

## Islamic Law and Traffic Safety: An Islamic Jurisprudential and Ethical Analysis

### *İslam Hukuku ve Trafik Güvenliği: Fıkhi ve Etik Bir Analiz*

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**Abstract:** Studying the complex systems within Islamic law reveals a profound commitment to societal organization and advancement, rooted in a religion that values order and progress. Early Islamic society embraced various mechanisms –from postal services to policing and traffic regulations– illustrating an early form of a traffic security system. This legislative framework predates many modern legal systems, reflecting an integration of universal, humane, and civilizational principles. Islamic jurisprudence, with its pragmatic understanding of traffic dynamics and individual responsibility for physical well-being and material assets, extends its scope to include guarantees and compensation for bodily harm or financial loss arising from traffic incidents. Central to this exploration is an examination of the defining elements of traffic security in Islamic jurisprudence. What defines the traffic security system in Islamic jurisprudence? Does it comprehensively cover all aspects of traffic? Can it be unequivocally asserted that Islamic law takes precedence in shaping this system? This research examines these questions by assessing the system’s historical development and the meticulous precision of its legal edicts, fully realized by the third century AH. It investigates pedestrian conduct and broader regulatory complications, drawing upon insights dispersed across classical texts. Integrating historical, inductive, descriptive, and analytical methodologies, the study offers a holistic understanding of Islamic traffic law, providing timeless insights pertinent to contemporary legal discourse. However, a key limitation of this study is its exclusive focus on Islamic law, without addressing or comparing the legal frameworks of other religious traditions.

**Keywords:** Islamic Law, Traffic Systems, Pedestrian Conduct, Legal Regulations, Humanitarian Causes.

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**Öz:** İslam hukukundaki karmaşık sistemlerin incelenmesi, düzen ve ilerlemeye önem veren bir dinin toplumsal organizasyon ve gelişime olan derin bağlılığını ortaya koymaktadır. Erken İslam toplumu, posta hizmetlerinden polis teşkilatına ve trafik düzenlemelerine kadar çeşitli mekanizmalar benimsemiş ve böylece erken bir “trafik güvenlik sistemi” oluşturmuştur. Bu hukuki çerçeve, birçok modern hukuk sisteminden önce ortaya çıkmış olup evrensel, insani ve medeniyet ilkelerini yansıtmaktadır. İslam hukuku, trafik dinamikleri ve bireyin fiziksel ve maddi varlıklarını koruma sorumluluğu konusunda pragmatik bir anlayışa sahiptir. Trafik kazalarından kaynaklanan bedensel zarar veya maddi kayıplar için güvence ve tazminat hükümleri içermektedir. Bu çalışmanın temel soruları şunlardır: İslam hukukunda trafik güvenlik sistemi nasıl tanımlanır? Trafikle ilgili tüm unsurları kapsar mı? İslam hukukunun bu sistemi şekillendirmede önceliğe sahip olduğu kesin olarak söylenebilir mi? Araştırma, sistemin tarihsel gelişimini ve hicri üçüncü yüzyılda tam anlamıyla şekillenen hukuki düzenlemelerin titizliğini değerlendirerek bu soruları ele almaktadır. Klasik metinlerden hareketle yayaların davranışlarını ve geniş kapsamlı düzenleyici sorunları incelemektedir. Bununla birlikte, bu çalışmanın önemli bir sınırlılığı, yalnızca İslam hukukuna odaklanması ve diğer dini geleneklerin hukuki çerçevelerini ele almaması veya karşılaştırmamasıdır. Tarihsel, tümevarımsal, betimleyici ve analitik yöntemleri birleştirerek İslam trafik hukuku üzerine kapsamlı bir perspektif sunmakta ve modern hukuk tartışmaları için bir bakış açısı sağlamaktadır.

