



LIMITING THE PERMISSIBLE (TAQYID AL-MUBAH) AND ITS EFFECT ON ENVIRONMENTAL PROTECTION: AN APPLIED STUDY ON ENVIRONMENTAL SYSTEMS IN THE KINGDOM OF SAUDI ARABIA

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ABSTRACT

This study addresses the prominent jurisprudential dilemma between the principle that "the fundamental rule regarding things is permissibility" (Al-Asl fi Al-Ashyaa' Al-Ibahah) as an established rule in Islamic legislation, and the contemporary necessity of imposing regulatory restrictions for environmental protection. The study presents the rule of "Limiting the Permissible (Taqyid al-Mubah)" as the theoretical framework that resolves this tension, demonstrating that modern environmental regulations do not contradict the higher objectives (Maqasid) of Sharia but rather activate its supreme principles. Employing the descriptive-analytical and inductive methodologies, the research analyzes the technical concept of the rule and its application controls. Subsequently, it inductively examines its practical applications in three main areas within the Saudi Environmental System: regulating land ownership in protected areas, regulating the exploitation of natural resources, and regulating the hunting of wildlife. The study concludes that these regulations do not represent a departure from the rulings of Sharia but are, in fact, an authentic legal application of the ruler's authority (Wali al-Amr) to limit the permissible in order to realize the public interest (Maslaha Amma) embodied in preserving and sustaining the ecological system.

Keywords: Limiting; Environmental; Saudi Arabia; Taqyid al-Mubah

INTRODUCTION

At the beginning of the twenty-first century, environmental protection stands out as one of the most significant challenges facing humanity as a whole. From an Islamic perspective, this issue is not merely a political or economic matter, but is fundamentally a doctrinal and ethical concern, originating from the principle of vicegerency (Al-Istikhlaf) with which God entrusted humanity on Earth. This status renders humans trustees of Earth's resources and responsible for their care and preservation.

In this context, Islamic Sharia is founded upon an original jurisprudential principle: "the



fundamental rule regarding things is permissibility," meaning that every act for which there is no explicit text of prohibition is permissible. This grants the individual extensive freedom to act and benefit from the resources of the universe. However, this profound principle may seemingly conflict with the nature of modern environmental regulations, which necessarily rely on imposing restrictions and limits on individual actions, such as specifying hunting zones, prohibiting the ownership of certain lands, and requiring licenses for the exploitation of natural resources. Hence, the core problem addressed by this research paper emerges: How can the freedom of utilization guaranteed by the principle of permissibility be reconciled with the restrictions imposed by the necessity of environmental protection? Furthermore, how can the contemporary state enact strict environmental legislation without conflicting with the fundamental principles and higher objectives of Islamic Sharia?

This study proposes a central hypothesis: Islamic jurisprudence possesses the tools and principles that enable it to engage with contemporary challenges with flexibility and depth. This paper argues that the jurisprudential principle known as "Limiting the Permissible (Taqyid al-Mubah)" provides a solid and integrated Sharia framework that grants the State, represented by the ruler (Wali al-Amr), the authority to regulate and restrict permissible actions if their unrestricted application leads to a predominant harm or the forfeiture of a recognized public interest.

Consequently, the environmental regulations in the Kingdom of Saudi Arabia do not merely represent a response to international requirements or the adoption of imported legal models, but rather a developed and deliberate application of this authentic jurisprudential principle, thereby embodying the vitality of Sharia and its capacity to achieve balance between individual rights and supreme societal interests.

RESEARCH PROBLEM

The research problem crystallizes in the following primary question: How can the restrictions imposed by modern environmental regulations in the Kingdom of Saudi Arabia be reconciled with the authentic jurisprudential principle stipulating that "the fundamental rule regarding things is permissibility"?

This central question gives rise to several sub-questions: What is the Sharia basis that grants the State the authority to restrict an action that is originally permissible? What are the controls



that govern this authority to ensure against its arbitrary use? How is this authority manifested in the operative texts of Saudi environmental regulations?

