Hijr* are also applied to some cases of Shariah prohibition?
2. The required from Prohibition rule is to deprive certain people of the use of property rights and compliance with financial dispossessions, and as human beings, it is not to lower them to the level of animals by reducing their dignity and dignity, or to reduce the loss in the context of objective illusion and reasonableness. Its benefits are much higher?
3. Minor children and girls often attain mental and intellectual maturity after puberty and the stone is to be lifted on them. The age of puberty is 18 and 21 years according to the constitution and national laws. Or if there are any signs of physical puberty at the age of less than fifteen years, then there is a possibility that the age limit for puberty is lower or higher or not.
4. It is folly to spend wealth in extravagance and wasteful activities or to hand over valuable property unnecessarily, regardless of the general social conditions, whether the reason is justified or not.
5. If the private and public interest is being harmed by the use of property rights only, then will the harm be considered as a cause of harm?

Hypothesis

In this article the specific reasons that Islamic jurists have declared as justifications for *hajr*, by defining some cases of prohibition as justifications for *hajr*, will expand this scope.

Wealth, which is the source of life's survival and the stability of business life, is extravagance and waste against the common economic needs, which are created by the hands of stupid people, and stupidity is from the *hijr*.

Wealth, which is the source of survival of life and stability of business life, is extravagance and squandering against common economic needs, which are committed by the hands of stupid people, and stupidity is caused by the stones.

Objectives:

In the background of these assumptions, the need has been felt to present such a concept of the Shari'ah sphere of influence of *Hajr* (prohibit) Law that is also comprehensive, with the help of which the reasons that cause other *Hajr* can be determined. So, for this purpose, in this article, a real review was presented to achieve the following objectives:

1. To clarify the status of *Hajr* in Islamic Shari'ah and Law and highlight its importance.
2. Islamic jurists have agreed upon minors and insanity as the reasons for being stoned while there are different opinions about the reasons for *Hijr* (Prevent), poverty, sickness, and negligence, but finding a reasoned opinion among them is important.
3. In the established laws, in general and in the country's "law for the protection of minors" (Court of Wards), in particular, minors and juveniles have been given the right to dispose of their property and the court has been given the authority to supervise the property of orphaned minors and juveniles. By means of the employee and when the insane person is not matured according to the legal age. Therefore, there are some problems and incidents in it which need to be clarified.

Literature review

First of all, there is material in Islamic jurisprudence literature, but it is scattered and divided into different chapters. Apart from this, there are also some articles, the most important of which are:

"Legal Incapacity and the Concept of Hajr Under Iranian Law: An Analysis of Civil Code in Relation to Mental Health" <https://islamiclaw.blog/2017/12/22/legal-incapacity-and-the-concept-of-hajr-under-iranian-law-an-analysis-of-civil-code-in-relation-to-mental-health/> It mostly discusses mental health and stress.

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Comparison of At Taflis Wal Hajr in Islamic Law and Bankruptcy in Positive Law, Advances in Social Science, Education and Humanities Research, volume 383 DOI: 10.2991/icss-19.2019.134

It discussed the current financial system. According to the available resources on the subject, no further research work has come to light.

The details of this article are below :

1.1. Definition of Hijr (Prohibition, Restraint):

Hajr literally means man' (to prohibit, refuse, prevent, deprive, detain), and this meaning is also evident from the Qur'anic verse: Upon the day that they see the angels, no good tidings that day for sinners: they--i.e. the angels--shall say), 'A ban forbidden' (*Qur'an* 25: 22, n.d.). In this way, lexicographers and Experts Vocabulary have explained the meaning of "Hijr". In which the meanings of prohibition and prevention are common (*Ibn Mandbur, 1988*). It has been defined that Hajar is the name of prohibition and the thing which has been Hijr has become prohibited and the restriction of stone will be effective in relation to the thing that has been hijr. There is a feeling of restriction because of the restriction. For this reason, some scholars have interpreted the meaning of the word Hajr as an absolute prohibition, which means a prohibition that brings hardship (*Al-Zuhay, 2001*)

1.2 Term meaning

The jurists of all religions seem to agree on the legal and legal meaning of "Hajr" in the sense that it is an attribute that, if it is applied to someone, his financial dispositions are not enforced at all, or some matters. Some restrictions are applied to it with regard to 'so, to completely prevent the owner from disposing of his property, to restrict the use of ownership rights to a certain limit and to prohibit him from exercising more options is known as Hajar in jurists. Whether it is prohibited by Sharia law or state law. (*Al-Jaziri, 2002*)

2. Detail of Discussion:

Islam looks at the ownership of property and wealth with the eyes of admiration, it considers it as strength and a means of establishment and stability of human economic life and a solution to the problems and difficulties that arise as a result of the needs arising from the changing conditions of the times. Islamic shari'ah described wealth as the cause of economy and success and defined wealth obtained from legitimate sources as goodness and grace Allah says. "Then when the (Jumu'ah) Salat (prayer) is finished, you may disperse through the land, and seek the Bounty of Allah" (*Qur'an* 11: 97, n.d.) Just as the human life is respected, so is wealth and wealth. Regarding the command to protect wealth and the prohibition of abuse of wealth, the Prophet, peace and blessings be upon him, said that I was commanded to fight with people so that they testify that Allah There is no god but Muhammad is the messenger of Allah. Establish prayer and pay Zakat. When they start doing this, their lives and property are safe from me, but according to the right of Islam and they are accountable to Allah. (*Al-Qushayri, 1997*)

According to Islamic Shari'ah, every Muslim is guaranteed the protection of his life and property, and when property is guaranteed like life, then its protection becomes obligatory. would have been The Messenger of Allah (PBUH) mentioned the sanctity of wealth in abundance with the sanctity of life and honor. All Muslims agree on the sanctity of eating people's property without right. There are many verses and hadiths of the Holy Quran about its sanctity.