**Anahtar Kelimeler:** İslam Hukuku, Trafik Sistemleri, Yaya Davranışları, Hukuki Düzenlemeler, İnsani Nedenler.

## Introduction

Islam is a religion characterized by development, civilization, and progress. It integrates order into daily life, family, societal structures, mosques, and public spaces, while Islamic regulations shape behavior in all aspects, even in solitude.<sup>1</sup> Etiquettes fortify these systems as protective barriers. For instance, in public domains such as roads and marketplaces, Islamic law emphasizes principles like non-harm (*lā ḍarar wa lā ḍirār*) and public welfare (*maṣlaḥah ʿammah*). Neglecting such principles in contexts like traffic safety leads to disorder, injury, and even loss of life, outcomes that Islamic legal systems strive to prevent. Although early Islamic governance did not resemble modern administrative systems in form, its institutions developed organically over time to meet the evolving needs of society. Historical evidence shows that roles evolved. Prophet Muhammad initially carried out judicial functions, followed by Abu Bakr and Umar, who delegated duties to provincial judges as the state expanded.<sup>2</sup> This evolution led to the development of specialized roles in the military, intelligence, police, customs, and administrative offices (*diwan*), following a natural growth trajectory and adaptation to meet societal needs. Islamic jurists, who practiced independent legal reasoning, did not aim to consolidate all systems into one entity. Instead, they made incremental progress through ongoing legislative *ijtihād*<sup>3</sup>, addressing emerging issues as they arose. The origins of these systems can be traced back to the era of the Prophet Muhammad. Historical analysis, such as ‘Abdul Ḥay al-Kattānī’s “*al-Tarātibu al-Idāriyah*” (The System of Prophetic Government), reveals that the foundational principles of subsequent systems were established during this era. This perspective highlights the Prophet Muhammad’s contribution to the advancement and urbanization of nations.<sup>4</sup> Although the systems established by Prophet Muhammad and his companions were not formally codified in the modern sense, their foundational principles were clearly articulated and transmitted through practice, becoming the basis for subsequent legal and institutional development in Islamic history. Within the framework of Sharia’s criminal law, justice mandates accountability for both intentional and unintentional harm, ensuring that transgressions are addressed through appropriate legal measures.<sup>5</sup>

Sharia-based legal principles emphasize individual responsibility and accountability in all aspects of social interaction, including matters that affect public safety. While classical Islamic law did not explicitly regulate traffic in its modern form, its foundational values –such as the protection of life (*ḥifẓ al-naḥs*), avoidance of harm (*lā ḍarar wa lā ḍirār*), and the requirement of injury compensation (*diyyah*, *ʿāqilah*)– provide a moral and legal framework adaptable to contemporary challenges. These principles support the development of traffic laws that ensure the safety of individuals and the community. As al-Dihlawī observed, laws derived from Sharia function like acts of worship, cultivating justice, and bringing society closer to moral truth.<sup>6</sup> Within this framework, negligence or harm caused by violating safety rules would necessitate compensation, reinforcing Sharia’s commitment to justice and social order.<sup>7</sup> Al-Qarāfī also emphasized that judges, acting through *ijtihād* and evidence, carry a divine responsibility to issue rulings that uphold public welfare. This duty can extend to regulating emerging issues, such as traffic, through ethical and legal reasoning rooted in Islamic jurisprudence.<sup>8</sup> Since such rulings aim to preserve life and prevent harm, compliance becomes a legal and moral obligation in Sharia. Accordingly, those who violate traffic laws when these laws are based on legitimate authority

1 Süleyman Oktar, “Islam and Space Exploration”, *Astropolitics* 21/2-3 (2023), 112-126; Mohammed M. Alnaim - Emad Noaime, “Mosque as a Multi-Functional Public Space Destination: Potential Breathing Space in Dense Urban Fabrics of Hail City, Saudi Arabia”, *Open House International* 48/3 (2023), 450-471.

2 Anwar Rifāʿī, *Al-Nuzum al-Islāmīyah* (Beirut: Dār al-Fikr, 2001), 105-121.

3 Mohamad Sobirin - Karimatul Khasanah, “The Pesantren Scholars’ Fatwa on Global Warming and Climate Change: An Integrative Analysis of Islamic Law, Theology, and Environmental Sciences on the Practice of Multidisciplinary Ijtihad”, *Cogent Arts & Humanities* 10/1 (2023), 1-16.