The research presupposes that the answer lies in understanding and applying the rule of "Limiting the Permissible" as a jurisprudential tool aimed at achieving the objectives of Sharia in preserving necessities and realizing public interests.

RESEARCH OBJECTIVES

This research seeks to achieve the following objectives:

- To provide a precise conceptual and technical analysis of the rule of "Limiting the Permissible" by deconstructing its linguistic and jurisprudential components as found in authoritative sources, and clarifying its composite meaning.
- To identify and clarify the Sharia controls that govern the application of this rule, and to determine the legally authorized body for its activation—namely, the "ruler (Wali al-Amr)", to ensure its use within the correct framework that achieves public interest and wards off corruption.
- To demonstrate that Saudi environmental regulations are a practical application of this jurisprudential rule through an inductive analysis of specific models from these regulations concerning the organization of land ownership, the exploitation of natural resources, and the protection of wildlife.

RESEARCH METHODOLOGY

To achieve the research objectives, a composite methodology integrating two complementary approaches was adopted:

- *Descriptive-Analytical Methodology*: This approach is used in the theoretical section to describe and analyze the core jurisprudential concepts involved, such as the concept of the "environment" and its development, and the terms constituting the rule of "Limiting the Permissible" ("Limitation" and "Permissibility"), in addition to reviewing and analyzing the controlling parameters for the rule's application and the authority of the ruler in this regard.
- *Inductive Methodology*: This approach is used in the applied section of the study,



transitioning from the study of specific and partial cases (legal texts from the Saudi Environmental System) to the derivation of a comprehensive and general ruling. The research inductively examines and analyzes these legal texts to demonstrate that they all originate from a single legislative philosophy: the application of the rule of "Limiting the Permissible" to realize the public interest in preserving the environment.

THE JURISPRUDENTIAL FRAMEWORK OF THE RULE OF LIMITING THE PERMISSIBLE

This section constitutes the theoretical basis of the study, systematically constructing the argument starting from the foundational definitions and principles that govern the rule of "Limiting the Permissible".

The Concept of Limiting the Permissible

To achieve a deep understanding of this rule, its basic terms must be linguistically and technically deconstructed and analyzed, then synthesized to arrive at the overall concept.

First, the term "Environment" is defined as the spatial setting or domain in which humans and other living organisms reside, including its natural, social, and cultural systems, from which they draw their life sustenance and perform their activities. This concept is divided into the natural environment (water, air, soil, living organisms) and the built environment (infrastructure and social institutions established by humans) (Al-Fiqqi, 1999). Muslim scholars have used this term for centuries to refer to the natural and geographical surroundings of living beings, indicating the originality of interest in this concept within Islamic thought (Mursi, 1999).

Second, the term "Limitation" (*Taqyid*) linguistically carries several meanings, including prohibition and specification, but the meaning closest to the jurisprudential context is "control" (Ibn Manzur, 1414 AH; Al-Razi, 1999). The saying, "Limit knowledge by writing (Kitab)" means to control it. In the terminology of *Usul al-Fiqh* (Principles of Jurisprudence), limitation means reducing the commonality of an absolute term so that it becomes restricted to what contains the limitation (Ministry of Awqaf and Islamic Affairs in Kuwait, 1427 AH). This meaning indicates that limitation is not an absolute prohibition but a regulation and control of the action.



Third, the term "Permissible" (*Al-Mubah*) linguistically is the opposite of the forbidden (Ibn Manzur, 1414 AH; Al-Razi, 1999). Technically, it is what the Lawgiver left the competent person (*mukallaf*) equally free to do or to leave. It represents the area of freedom granted by the Lawgiver to individuals (Al-Sulami, n.d.).