Imam Rāzī, explains about the importance and protection of wealth and wealth that Allah Almighty has also given the encouragement to protect wealth in the Ayat-e Mada'ina and it is also supported by common sense that until a person is free from it. Therefore, it is not possible to obtain the benefits of this world and the hereafter and avoid losses. For the person who wants to gain the world for this purpose, it is a great means of attaining the happiness of this world and the hereafter, and for the person who wants to gain the world only for the sake of the world, it is the greatest means of attaining the happiness of the hereafter. becomes a barrier. Sharia has made wealth a resource for this world and the hereafter, because it is through this wealth that profit can be obtained and harm can be warded off. (*Al-Rāzī, 1997*)

According to Imam Ghazali, wealth is like a snake in which there is both poison and antidote. Its advantages are antidote and its disadvantages are poison. It becomes possible for a person who becomes aware of its benefits and harms to avoid harm and gain benefits. (*Abu Homed A, 2011*)

There is a difference between human beings in terms of understanding, intelligence and wisdom, some of them have been made possessing high level of mental and physical capacity and ability and some people have been made such that due to smallness, madness, stupidity, neglect, disease. And in old age, their intellect is corrupted, their opinion is corrupted and their strategy is corrupted. As human beings, although these people are valuable and respected, but due to the above-mentioned attributes, there is a fear that if they are given full permission to spend their wealth; they will not be able to develop. There may be stoppages and communal riots. Although Islam recognizes the right to own property, it does not allow that one's own possessions should harm individuals or society as a whole; therefore, he strictly forbade the destruction of useful and useful objects, considering it a violation of the right of humanity and against the divine purpose. Allah says about this: "And do not give the weak-minded your property, which Allah has made a means of sustenance for you, but provide for them with it and clothe them and speak to them words of appropriate kindness" (*Qur'an* 4: 5, n.d.)

According to the imam *Rahzi* that the foundation of your life and the source of your livelihood is wealth, as it is the cause of the establishment and survival of life, therefore it is called the foundation of life. As an exaggeration, the name of the cause was given. It is as if this wealth is the foundation and survival of your life and your source of livelihood. (*Al-Rāzī, 1997*)

In this verse, it is implied that wealth has been prevented from being wasted and its protection, maintenance and care has been made obligatory. Therefore, whoever has been given wealth in this world by Allah, it is his responsibility to protect it and protect it from loss. Don't let it go into the hands of others who will become the cause of their loss. *Hazrat Ibn Abbas* said that no one should divide his wealth among his children and then become their custodian, while his children should not be his hands. (*Al-Jaṣṣās, 2001*)

In this regards legally it implies prohibiting the dispositions of a person with respect to all or some of his property.

The causes of disability, which we discuss here, as following:

2.1.Minority (al-sighar)

A minor is considered by consensus to be legally incompetent, and there is disagreement about some of the views of a child of mature age, as will be mentioned later. When a minor matures mentally and reaches puberty, he becomes an adult and all his behaviors become viable. The above-mentioned verse also implies that if a person's heirs are underage, it is permissible for him to bequeath his property to someone who is trustworthy and for the sake of these heirs. Protect your heart and soul.(Al-Jaṣṣās, 2001) However, the Imami and Shafi'i schools think: When the child reaches the age of ten, his will will be considered valid in matters of charity and charity. More than one Imami muhaddithin has said by relying on certain traditions: His divorce is also correct.(*Legal Incapacity and the Concept of Hajr Under Iranian Law: An Analysis of Civil Code in Relation to Mental Health – Islamic Law Blog*, n.d.-a)

It has been narrated from *Saeed Ibn Jubeer* that the real meaning of the verse is, do not hand over their wealth to the Unwise. On the basis of this interpretation, the ignorant and the foolish will be restricted in relation to their property and they will be kept away from their property until their ignorance and foolishness disappear (Al-Jaṣṣās, 2001)

Minors often gain mental and intellectual maturity after reaching puberty, and thus the restrictions (Hajr) are lifted from them. According to Islamic Sharia, if there are no natural signs of puberty in boys and girls approaching the age of puberty, the age limit for being considered an adult is set at fifteen years. However, in common law and Pakistani laws, the age of adulthood is set at eighteen or twenty-one years. It needs to be considered that even if there are no physical signs of puberty and no mental maturity achieved at the age of fifteen, or if any signs of physical puberty appear before the age of fifteen, can the age limit for adulthood be adjusted accordingly or not.

Hanafi and Maliki jurists describe two conditions for minors in terms of financial transactions: either they are discerning (*mumeez*) or non-discerning (*ghair mumeez*)

2.2. Indiscriminating Minor:

A minor who does not understand buying and selling, does not know that selling terminates ownership, and buying establishes ownership, and cannot distinguish between clear deceit and fair dealings is considered a non-discerning minor (*ghair mumeez*). A discerning minor (*mumeez*), on the other hand, understands buying and selling, knows that selling terminates ownership, and buying establishes ownership, and can distinguish between clear deceit and fair dealings.(*Majalah Al-Ahkam al-'Adliyyah*, 1995)

2.3. A Discerning Child

A sensible child (*mumayyiz*) is one who can generally distinguish between harmful and beneficial things and understands the difference between sales and rental agreements as well as profitable and loss-making deals.

The Hanafi School states that a sensible child's (*mumayyiz*) actions are valid without the guardian's permission, provided they involve pure benefit, such as accepting gifts, bequests, and endowments without giving anything in return. However, transactions that involve potential gain or loss, such as buying and selling, mortgaging, renting, and guaranteeing, are not valid without the guardian's approval(Al-Jaziri, 2002)

As to a non-discerning child, none of his dispositions are valid, irrespective of the permission of the guardian, and regardless of the thing involved being of petty or considerable worth.(*Legal Incapacity and the Concept of Hajr Under Iranian Law: An Analysis of Civil Code in Relation to Mental Health – Islamic Law Blog*, n.d.-a)

The Hanbalis observe: A discerning child's dispositions are valid with the permission of the guardian; so are those of a non-discerning child, even without the guardian's permission, if the thing involved is of petty worth, e.g. where he buys from a confectioner what children usually purchase, or buys a bird from someone in order to set it free.(Ibn Qudāmah, 1997)

Imam Shafi'i said: Allah has established guardianship over the ignorant, the weak, and the person who is incapable of writing a document, and has commanded their guardian

Shariah and legal status of the financial dispositions of minors:

The financial transactions of a non-discerning minor are not considered valid from both a Shariah and legal perspective. Since a non-discerning minor lacks the capacity to understand the nature and consequences of their financial actions, their transactions are deemed void. This ensures that the minor is protected from potential exploitation and harm, as they are not capable of making informed and responsible financial decisions(Al-Jaziri, 2002)

The effects of interdiction on the statements and actions of minors in financial matters vary among different schools of Islamic jurisprudence. Some jurists have outlined two conditions to determine the validity of a minor's statements and actions in financial matters. They distinguish between a discerning (*mumeez*) and a non-discerning (*ghair mumeez*) minor to determine whether their actions are valid or null and void.