4 Muḥammad Abd al-Ḥayy Kattānī, *Niẓām al-hukūmah al-nabawīyah* (Beirut: Dār al-Arqam, 2016), 1/19.

5 Hajed A. Alotaibi, “The Challenges of Execution of Islamic Criminal Law in Developing Muslim Countries: An Analysis Based on Islamic Principles and Existing Legal System”, *Cogent Social Sciences* 7/1 (2021), 1-13.

6 Shāh Walīullāh al-Dihlawī, *Hujjat Allāh al-bālighah* (Beirut: Dār al-Maʿrifah, 1997), 2/260.

7 Prayudi Rahmatullah - Basthomi Tri Kurnianing Wang, “Abuse of Private Vehicle Strobe Lights and Sirens: Law Enforcement from the Islamic Perspective”, *Krytyka Prawa* 2024 (2024), 149.

8 Aḥmad ibn Idrīs Shihāb al-Dīn Qarāfī, *al-Dhakhīrah* (Beirut-Lebanon: Dār al-Kutub al-ʿIlmiyah, 2001), 2/541-542.

and grounded in public interest can be held accountable and punished, just as with other violations of public safety under Islamic law.

This study analyzes traffic safety through the lens of Islamic jurisprudence by exploring how core legal and ethical principles in *fiqh*, such as the preservation of life (*ḥifẓ al-nafs*), public welfare (*maṣlaḥah ʿāmmah*), and liability for harm (*ḍamān*) can be applied to modern traffic systems. Rather than attempting to merge modern legal codes into Islamic law, the study examines how Islamic law historically addressed public space regulations and personal responsibility in relevant ways. By systematically engaging with classical juristic sources, the study clarifies the legal basis for traffic-related responsibilities in Islamic law and evaluates their significance for contemporary traffic systems. The research employs a descriptive, analytical, and historical approach to clarify the scope, foundations, and moral implications of traffic regulation within the framework of *Sharia*. This approach fills a gap in the existing literature and highlights how Islamic legal reasoning offers a coherent framework for contemporary public safety and regulatory challenges. Notable examples include: “Criminal Fines for Traffic Violations in the View of Islamic Law” by Sri Setiawati and Sri Hartati,<sup>9</sup> “Islamic Jurisprudence’s Penalties for Violation of Traffic Regulations and the Amended Jordanian Traffic Law”<sup>10</sup> “Traffic Accidents in Islamic Law” by Sid-Ahmad,<sup>11</sup> and “Criminal Liability of Online Transportation for Traffic Accident Victims: A Comparative Study of Positive Law and Islamic Law Perspectives” by Nugraha.<sup>12</sup> This scarcity of literature underscores the need for further research on the role of Islamic law in traffic regulations, focusing on their effectiveness in managing accidents and ensuring public safety. It defines the comprehensive nature of Islamic jurisprudence’s traffic security system and its broader implications.

### 1. Foundational Juristic Rulings on Public Pathways and Safety

In the Prophet’s era, public conduct was closely linked to the everyday actions of the Companions, whose behaviors formed the basis of early Islamic legal rulings. These behaviors, grounded in *Sharia* principles, emphasized responsibility, liability, and respect for communal space, comprising a foundational layer of Islamic legal thought concerning public safety. Over time, Islamic jurisprudence developed a body of rulings to preserve life and property in public spaces, especially on roads and pathways. While modern terms like “traffic systems” may be anachronistic for this period, the early ninth century clearly articulated the underlying concern with regulating movement, obstruction, and liability.

A core principle from early Islamic legal discourse is that any action endangering public pathways or impeding safe passage imposes liability (*ḍamān*) on the actor, regardless of intention. This is rooted in the broader *Sharia* objective of preventing harm (*lā ḍarar wa lā ḍirār*) and ensuring public welfare (*maṣlaḥah ʿāmmah*). Classical jurists illustrated this principle through numerous rulings. Ibrāhīm al-Nakhaʿī (d. 96 AH / 714 CE) said, “Whoever ties an animal on the road is responsible for it,”<sup>13</sup> thereby establishing that blocking a public path creates liability for harm caused.<sup>14</sup> The ruling of Ibrāhīm al-Nakhaʿī is rooted in the juristic principle that obstructing public pathways and exposing others to harm creates liability (*ḍamān*), even if the act appears minor or unintentional. In a modern context, this same principle can be extended to vehicles parked in unauthorized or hazardous locations. Just as tying an animal on a public road risks injury to passersby, improperly parked cars today may cause traffic obstructions or accidents. The underlying logic in both cases is that the one who places an object (animal

9 Sri Setiawati - Hartati Sri, “Criminal Fines For Traffic Violations In The View Of Islamic Law”, *Jurnal Hukum Khaira Ummah* 18/2 (2023), 127-145.