By combining these concepts, we arrive at the technical definition of the rule of "Limiting the Permissible" as: "Suspending its implementation for a period due to circumstances that necessitate it, or mandating it for a period, considering the resulting consequences and eventualities of its exercise in those circumstances, which embody predominant harm - which must be averted - thus preventing its cause... or which embody important interests, thus mandating the performance of the permissible act, elevating it to the status of obligatory" (Abu Muzayriq, 2011; Al-Durayni, 2013). This definition reveals the essence of the rule as a flexible tool in the hands of the ruler, not to abolish the permissible, but to manage it in a way that achieves the public interest, either by temporarily preventing it to avert harm or by temporarily mandating it to attain benefit.

Controls of Application and the Authorized Body

Granting the State the authority to intervene in the sphere of the permissible is not a blank check; rather, it is restricted by a precise set of controls that ensure it does not deviate from the objectives of Sharia. These controls function as an integrated system of restrictions that transform this authority from an absolute power into a restricted responsibility directed towards achieving the public interest. They ensure that the decision to limit the permissible is necessary, expert-based, temporary, and consistent with the supreme goals of Sharia. Thus, this system not only protects the environment but also protects society from any potential abuse of power.

These controls are defined as follows:

Control

Rationale (Interpretation and Application)

Non-contradiction of a Text from the Qur'an or Sunnah

The restriction must not clash with a text that is definitive in its authenticity and meaning.

Compliance with a Recognized Sharia Interest



The goal of the restriction must be the realization of a genuine and legally recognized interest, such as preserving life, property, or progeny.

Existence of a Pressing Need for it

Recourse to restriction is only sought when there is a necessity or an urgent need that requires intervention to avert harm or realize a general public benefit.

Temporality and Link to its Cause

The restriction must be linked to the cause that necessitated it, and cease when the cause ceases, so that it does not turn into a permanent prohibition.

Issuance after Consulting Specialists

The ruler must consult experts and specialists (such as environmental scientists and geologists) before taking the decision to restrict.

The Ruler's Adherence to the Adopted Measure

The decision must apply to both the ruler and the ruled equally, achieving the principle of justice and equality before the system.

Restriction within the Bounds of Moderation

The restriction must be proportionate to the need that called for it, without excess that harms people or negligence that squanders the interest.

The body authorized to apply this rule is the "ruler (Wali al-Amr)," meaning the sovereign or their deputy. This authority is not merely an administrative prerogative but a religious and ethical trust and responsibility. This is evident in the statement of Imam Al-Subki, who outlines the method the ruler must follow, emphasizing the necessity to "intend the interest of the general Muslim populace," "prioritize otherworldly interests over worldly ones," and exert independent legal reasoning (*Ijtihad*) in their decision, relying on their "intellect, religion, and what they understand from the Sharia and those they trust in religion," while guarding against "ignorance, rashness, or passion" (Al-Subki, n.d.). This text establishes the State's role as a faithful guardian over the nation's interests and resources, not as a neutral regulator. Environmental legislation, within this framework, becomes a religious duty aimed at achieving the objectives of Sharia in preserving the universe, which is God's creation.



PRACTICAL APPLICATIONS IN THE SAUDI ENVIRONMENTAL SYSTEM

This section presents the empirical evidence supporting the hypothesis that the Saudi Environmental System embodies a practical application of the rule of "Limiting the Permissible". This is achieved through the analysis of three specific regulatory models.

Regulating Land Ownership in Protected Areas

- *The Regulation:* A provision in the Saudi Environmental System stipulates that it is impermissible to own the lands of forests, rangelands, national parks, wildlife areas, and geological sites by any means of conveyance of ownership (Environmental Law, 2020).
- *The Restricted Permissible:* The permissible action that has been restricted here is the right to own and utilize land, an original and guaranteed right in Islamic Sharia.
- *The Public Interest:* This restriction serves a predominant public interest in protecting vital ecological systems that constitute a national asset for current and future generations. Preserving forests ensures climate stability, protecting rangelands safeguards livestock wealth, and conserving parks provides recreational outlets for the community and preserves biological diversity. This collective interest outweighs the individual's private interest in owning these specific lands.
- *Jurisprudential Derivation:* This prohibition is considered a direct application of the rule of "Limiting the Permissible," where the ruler exercises their authority as a guardian over public resources. They restrict a general permissible act (ownership) in a specific context (sensitive environmental areas) to avert a major harm (environmental degradation) and achieve a higher interest (environmental sustainability).