According to statutory laws, an age limit is set for attaining maturity, after which an individual is considered sane and adult. In contrast, Islamic Sharia does not determine a specific age for this matter. Instead, it depends on circumstances, family ties, upbringing, and environment. Here, the Sharia's position is given preference based on reasonable grounds.

2.4. Liability (al-Daman)

Imam Raḥī has explained that it is essential to assess the intelligence of a minor and understand their current state to determine whether they have the capacity to distinguish between right and wrong. If it is observed that they can manage wealth and affairs efficiently, their wealth should be entrusted to them; otherwise, it should not. This is in accordance with Islamic law and principles, where the responsibility for a minor's wealth depends on their level of understanding and intellect.(Al-Jaṣṣās, 2001)

In summary, until minors and those who lack understanding prove their prudence in managing affairs; their wealth should not be entrusted to them. The details above indicate that individuals who are not prudent or capable in managing finances, regardless of their age, should not be entrusted with their wealth. However, the Quran does not specify an age limit for achieving prudence and good conduct. Therefore, the majority of Islamic jurists hold that if a child reaches maturity while still being foolish or imprudent, they should not be given control over their wealth until signs of prudence and understanding are evident. This is because Allah has granted guardians the right to oversee and manage the affairs of those who are intellectually or physically weak. (Al-Jaziri, 2002)

This is what the Imami legists have observed, but what we consider appropriate is this: If we know doubtlessly that a particular disposition of a discerning child is cent per cent to his benefit, it is obligatory for his guardian to accept it and he cannot annul it, especially if his annulling it entails a loss for the child. (*Legal Incapacity and the Concept of Hajr Under Iranian Law: An Analysis of Civil Code in Relation to Mental Health – Islamic Law Blog*, n.d.-b) As to the general proofs which indicate that a child's disposition is void, they either do not include this situation or it is exempted from these general proofs. This is so because we are sure that the purpose of the Shari'ah is benefit, and when we are certain that it exists, we are bound to accept it exactly like our acceptance of a self-evident notion or a valid syllogism. And this is not ijthad contradicting nass (an explicit Qur'anic verse or tradition); rather, it amounts to acting in accordance with nass for the knowledge of the aim of the Shari'ah is exactly like the knowledge of a mass, if not a nass itself.

3.1. Insanity and intoxication

The loss of reason is referred to as "insanity" in common language and "legal insanity" in the context of jurisprudence. It is a mental disorder or cognitive impairment that deprives a person of the ability to distinguish between good and bad (Rawwas Qal'ahji, 1988)

The actions of an insane person: Sanity is an obstacle to legal capacity. Whether the insanity is inherent or temporary, it deprives the affected person of legal capacity and obstructs the effectiveness of their ownership actions. There is a consensus among jurists that insanity is one of the impediments to legal capacity, and there is no disagreement among them about imposing interdiction on an insane person, whether the insanity is inherent, temporary, strong, or weak. Restrictions can be placed on the financial transactions of a negligent and careless person to protect their relatives from potential financial harm. According to the majority of jurists, a negligent person should be interdicted like a prodigal for the protection of their property and the correction of their affairs. This is supported by the incident where the family of *Hubban bin Munqidh* (RA) requested the Prophet Muhammad (PBUH) to impose interdiction on him. The Prophet (PBUH) upheld their request, indicating that imposing interdiction on a negligent person is legitimate.

In contemporary laws as well, Section 12 of the Contract Act of 1872 declares insane and mad persons as incompetent for all types of business contracts. It mandates that for any contract, a person must be of sound mind, stating that:

“A person is said to be of sound mind for the purpose of making a contract if, at the time when he makes it, he is capable of understanding it and of forming a rational judgment as to its effect upon his interests.

A person, who is usually of unsound mind, but occasionally of sound mind, may make a contract when he is of sound mind.

A person, who is usually of sound mind, but occasionally of unsound mind, may not make a contract when he is of unsound mind” (*The Contract Act U.S 12*, n.d.)

3.2. Idiocy and negligence:

Imam Shafi'i said: Allah has established guardianship over the ignorant, the weak, and the person who is incapable of writing a document, and has commanded their guardian. Islamic Sharia is tolerant of the fact that actions and behaviors that are harmful to others and detrimental to public interest should be subjected to legal prohibition. Thus, as Professor *Ali Haider* states, the prohibition law will apply to certain individuals whose actions and behaviors cause general harm, such as an inexperienced doctor, an ignorant mufti, and a deceitful pauper, because each of them harms the public interest. (*Majalla Al-Ahkam al-Adliyya*, n.d.)

Ignorant physician refers to a physician who prescribes harmful medications and suggests treatments without proper knowledge. Such a doctor lacks the ability to alleviate a patient's illness. Similarly, an "unrestrained mufti" is one who teaches people unjustifiable loopholes and issues careless fatwas without discerning between halal (permissible) and haram (forbidden). These individuals cause physical, financial, and spiritual harm to people. Therefore, to prevent widespread harm, scholars believe in restricting them under the principle of blocking the means to harm. It is stated that these individuals are indeed corrupters, causing damage to the body, wealth, and faith, and thus should be stopped. Preventing general harm often requires enduring specific harm. (*Majalah Al-Ahkam al-'Adliyyah*, 1995)

In this context, Section 269 of the Pakistan Penal Code prescribes various punishments for individuals who pose a danger to human life. This includes those who, through their ignorance or negligence, endanger the lives of others. These penalties are meant to hold such individuals accountable and prevent them from causing harm:

“Negligent act likely to spread infection of disease dangerous to life: Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both” (THE PAKISTAN PENAL CODE, 1860, 2019)

Engaging in any negligent act that poses a risk of spreading a dangerous infectious disease is addressed under this law. Specifically, if someone unlawfully or negligently performs an act that could spread a life-threatening infectious disease, and they are aware or have reason to believe this might happen, they can be punished. The punishment can include imprisonment for up to six months, a fine, or both.