10 Qasem Mohammad Hazem Al-Hmoud et al., “Islamic Jurisprudence’s Penalties for Violation of Traffic Regulations and the Amended Jordanian Traffic Law”, *International Journal of Religion* 5/6 (2024), 224-234.

11 Sid-Ahmad Alsid Mohammad ʿAta, “Traffic Accidents in Islamic Law”, *IJUM Law Journal* 4 (1994), 31-47.

12 Nugraha Ahlam Ahlam et al., “Criminal Liability of Online Transportation for Traffic Accident Victims on Positive Law and Islamic Law Perspective”, *Proceeding of International Conference on Sharia and Law* 1/1 (2022).

13 Abdullāh ibn Muḥammad ibn Abī Shaybah, *al-Kitāb al-Muṣannaf fī al-aḥādīth wa-al-āthār* (Riyadh: Maktabat al-Rushd, 1409), 5/465 (No. 28020).

14 Duy Quy Nguyen-Phuoc et al., “Questioning Penalties and Road Safety Policies: Are They Enough to Deter Risky Motorcyclist Behavior?”, *Accident Analysis & Prevention* 207 (2024), 1-13.

or vehicle) in a shared public space without proper authorization or caution is responsible for any resulting harm. This analogy is grounded not in historical sameness but in the continuity of the fiqh principle of safeguarding public rights (*ḥuqūq al-‘āmmah*) and preventing harm (*dar’ al-mafāsīd*). Similarly, ‘Āmir ibn Shurāḥīl al-Sha‘bī<sup>15</sup> (d. 103 AH / 721 CE) declared, “If a man ties his animal on the road of the Muslims, he is responsible for whatever it causes.”<sup>16</sup> The principle was reinforced by Shurayḥ ibn al-Ḥārith (d. 78 AH / 697 CE), who ruled that anyone who places harmful objects like stones or digs a well in a public path is liable for any resulting damage or injury; “his blood money is taken, and he is not exempt.”<sup>17</sup> A case illustrating this is that of ‘Amr b. al-Ḥārith b. al-Muṣṭaliq, who was held responsible for damages after a mule fell into a well he had dug on a public road; Shurayḥ ruled that he must pay the value of the mule—two hundred dirhams.<sup>18</sup> Likewise, al-Ḥasan al-Baṣrī (d. 110 AH / 728 CE) emphasized that “whoever causes anything in the way of Muslims is liable (*dāmin*),” underlining the juristic commitment to safeguarding public pathways.<sup>19</sup> Additionally, the prophet emphasized the consequences of harming Muslims in their pathways, invoking a curse upon those who transgress. These jurisprudential insights highlight the multifaceted nature of liabilities in traffic-related matters, underscoring the importance of perseverance and adherence to established legal principles. The Prophet said: “Whoever harms Muslims in their pathways, their curse is upon him.”<sup>20</sup>

Mālik ibn Anas (d. 179 AH / 795 CE) addressed questions about individuals constructing extensions or semi-private spaces (*duruḥ, rawāq*) adjacent to public roads. When asked whether such spaces belonged to their builders and could be considered part of their property, Mālik distinguished between situations. He ruled that if such structures were built on narrow roads and obstructed the passage of Muslims without offering public benefit, they were impermissible and viewed as encroachments (*i’tidā’ alā al-ṭarīq*). However, if the additions were on wide streets and did not hinder movement or some communal function, he allowed for greater leniency in their judgment.<sup>21</sup> Conversely, courtyards that facilitate the well-being of their residents without restricting the movement of Muslims present a less contentious issue. Furthermore, he stipulated that courtyards aligning with expansive, traversable streets have distinct legal considerations, whereas narrow streets lacking courtyards are due to their obstructionist nature and negligible utility to passersby. Mālik highlighted that despite being bordered by roads, courtyards do not possess ownership rights over them. Consequently, he advocated against purchasing wood from individuals who violate public thoroughfares by placing unauthorized structures or goods, asserting their status as usurpers.<sup>22</sup> However, the Prophet said, “Whoever wrongfully takes a handspan of land, Allah will encircle him with seven earths on the Day of Judgment.”<sup>23</sup>