Regulating the Exploitation of Natural Resources

- *The Regulation:* The system mandates that anyone wishing to exploit sand, gravel, rocks, or clay must obtain a prior permit in accordance with specified regulations (Environmental Law, 2020).
- *The Restricted Permissible:* The permissible action that has been restricted is the right to utilize accessible surface natural resources.
- *The Public Interest:* This mandate is not aimed at prohibition but at regulation. The



public interest here is to ensure the sustainable exploitation of resources and to prevent the environmental degradation resulting from random extraction, such as the destruction of vegetation cover and alteration of land features. The permitting system is an effective tool for realizing the principle of sound governance of natural resources.

- *Jurisprudential Derivation:* This measure represents the embodiment of the preventive rule philosophy in Islamic Sharia. Instead of waiting for harm to occur and then penalizing the perpetrator, the State uses the rule of "Limiting the Permissible" as a preemptive tool to manage potential risks. The requirement to obtain a permit is merely an activation of the principle of "blocking the means to evil" (Sadd al-Dhara'i), which prevents the means that could lead to corruption. This demonstrates a deep understanding of the State's role in future planning and preventing damages before they occur, which is the essence of effective environmental governance.

Regulating the Hunting of Wildlife

- *The Regulation:* The system prohibits the hunting of live wild animals, with the exception of specific species that may be hunted with a license, during certain times and locations, and using means that do not lead to overhunting (Environmental Law, 2020).
- *The Restricted Permissible:* The permissible action that has been restricted is hunting, which the Holy Qur'an explicitly declared permissible.
- *The Public Interest:* The interest here is clear and manifest: protecting biological diversity and preventing the extinction of species, and preserving the ecological balance upon which the lives of humans and other creatures depend. This measure protects an invaluable natural wealth for future generations.
- *Jurisprudential Derivation:* This application provides clear evidence of a hierarchy of values and objectives within Islamic Sharia. Although hunting is originally permissible, its absolute practice may lead to the violation of a higher Sharia objective, which is the preservation of progeny (Hifz al-Nasl). This objective is not limited to human progeny but extends to include the preservation of the types of living creatures created by God. Here, the ruler uses the rule of "Limiting the Permissible" to prioritize the comprehensive, permanent interest (preserving species) over the temporary, individual



interest (the pleasure or benefit of hunting). This proves that Sharia is not a set of rigid rules but a dynamic value system aimed at achieving the ultimate good for society and the universe.

CONCLUSION

As to the conclusion, several important findings can be drawn. The precise concept of the rule of "Limiting the Permissible" was defined as a flexible jurisprudential tool that balances individual freedom and public interest, and the strict controls governing its application to ensure against arbitrary use were identified. Furthermore, the applied analysis proved that the environmental regulations in the Kingdom of Saudi Arabia, in aspects related to regulating land ownership, resource exploitation, and hunting, are not merely innovative positive legislations but are deeply rooted in Islamic jurisprudence and based on this authentic rule.

These findings affirm the main hypothesis of the research: the Saudi environmental legal framework represents a successful model for reconciling the timeless principles of Sharia with the urgent demands of the modern era. The rule of "Limiting the Permissible" functions as a jurisprudential bridge linking foundational texts with the contemporary need for sound environmental governance, demonstrating that Islamic Sharia possesses the inherent capacity to produce effective and sustainable solutions to global challenges.

The broader significance of these results lies in presenting a model applicable to other Islamic countries seeking to develop environmental legislation characterized by both effectiveness and authenticity. This model proves that environmental protection is not just a modern requirement, but a religious and ethical responsibility deeply ingrained in the heart of Sharia. Islamic jurisprudence, with its tools and objectives, provides a comprehensive and robust framework for confronting the planetary crisis, not just as a legal necessity, but as a duty of vicegerency (Istikhlaf) and an act of worship by which humans draw closer to their Creator.

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