Similarly, sections 290 and 291 of the same law propose severe financial and physical penalties for those who create environments harmful to human health. These sections are intended to hold individuals accountable for actions that endanger public health and well-being. (*Pakistan Penal Code 1860 U.S 269*, 2023) According to Imam Abu Hanifa (may Allah have mercy on him), restrictions cannot be imposed on a free person due to their foolishness, extravagance, or indebtedness, even if they become bankrupt. If a judge or court imposes a restriction on such a person, and then the person acknowledges a debt or conducts transactions with their property through buying, selling, gifting, or any other means, those transactions will still be considered valid. (Al-Jaṣṣās, 2001)

The opinion of *Uбайдالله بن ال-حسن* (may Allah have mercy on him) is similar to that of Imam Abu Hanifa (may Allah have mercy on him) regarding the non-imposition of restrictions. According to *ابراهيم النخعي* (may Allah have mercy on him), no restrictions should be imposed on a free person. Ibn Aun narrated from *محمد بن سيرين* that there should be no restrictions on the transactions of a free person. Restrictions are only imposed on slaves. A similar narration is also attributed to *حسن البصري*.

In contrast, Imam Abu Yusuf (may Allah have mercy on him) holds the opinion that if a person is foolish, he would impose restrictions on them. Furthermore, if someone is declared bankrupt and is imprisoned, their transactions and acknowledgment of debts will not be considered valid. However, if the person can provide evidence that the transaction occurred before the restrictions were imposed, then such transactions will be deemed valid.

4. The law of prohibition and theory of prevention of injury/ harm

As stated, Islam views the ownership of wealth positively, considering it a source of strength and stability for human economic life. It sees wealth as a means to address issues and challenges arising from changing circumstances. Islam regards wealth and possessions as essential for sustenance and success, describing wealth obtained through legitimate means as good and a blessing: "So when the prayer is completed, spread out in the land and seek Allah's grace, meaning sustenance." (*Qur'an 11: 97*, n.d.)

Just as human life is sacred, wealth and property are also respected. There are commands for the protection of wealth and prohibitions against transgressions on property. The Prophet Muhammad (peace be upon him) said, "I have been commanded to fight the people until they testify that there is no god but Allah and that Muhammad is the Messenger of Allah, establish prayer, and pay zakat. When they do that, their lives and property are protected from me except by the right of Islam, and their reckoning is with Allah." (Al-Qushayri, 1997)

According to Islamic Sharia, every Muslim is guaranteed the protection of their life and property. Just as the sanctity of life is assured, the sanctity of property is also guaranteed, making its protection obligatory. No kind of transgression against property is permissible without a legitimate Sharia right. The Prophet Muhammad (ﷺ) often mentioned the sanctity of wealth alongside the sanctity of life and honor. For instance, the Prophet (ﷺ) said, "Every Muslim is sacred to another Muslim: his blood, his honor, and his wealth." All Muslims agree on the prohibition of unjustly consuming another's wealth. The Quran and numerous Hadiths strongly emphasize this prohibition.

Imam Razi explains the importance and protection of wealth, citing the verse of the Quran regarding debt (Ayat al-Mudayana). He supports this with reason, stating that as long as a person is not financially secure, it is impossible for him to achieve worldly and otherworldly benefits or avoid harms. For a person seeking the world for the sake of a higher purpose, it becomes a great means of attaining happiness in this life and the hereafter. Conversely, for someone who seeks the world solely for worldly gains, it becomes a major obstacle in achieving the happiness of the hereafter. The lawgiver (Sharia) has made wealth a means to achieve benefits and avoid harms in both this world and the hereafter, as it is through wealth that one can gain benefits and ward off harms. (Al-Rāzī, 1997)

Islam acknowledges individual ownership, but it does not permit its misuse. If a person starts spending their wealth in a way that might harm them or if the nation's moral fabric is being tarnished by their misbehavior, the government has the right—and indeed the obligation—to restrict their absolute freedom. The clear meaning of the Quranic directive granting guardians the right to oversee the financial affairs of the foolish and the weak is to prevent mismanagement and extravagance in financial matters. (*Majalla Al-Ahkam al-Adliyya*, n.d.)

The sayings of the Prophet Muhammad (peace be upon him) make it clear that, due to the essential nature of means of livelihood, restrictions are placed on the ownership rights of the foolish, the neglectful, the irresponsible, and the extravagant, beyond the necessary expenses for severe needs and one-third of the wealth of a person suffering from a terminal illness. It is narrated by Hazrat Anas (may Allah be pleased with him) that a person's family came to the Messenger of Allah (peace be upon him) and mentioned their relative, saying, "O Messenger of Allah, this person is of weak intellect and gets cheated in business transactions." The Prophet (peace be upon him) summoned the person and advised him against engaging in such transactions. The man responded, "O Messenger of Allah, I cannot refrain from buying and selling." The Prophet (peace be upon him) then instructed, "When you engage in buying or selling, say, 'No cheating.'" (Tirmidhi, 1998)

According to Hanafi jurists, restrictions cannot be imposed on a sane and mature person, based on this hadith. The Prophet Muhammad (peace be upon him) neither prevented the person from buying and selling nor imposed any restrictions on his transactions. If it had been necessary to impose restrictions, the Prophet (peace be upon him) would not have allowed the person to engage freely in buying and selling, and he would have imposed the appropriate restrictions on him. (Al-Jaṣṣās, 2001)

While Imam *Qurtubi* (may Allah have mercy on him) explained that the permission granted by the Prophet Muhammad (peace be upon him) to this person to engage in buying and selling despite his foolishness was specific to that individual. He writes that allowing this person to handle buying and selling transactions was a unique case from the Prophetic court.