Ashhab ibn ‘Abd al-‘Azīz al-Qaysī (d. 204 AH/819 AD) addressed the permissibility of halting one’s animal in the path of Muslims and dismounting it for reasons of necessity or similar circumstances. Moreover, he claimed that an individual who deliberately sprays a courtyard to render it slippery, thereby causing harm to any person or animal passing through, bears responsibility for damage or injury. However, if the spraying is intended for cooling or cleaning without hostile intent, the individual is acquitted of liability for ensuing harm.<sup>24</sup> In a related context, Ibn al-Qāsim (d. 191 AH/806 AD) and Ashhab discussed the liability of a train conductor for incidents involving camels at the start or end of a

15 ‘Āmir ibn Shurāḥīl al-Sha‘bī was a prominent Kūfan Ṭābi‘ī jurist and traditionist, known for his vast knowledge of early legal opinions and frequent transmission from numerous Companions. al-Sha‘bī played a pivotal role in shaping early Iraqi legal thought and is frequently cited in both legal and exegetical literature. See, Shams al-Dīn Al-Dhahabī, *Siyar a’lām al-nubalā’* (Beirut: Mu’assasat al-Risālah, 1981), 4/294-311; Muḥammad Ibn Sa’d, *Ṭabaqāt al-kubrā* (Cairo: Maktabat al-Khānjī, 2001), 6/218-225.

16 Abū Bakr Abd al-Razzāq ibn Hammām Ṣan‘ānī, *al-Muṣannaf* (India: al-Majlis al’lmy, 1403), 10/68 (No. 18386).

17 Ibn Abī Shaybah, *al-Kitāb al-Muṣannaf*, 5/399 (No. 27357).

18 Ibn Abī Shaybah, *al-Kitāb al-Muṣannaf*, 5/399 (27363).

19 Ibn Abī Shaybah, *al-Kitāb al-Muṣannaf*, 5/399 (27358).

20 Sulaymān ibn Aḥmad Ṭabarānī, *Al-Mu’jam al-kabīr* (Cairo: Maktabat Ibn Taymīyah, 1994), 3050.

21 Shams al-Dīn ibn ‘Abd al-Raḥmān al-Ḥaṭṭāb, *Mawāhib al-jalīl fī sharḥ mukhtaṣar Khalīl* (Dimashq: Dār al-Fikr, 1992), 5/157.

22 Mālikī, *Mawāhib al-jalīl fī sharḥ mukhtaṣar Khalīl*, 5/158.

23 Abū ‘Abdillāh Muḥammad ibn Ismā‘īl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī* (Beirut: Dār Ibn Kathīr, 1987), “Kitāb al-Mazālīm”, 13 (No. 2453); Abū al-Ḥusayn Muslim ibn al-Ḥajjāj Muslim, *Ṣaḥīḥ Muslim* (Cairo: Maṭba‘at ‘Īsā al-Bābī al-Ḥalabī wa-Shurakāh, 1374), “Kitāb al-Musāqāh”, 30 (No. 1610).

24 Abd Allāh ibn Abd al-Raḥmān Qayrawānī, *al-Nawādir wāz-ziyādāt* (Beirut: Dār al-Gharb al-Islāmī, 1999), 13/519.



train.<sup>25</sup> They presented a scenario wherein a person carrying mud from their house for construction purposes inadvertently causes a passerby to trip and die. Liability assessment **depends** on factors such as the width of the road and the volume of mud present. If the road is narrow or blocked with mud, the individual is considered responsible for the accident and must pay blood money. Conversely, suppose the road is wide and the mud minimal, and the individual diverts the mud away from the passerby's path. In that case, they are acquitted of liability as their actions do not hinder transit or pose a hazard to pedestrians.<sup>26</sup> Furthermore, liability extends when an individual discards fruit remnants or other hazardous objects on the road, leading to fatal accidents.<sup>27</sup>