However, for someone who gets deceived easily, particularly when there is a defect in their intellect and judgment, it is the responsibility of the ruler or the court to impose restrictions on their transactions. (Qurṭubī, 1996)

Indeed, preventing such individuals from engaging in financial transactions was a practice rooted in the principle of preventing harm as observed by the Prophet Muhammad (peace be upon him), his companions (may Allah be pleased with them), and the followers (may Allah have mercy on them). This principle was applied to safeguard the interests of individuals and the community by ensuring that those with impaired judgment did not cause harm to themselves or others through their financial dealings. (Shawkānī, 1988)

Due to foolishness, naivety, and simplicity, individuals who are prone to being deceived in business transactions, squander wealth, risk property by incurring debt, and make bequests exceeding one-third of their wealth during terminal illness have been prohibited from managing their own financial affairs according to the Hadiths and the sayings of the companions. This prohibition is to protect the rights of their relatives and other concerned parties, ensuring that their wealth is not misused and that the rights of others are not violated or lost.

Allama Al-Jaziri (d. 1941) writes in this context: Those who are not capable of managing their wealth and properties wisely should have their ownership rights restricted for their own good, and in the broader sense, for the welfare of the public. This is because such individuals are likely to waste wealth and cause financial harm to themselves and others by mismanaging financial matters. (Al-Jaziri, 2002)

It should be noted that this is not an absolute rule, and other reasons can also be included in the causes for imposing restrictions (Hijr) based on Shariah necessities and the circumstances. This is to minimize the potential waste and loss of wealth as much as possible. According to Imam Razi (may Allah have mercy on him), "A person cannot achieve worldly and hereafter benefits unless he is well-off and free from financial worries. It is with the help of wealth that one can attain benefits and avoid harm." (Al-Rāzī, 1997)

The abundance of wealth and the plentiful availability of food and necessities have a significant psychological impact. They play a crucial role in providing peace of mind and a sense of security. When the means of livelihood, on which one relies, are not available, the soul remains troubled. However, when one has accumulated their provisions, they become content. This is why wealth is referred to as the sustainer of life and the means of livelihood.

When it is proven that a sane and mature person is foolish and extravagant in their spending, the court will impose a legal restriction on their ownership rights, except for basic necessities and purely beneficial financial matters. If the Imam or ruler imposes a restriction due to the person's foolishness and wastage of wealth, a witness will be appointed over them. Anyone who engages in transactions with this person afterwards will be doing so at their own risk. If the person returns to the same state after the restriction is lifted, the restriction will be re-imposed. Once their condition improves and there is no longer a need for the restriction, it will be lifted.

Imam al-Baghawī (may Allah have mercy on him) also writes regarding the legal restrictions on a foolish person: "A foolish person, whose guardian is not permitted to give them their wealth, is deserving of restriction because they waste and destroy their wealth." (Baghawī, 1991)

There is a difference of opinion among the jurists regarding the imposition of legal restrictions (Hijr) on the financial transactions of mature and sane individuals who engage in wasteful and extravagant spending. According to Imam Malik, Imam Shafi'i, the scholars of Madinah, and many scholars of Iraq, the ruler can impose restrictions on such individuals if their foolishness is proven and they do not heed warnings. This opinion is also supported by Hazrat Ibn Abbas (may Allah be pleased with him) and Zubair (may Allah be pleased with him) (Ibn Rushd, 1998). Similarly, Imam Zuhri (may Allah have mercy on him) also holds the view that a foolish son should not be given wealth and property. Imam Kalbi (may Allah have mercy on him) even stated that if a man's wife is foolish or wasteful, he should refrain from giving her his wealth. (Baghawī, 1991) However, if a foolish person is legally required to bear the expenses of others, the law of restriction (Hijr) will not apply to them. Khalid Atasi writes in this regard that a foolish, mature, and free person will not have their financial dealings restricted when it comes to spending on those whom they are obligated to support and provide for. (Majalah Al-Abkam al-Adliyyah, 1995).

A naïve and straightforward person who lacks the discernment of profit and loss in financial matters and is easily deceived will be subject to the law of restriction (Hijr), similar to a foolish person. This means that apart from essential expenses and purely beneficial financial dealings, any other interventions in wealth and property by such an individual will be restricted.

In contemporary laws, under the Contract Act of 1872, the concept of Hijr (restriction) is legally recognized to prevent financial harm under the principles of blocking the means to harm. The financial transactions of a restricted person are declared null and void. Section 27 of the act states that:

Agreement in restraint of trade void.

"Every agreement by which any one is restrained from exercising a lawful profession, trade or business of any kind, is to that extent void" (The Contract Act U.S 12, n.d.) This means that any contract or agreement made by a person who is legally restricted due to their inability to manage their financial affairs will be considered invalid to protect them and others from potential harm or financial loss.

Similarly, in section 28 of this law, it is stated that:

Agreements in restraint of legal proceedings void.

"Every agreement, by which any party thereto is restricted absolutely from enforcing his rights under or in respect of any contract, by the usual legal proceedings in the ordinary tribunals, or which limits the time within which he may thus enforce his rights, is void to that extent"

In contemporary laws, under Section 12 of the Contract Act of 1872, a person of unsound mind or a lunatic is deemed incapable of entering into any form of business contracts. The section emphasizes that for any agreement, a person must be of sound mind. It states:

"Capacity to contract:

- (1) A person is said to be of sound mind for the purpose of making a contract if, at the time when he makes it, he is capable of understanding it and of forming a rational judgment as to its effect upon his interests.
- (2) A person, who is usually of unsound mind, but occasionally of sound mind, may make a contract when he is of sound mind.
- (3) A person, who is usually of sound mind, but occasionally of unsound mind, may not make a contract when he is of unsound mind."

This means that mental soundness is a mandatory requirement for entering into any contract, ensuring that only those who can fully understand and judge the implications of their agreements are legally permitted to do so.

The person who is usually of sound mind but occasionally becomes of unsound mind cannot make a contract when they are of unsound mind. Similarly, examples provided in this context state that:

1. **A person with intermittent mental illness:** If someone has a mental condition that affects their judgment and understanding only at certain times, they cannot engage in contractual agreements during those periods of unsoundness.
2. **A person under the influence of drugs or alcohol:** If someone is temporarily incapable of understanding the nature of a contract due to intoxication, they are not considered competent to make binding agreements during such periods.
3. **A person with temporary delirium or confusion:** If a person experiences temporary mental confusion due to illness or any other reason, they are not capable of making valid contracts during these episodes.

These examples illustrate that the legal capacity to contract is contingent on the individual's mental state at the time of entering into the agreement. This ensures that contracts are made only when the person has the ability to understand and evaluate the terms and consequences of the agreement.

Under Section 11 of the Contract Act of 1872, every minor is exempted from legal responsibilities. It states:

"Who are competent to contract: Every person is competent to contract who is of the age of majority according to the law to which he is subject, and who is of sound mind, and is not disqualified from contracting by any law to which he is subject."

This means that:

1. **Minors:** Individuals who have not attained the age of majority (18 years in most jurisdictions) are not competent to enter into a contract. Any agreement made by a minor is considered void and not legally binding.
2. **Sound Mind:** The person must be of sound mind at the time of making the contract, capable of understanding and making rational judgments about the transaction.
3. **Not Disqualified by Law:** The person must not be disqualified from contracting by any law to which they are subject, such as laws regarding bankruptcy or criminal conviction.

These provisions ensure that contracts are made by individuals who are legally recognized as capable of understanding and fulfilling the obligations of the agreement.

Similarly, under Sections 13, 14, 15, and 16 of the Contract Act of 1872, agreements made as a result of unsoundness of mind, coercion, undue influence, fraud, misrepresentation, or similar defects are considered voidable due to the presence of vitiating factors. These sections define and address the conditions under which a contract may be deemed invalid or voidable:

- **Section 13: "Consent":**
 - Two or more persons are said to consent when they agree upon the same thing in the same sense.
- **Section 14: "Free Consent":**
 - Consent is said to be free when it is not caused by coercion (Section 15), undue influence (Section 16), fraud (Section 17), misrepresentation (Section 18), or mistake (Sections 20, 21, and 22).
- **Section 15: "Coercion":**
 - Coercion is committing or threatening to commit any act forbidden by the Indian Penal Code, or unlawfully detaining or threatening to detain any property, to the prejudice of any person, with the intention of causing any person to enter into an agreement.
- **Section 16: "Undue Influence":**
 - A contract is said to be induced by undue influence where the relations subsisting between the parties are such that one party is in a position to dominate the will of the other and uses that position to obtain an unfair advantage over the other.

These sections ensure that any agreement entered into under such circumstances is not considered valid and binding, recognizing the need for genuine, voluntary consent for contracts to be enforceable. (*The Contract Act U.S 12*, n.d.)

In contemporary laws, to protect the property of minors and oversee their financial transactions, the Muhammedan Law in Section 359 designates legal guardians for the property of minors. It states:

"Guardianship of Property: The following persons, in the order mentioned, are entitled to be the guardians of the property of a minor:

1. The father,
2. The executor appointed by the will of the father,
3. The paternal grandfather,
4. The executor appointed by the will of the paternal grandfather."

Additionally, Section 362 of the Muhammedan Law addresses the transfer of immovable property by the legal guardian of a minor. It specifies that the legal guardian, as defined under Section 359, is not authorized to sell the minor's immovable property except under the following circumstances:

1. When the sale can fetch double the property's value.
2. When the minor has no other property and the sale is necessary for their maintenance.
3. When the deceased has debts and there is no other means to pay them.
4. When there are legacies to be paid under a will and no other means to pay them.
5. When the expenses on the property exceed its income.
6. When the property is deteriorating.
7. When property has been seized and the guardian fears that there is no reasonable hope of its return.

These provisions are designed to safeguard the interests of minors by ensuring that their property is managed responsibly and only sold under stringent conditions that justify the necessity of such actions.(Tyabji, n.d.)

4.1. Marz-ul-Maut (Death Illness)

A disturbance in temperament and health is termed as illness, meaning an unnatural condition of the human body, especially when the illness is severe and the patient strongly believes that death is imminent. This condition is considered Marz-ul-Maut. Jurists have also included situations under Marz-ul-Maut where there is a threat to human life, such as going to jihad. The primary cause here is the fear of death; wherever there is a fear of death, the rules of Marz-ul-Maut will apply.(Al-Jaziri, 2002) Marz-ul-Maut (Death Illness) does not affect the competence of the patient, yet it still impacts certain rulings. According to us, after the debtor's death, the rights of creditors and heirs generally attach to his property. Similarly, when Marz-ul-Maut is the cause, the rights of these individuals attach to his property as soon as the illness begins because the illness stands in place of death and serves as its cause.

Therefore, to protect the rights of heirs and creditors, restrictions will be imposed on the patient regarding their rights. If the debt equals the patient's total assets, the restriction will apply to the entire property; otherwise, it will apply to the amount equivalent to the debt. Similarly, after the payment of debts and the execution of a will up to one-third, restrictions will be placed on the remaining two-thirds to protect the rights of the heirs.

This restriction on the patient is established from the onset of the illness because the cause of the restriction is the fatal illness. Therefore, when death coincides with this illness, the illness is considered fatal from the beginning to the end. However, since the patient becomes aware of the illness being fatal only at the time of death, no restrictions are imposed due to uncertainty before that. Hence, during the patient's lifetime, their actions are valid, and heirs or creditors have no right to object. They acquire this right after the patient's death, provided that any of the patient's actions affect their rights. Consequently, they can annul those actions to the extent necessary to secure their rights.

It is important to remember that the rights of creditors or heirs on the patient's property do not prevent the patient from exercising their own rights. Therefore, the patient can use their property for all their expenses, such as medical treatment and sustenance. No one can object to these matters.