Rabī'ah ibn Abī 'Abd al-Raḥmān (136 AH/753 AD) said that the liability of an individual lying on the side of a road whose presence results in an animal with its rider running away while the individual is asleep. Rabi'ah asserted that the individual is accountable for the incident, but exemption from liability is granted if the individual is situated on a different road unless they relocate.<sup>28</sup> A comparable modern example would be incidents caused by dangerous maneuvers, high-powered sound horns that frighten and startle people, or excessively bright lights beyond the permitted limit. Such actions could warrant liability if scientific and practical expertise confirm that they induce fear and panic in ordinary people and are legally prohibited. The act of stopping on the road is contingent upon ensuring safety. Ibn Abd al-Barr further elaborated on this principle,<sup>29</sup> affirming unanimity among Mālik and his associates, as well as jurists across various regions such as the people of Hijaz, Iraq, and the Levant, spanning the first two centuries until the beginning of the third century (equating to the seventh and eighth centuries AD until the start of the ninth century). According to Ibn Abd al-Barr, it is universally acknowledged among these scholars that halting one's animal in a location where it is impermissible to park, particularly on narrow roads or other prohibited areas, renders the individual liable.<sup>30</sup> In such instances, the individual assumes responsibility as a guarantor for any ensuing harm. However, suppose the individual halts their animal in a location commonly recognized for such purposes or akin to their property, such as their residence, the mosque's entrance, the dwelling of a scholar (*'ālim*), or a judge's abode. In that case, they are forgiven of liability for resultant damages. Additionally, any unauthorized digging in the road, whether due to narrowness or other reasons, is deemed contributory to damages incurred.<sup>31</sup>

While this section outlined foundational juristic rulings on public safety and liability, the following section examines the deeper legal and ethical justifications that render such responsibilities obligatory under Islamic law, especially in light of modern mobility and risk.

## 2. The Legal and Ethical Basis for Traffic Obligations in Islamic Jurisprudence

This section outlines the legal basis for adhering to traffic rules in Islamic jurisprudence. This interpretive method, relying on multiple legal evidences with overlapping purposes, is rooted in the juristic principle of *tadākhul al-adillah* (interconnection of proof), where the convergence of goals across rulings indicates an underlying normative command. Islamic jurisprudence affirms the sanctity of life and property, prohibiting harm to oneself or others. Sharia considers the soul and possessions as divine trusts, and individuals are duty-bound to preserve them. Al-Shāṭibī explains that safeguarding one's life is not merely a personal duty but a right owed to Allah. Accordingly, any act that endangers life or property, whether intentional or negligent, violates a core principle of Islamic law which aims to prevent harm and uphold public welfare.<sup>32</sup>

25 Qayrawānī, *al-Nawādr wāz-ziyādāt*, 13/523.

26 Weigang Li - Jian Liu, "Analysis of the Evolution of Pedestrian Crossing Based on Dynamic Penalty Mechanism", *Physica A: Statistical Mechanics and Its Applications* 623 (2023), 1-15. Yang-Jun Joo et al., "A Data-Driven Bayesian Network for Probabilistic Crash Risk Assessment of Individual Driver with Traffic Violation and Crash Records", *Accident Analysis & Prevention* 176 (2022), 1-15.

27 Alī ibn Muḥammad al-Baṣrī al-Baghdādī al-Māwardī, *al-Ḥawī al-kabīr* (Beirut: Dār al-Kutub al-'Ilmiyah, 1999), 12/372.

28 Qayrawānī, *al-Nawādr wāz-ziyādāt*, 13/526.

29 Qāḍī 'Iyād ibn Mūsā ibn 'Iyād al-Sabtī, *Tartīb al-madārik wa-taqrīb al-masālik* (Beirut: Dār al-Kutub al-'Ilmiyah, 1998), 381-391.

30 Qāḍī 'Iyād, *Tartīb al-madārik*, 381-391.

31 Yūsuf ibn 'Abd Allāh ibn Muḥammad ibn 'Abd al-Barr, *al-Tamhīd li-mā fī al-Muwāṭṭa' min al-ma'ānī wa-al-asānīd* (Morocco: Wizārat al-Awqāf wa-al-Shu'ūn al-Islāmiyah, 1412), 7/19.