Similarly, it should also be remembered that the creditor's right takes precedence over the heir's right. Thus, after paying off the patient's debts and executing the will (which can be up to one-third of the property, provided it is not for an heir), the remaining property will be distributed among the heirs according to their respective shares. In contemporary laws, under the principles of blocking the means (Sadd al-Dhara'i), it is stated that a will made during Marz-ul-Maut should be restricted as follows:

Limit of Testamentary Power: "A Muslim can't by will dispose of more than a third of the surplus of his estate after payment of funeral expenses and debts, Bequests, in excess of the legal third cannot take effect, unless the heirs consent thereto after the death of the testator"(Tyabji, n.d.) Similarly, Section 135 of the Muhammadan Law, titled "Gift in the State of Marz-ul-Maut," states that a gift made by a Muslim during Marz-ul-Maut will not be effective for more than one-third of his property after the expenses of funeral and burial and the payment of debts, unless the heirs agree to give more after the death of the donor. Additionally, such a gift cannot be effective in favor of any heir unless the other heirs give their consent

Based on the concept of preventing harm, Imam Malik (may Allah have mercy on him) prohibits the marriage of a person suffering from Marz-ul-Maut because it can cause financial harm to the patient's heirs.(Ibn Rushd, 1998)

Ibn Rushd (may Allah have mercy on him) explained Imam Malik's (may Allah have mercy on him) view by stating that in such situations, scholars, intellectuals, and jurists should consider whether the marriage is beneficial for the patient. If they determine that the marriage is indeed in the patient's best interest, it should not be prohibited. However, if they sense that the marriage arrangement is being made to harm the heirs, then it should be forbidden.(Ibn Rushd, 1998)

In fact, in this type of situation, the main concern is harm. If harm is found, then such a marriage will be prohibited; otherwise, it will not be.

4.2. Divorce of a Patient

If a patient in their death illness gives an irrevocable divorce to their wife without her consent, the scholars agree that the divorce will take place. However, there is a difference of opinion among them regarding the woman's right to inheritance. According to the majority of scholars, the woman will be entitled to inherit as a reaction to the man's ill intent, as he intended to deprive her of the inheritance through this divorce. According to the majority of Islamic Jurists, this woman is entitled to inheritance, but there is a difference of opinion regarding the duration of this entitlement.

According to the Hanafi school of thought, she is entitled to inheritance during the waiting period (iddah). The Hanbali school states that she remains entitled even after the waiting period, as long as she has not remarried. Imam Malik's view is that she is entitled to inheritance regardless of whether she is in the waiting period or it has passed, and whether she has remarried or not. According to the Ja'fari school of thought, she is entitled to inheritance for up to one year, provided she has not remarried.

Others action: The actions of a patient during terminal illness hold significant importance among Islamic jurists. The general principle regarding the actions of a patient in such a condition is that they are considered limited to ensure the rights of the heirs are protected:

Gift Giving: Gifts given during terminal illness are typically not considered valid if they infringe upon the rights of the heirs. However, if the heirs give their consent, such gifts may be deemed permissible.

Will: A patient can make a will during terminal illness, but it is limited to one-third of their estate. If the will exceeds this limit, it requires the consent of the heirs to be valid.

Selling: The sale of property during terminal illness is also restricted. If such a sale affects the rights of the heirs, it is not considered valid.

Borrowing or Lending:

Borrowing or lending during terminal illness is similarly limited and is assessed based on whether it impacts the rights of the heirs. Jurists determine the validity of these actions based on the patient's intent and the impact on the heirs' rights. Overall, the actions of a patient in terminal illness are evaluated in the context of protecting the heirs' rights.

5. Contemporary Laws on Dispositions during Death Illness:

Contemporary laws also consider the rights of heirs, ensuring that the actions of a patient during a terminal illness do not negatively impact these rights. If the patient intends to reduce the shares of their heirs, causing them financial harm, any debt acknowledgment made by the patient will not be enforceable. According to Section 125 of the Muhammadan Law:

"If a patient acknowledges a debt while in a terminal state and this acknowledgment affects the rights of the heirs, such acknowledgment will not be valid."

This section reinforces the principle that the patient's actions during terminal illness will be scrutinized in the context of protecting the heirs' rights. When assessing the actions taken during the terminal illness, the patient's intent and the consequences of these actions will be considered to ensure that the heirs are not harmed.

Contemporary laws, including the Muhammadan Law, clearly state that if a patient intends to harm their heirs financially by their actions during a terminal illness, such actions (e.g., acknowledgment of debt) will not be enforceable. The purpose of these laws is to protect the rights of the heirs.

A debt that is solely proven by the acknowledgment of the patient during their terminal illness should not be paid until the debts acknowledged by the deceased in a healthy state and those proven by other evidence have been settled. If a debt is acknowledged in favor of an heir during the terminal illness, this acknowledgment will not be considered valid evidence of the debt and will not be enforceable.

Summary

Debts acknowledged during a terminal illness, especially those in favor of an heir, will not be valid or enforceable. Priority is given to debts acknowledged when the deceased was healthy and those proven by other means. This ensures that the rights and shares of all heirs are protected and that debts are settled fairly. (Tyabji, n.d.)

6. Misuse of Rights

The concept of the misuse of rights is found in various forms within civil laws, which also implies that the use of a legitimate right with bad intent and against societal interests gives rise to liabilities. The fundamental principle is that the owner has the discretion to manage their property as they wish.

Legal expert Broom has written about the misuse of rights as follows:

(Lt) ***SIC UTERE TUO UT ALLIENUM NON LEDAS*** (Eng) enjoy your own property in such a manner as not to injure that of another person (BROOM, 1874)

"The misuse of a right, even if it is legitimate, when done with malicious intent or against the collective interests of society, leads to responsibilities and liabilities."

Summary

Civil laws address the misuse of rights by establishing that even legitimate rights, when exercised with bad intentions or contrary to societal interests, can result in liabilities. This principle ensures that the exercise of rights is balanced with responsibility and consideration for societal welfare, even though the owner generally has the freedom to manage their property. The concept of misuse of rights is primarily utilized by courts in matters such as neighbor relations, water resource disputes, marital and parental rights, contract formation, business competition, and similar issues. Explaining this theory, it is stated that the condition for misuse of rights is that the exercise of an individual right obtained under the law results in harm to a third party's interest, which is not protected by a specific law. Otherwise, it would be considered a direct violation of the law rather than a misuse of rights.