32 Fathī Duraynī, *Khaṣā'is al-Tashrī' al-Islāmī fī al-siyāsah wa-al-ḥikam* (Beirut: Mu'assasat al-Risālah, 2013), 244.

Likewise, the Sharia view of money or property is that it belongs to its owner, who has the right to enjoy it, develop it, and achieve his good hopes. Accordingly, Allah has a right over it, so he should not spend it on anything that would harm him or others, and it is not permissible for him to expose it to destruction. Exposing it to destruction is a reprehensible crime in Sharia, even if this money is considered simple and despised. An example is jurisprudential issues regarding ownership disputes arising after planting a tree. If someone cuts a tree from another's property and plants it on their own land, the original owner can reclaim it if done promptly; otherwise, compensation is due. However, if the planted tree damages the original tree, the planter must compensate for the lost value.<sup>33</sup> This applies if the matter is related to someone else's money. For this reason, the jurists used the example of a sheep; if it was injured and its owner wanted to slaughter it before it died and did not have a knife with him, and someone else had a knife and asked for it from its owner. However, he refused to give it to him until the sheep died. The knife owner would be a guarantor of the value of the sheep because he abstained from performing a duty and, by his abstention, caused damage to the sheep<sup>34</sup> because abandonment equates to an action falling under the category of guarantee.<sup>35</sup>

However, connecting causes with their effects, the universal laws established by Allah, both on earth and among His servants, form essential elements of Islamic jurisprudence. This assertion is emphasized by linking jurisprudential rulings to their underlying causes and subsequent outcomes, encompassing material and moral factors, including those leading to psychological ailments and similar consequences. In this context, scholars have explained that initiating a cause holds comparable weight to the effect, irrespective of its intention. This principle is grounded in the understanding that divine commands are geared towards facilitating beneficial outcomes while prohibiting actions that engender harm.<sup>36</sup> Consequently, individuals must evaluate the potential consequences of their actions before proceeding, as the outcomes are inherently tied to the actions themselves.<sup>37</sup> Engaging in such understanding enables individuals to align their conduct with the dictates of Islamic law, thereby ensuring the regulation of causal relationships by the stipulations of Sharia. This principle is fundamental in jurisprudence and other spheres of inquiry, guiding individuals in navigating the complexities of causal relationships within Islamic legal principles. Indeed, considering this perspective proves highly advantageous within the broader context of Sharia.<sup>38</sup> Muḥammad 'Alī Ṣallābī quoted a hadith where the Prophet Muhammad stated: "Whoever spends the night on the back of a wall without any support for their legs, and subsequently falls and dies, has fulfilled their obligation. Similarly, whoever embarks upon the sea during its turbulence has fulfilled their duty."<sup>39</sup>

### 3. Institutional Foundations for Regulating Public Safety in Islamic Law

Having established the juristic and ethical basis for traffic-related responsibilities, this section examines how Islamic governance structures historically supported public safety through judiciary, administrative, and urban systems.

The pursuit of civilization and urbanization is considered a religiously valid objective among those sought by Sharī'ah from its inception. This endeavor encompasses various initiatives, including the establishment of ministries, courts, administrative systems, military structures, infrastructure development, road construction, and the advancement of sea and land transportation networks.<sup>40</sup> Furthermore, Islamic legislation has fostered the development of precise scientific methodologies within legislative jurisprudence, enabling the derivation of practical, relevant, and efficacious rulings and regulations. This approach ensures the realization of societal interests without neglecting the

33 Abū al-'Abbās Aḥmad Wansharīsi, *'Iddat al-Burūq fi jam' mā fi al-madḥhab min al-jumū' wa-al-furūq* (Beirut: Dār al-Gharb al-Islāmī, 1990), 627.

34 Muṣṭafā Zarqā, *al-fi'l al-dārr wa al-qamān fihi* (Dimashq: Dār al-Qalam, 1988), 81.

35 Aḥmad ibn 'Alī ibn Muḥammad Ibn Ḥajar Asqalānī, *Fath al-bārī bi-sharḥ ṣaḥīḥ al-Bukhārī* (Beirut: Dār al-Ma'rifah, 1379), 5/98.