Its prohibition is articulated in Article 54 of the Charter of Fundamental Rights of the EU, which imposes restrictions on the misuse of individual rights. The title of this article is "Prohibition of Abuse of Rights," and it forbids the misuse of the rights granted under the Charter. (Far, 2020)

An individual, while exercising their apparent right under legal justification, will be considered guilty if they commit an excess. This is because there are also certain moral and social boundaries that must be observed. If the requirements of justice and good faith and their limits are violated, it results in harm to the second party or society.

7. Achieved Results:

According to Islamic law, an individual is considered an adult once the natural and physical signs of maturity appear; otherwise, reaching the age of fifteen is considered the determining factor for adulthood. In contrast, statutory laws typically set the age of maturity at eighteen or twenty-one years.

Setting a specific age for achieving maturity and intellectual development is not reasonable according to Islamic principles, as these factors depend on circumstances, family relations, upbringing, nurturing, and environmental conditions.

Islam does not tolerate self-harm or causing harm to others. Recognizing harm as a cause for legal disability, Islamic jurists have advocated for bringing financial transactions and the exercise of ownership rights under the purview of legal disability if they result in harm to the general or specific public. Since this opinion of the jurists ensures the protection of common financial interests, the study under review includes a detailed discussion on the prohibition of harmful actions in property and the imposition of legal disability on detrimental transactions in property.

For individuals who are incapable of managing financial matters due to minority or insanity, their close relatives, in order of precedence, such as father, grandfather, and the executors appointed by them, are responsible for protecting their property and managing their financial affairs in their best interests, provided they are wise, prudent, and just. Otherwise, the government and the courts are obligated to undertake this significant responsibility.

It is considered a sound argument that the implementation and enforcement of the law of legal disability are not limited to a few causes. Rather, its scope extends to preventing wasteful and extravagant transactions in wealth and prohibiting any use of ownership rights that are harmful to the general and specific public interests.

References

1. Abu Homed A. (2011). *IHYA' ULUM AD-DIN* (1st ed.). : Dar Al-Kotob Al-Ilmiyah.
2. Al-Jaṣṣās, A. B. A. ibn 'Alī al-Rāzī. (2001). *Abkam al-Qur'an* (2nd ed.). Dar Kotob al-Ilmiyah.
3. Al-Jaziri, A. al-Rahman. (2002). *Al-Fiqh 'Ala al-Madhabib al-Arba'ah* (4th ed.). Darul Hadith,.
4. Al-Qushayrī, M. ibn al-Ḥajjāj. (1997). *Sabih Muslim* (3rd ed.). Dar al-Kutab- al-ilmia.
5. Al-Rāzī, F. al-Dīn. (1997). *Mafatih al-Ghayb al-Tafsir al-Kabir*. Dar Ihya al-Turath al-Arabi.
6. Al-Zuhay, W. I. (2001). *Al-fiqhul-islami-w-adillata* (3rd ed.). Dar Al 'Ilm Lil Malayeen.
7. Baghawī, Ḥusayn ibn Mas'ūd ibn Muḥammad. (1991). *Ma'ālim al-Tanzīl* (2nd ed.). Dar Ihya al-Turath al-Arabi.
8. BROOM, H. (1874). *A SELECTION o LEGAL MAXIMS* (5th ed.). LAW BOOKSELLERS, PUBLISHERS AND IMPORTERS.
9. Far, A. E. (2020). *Abuse of Rights in International Arbitration*. Oxford University Press.
10. Ibn Mandhur, M. (1988). *Lisan al-'Arab*. Daru Ṣādir.
11. Ibn Qudāmah, M. ad-Dīn. (1997). *Al-Mughni*. Dar Al Fikr.
12. Ibn Rushd, A. al-W. M. ibn A. (1998). *Badayata Al-Mujtabid wa Nahayat Al-Muqtasid* (3rd ed.). Dar al-Kutab- al-ilmia.
13. *Legal Incapacity and the Concept of Hajr Under Iranian Law: An Analysis of Civil Code in Relation to Mental Health – Islamic Law Blog*. (n.d.-a). Retrieved July 17, 2024, from <https://islamiclaw.blog/2017/12/22/legal-incapacity-and-the-concept-of-hajr-under-iranian-law-an-analysis-of-civil-code-in-relation-to-mental-health/>
14. *Legal Incapacity and the Concept of Hajr Under Iranian Law: An Analysis of Civil Code in Relation to Mental Health – Islamic Law Blog*. (n.d.-b). Retrieved July 17, 2024, from <https://islamiclaw.blog/2017/12/22/legal-incapacity-and-the-concept-of-hajr-under-iranian-law-an-analysis-of-civil-code-in-relation-to-mental-health/>
15. *Majalah al-Ahkam al-'Adliyyah* (3rd ed.). (1995). Dar Ma'arfa.
16. *Majalla al-Ahkam al-Adliyya*. (n.d.).
17. *Pakistan Penal Code 1860 U.S 269* (7th ed.). (2023). Pakistan Law House. Publisher.
18. *Qur'an 11: 97*. (n.d.).

19. Qurṭubī, M. ibn A. ibn A. B. (1996). *Tafsir al-Qurtubi* (3rd ed.). Dar Al 'Ilm Lil Malayeen.
20. Rawwas Qal`ahji, M. (1988). *Mu`jam Lughat al-Fuqaha* (3rd ed.). Dar An-nafaes.
21. Shawkānī, M. ibn A. (1988). *Naylul Awtar Min Ahadith Sayyidil Akhyar Sharh Muntaqa al Akhbbar* (2nd ed.). Dar Al Fikr.
22. *The Contract Act U.S 12*. (n.d.).
23. *THE PAKISTAN PENAL CODE, 1860*. (2019). Pakistan Law House. Publisher.
24. Tirmidhi, I. M. (1998). *Jami` at-Tirmidhi* (3rd ed.). Dar al-Kutab- al-ilmia.
25. Tyabji, F. B. (n.d.). *Muhammadan Law* (3rd ed.). Law Publication.