36 Ibrāhīm ibn Mūsā al-Shātibī, *al-Muwāfaqāt fi uṣūl al-sharī'ah* (Cairo: al-Maktabah al-tawqīfīyah, 2003), 1/171.

37 al-Shātibī, *al-Muwāfaqāt*, 1/172.

38 al-Shātibī, *al-Muwāfaqāt*, 1/188.

39 Muḥammad 'Alī Ṣallābī, *'Umar Ibn al-Khaṭṭāb* (Egypt: Dār al-Tawzī' wa al-Nashr al-Islāmīyah, 2002), 1/237.

40 Ṣallābī, *'Umar Ibn al-Khaṭṭāb*, 1/237.

welfare of the state, its citizens, or individuals in the absence of specific textual references for these endeavors.<sup>41</sup>

Islam's systems aim to clarify their necessity and intent. They are described through an examination of their history and conditions. During the prophecy, the Prophet was the judge, followed by Abu Bakr and Umar. As the state expanded, delegating judicial duties to others was beneficial, establishing judges for each province and specializations in judicial matters.<sup>42</sup> As complaints against governors, state officials, and those in authority increased, offices for grievances and a chief judge were established. Developing other systems, such as the soldiers, the military, the police, customs, the office, and the administration, was natural.

However, the jurists of legislative jurisprudence believe that the progress of regulations and legislative jurisprudence is based on need rather than necessity. Al-Qarāfi argues that judges could deduce rulings through *ijtihad* based on evidence or guidance from their imam. They are tasked with establishing binding rulings when necessary and permissible when appropriate, essentially establishing divine rulings that serve society's interests.<sup>43</sup> Similarly, al-Dihlawī contends that laws originating from Sharī'a are akin to acts of worship, such as prayer and fasting, facilitating the pursuit of truth.<sup>44</sup>

#### 4. Clarity of the Need for a Traffic System

Islamic law classifies objectives into three levels: necessities (*ḍarūriyyāt*), needs (*ḥājiyyāt*), and enhancements (*taḥsīniyyāt*). While all levels aim to preserve human welfare, this section focuses on *taḥsīniyyāt*, which includes conduct and etiquette-related regulations such as traffic safety. The "*Murtabat al-Tahsīn*" principle emphasizes strict adherence to traffic laws, allowing walking and parking but requiring authorization from the governing authority. Adherence fosters unity and solidarity, and the community is seen as organized and dedicated to upholding traffic laws. Safety measures ensure the road to passage, and liability for violations falls on the individual unless circumstances dictate otherwise.<sup>45</sup>

In the case of ensuring accountability for unlawful damage, such accountability arises when an individual drives an animal filled with grain or other items that cause harm to a person or property along the road. This situation presents two possibilities: if the driver, supervisor, or passenger issues a warning such as "To you" to alert others of the potential danger, and the recipient fails to heed it, liability is contingent upon two circumstances. This principle summarizes that using a sound horn (car horn) can be a subject of juristic consideration, forming the basis for a set of rulings related to liability. Firstly, if the recipient fails to vacate the premises despite having the opportunity to do so, absolving the animal's owner of liability; secondly, suppose the recipient is unable to relocate due to a lack of available alternatives, thereby remaining in the path of danger until their clothing is torn. In that case, the animal's owner bears responsibility for the ensuing damages. Conversely, if the rider of the animal neglects to issue a warning, they assume liability for any resulting harm.<sup>46</sup> However, concerning the driving eligibility issue, in the early period of Islam, there were no official bodies for teaching riding animals or driving them. Instead, the responsibility fell on the children's guardian, who bore full responsibility for the entrusted task. The Islamic decree to teach horsemanship was issued during the Umar era. Makhul reported that Umar wrote to the people of Sham, "Teach your children swimming and archery."<sup>47</sup> For example, if a load-bearing object, such as a camel, falls on an individual and causes their death, or if it falls on the pathway, causing someone to stumble and subsequently die, the responsibility lies with the individual driving the camel. This parallels cases today where cargo falls from trucks due to improper securing, making the driver liable. However, if the accident occurs due to negligence on the part of the

41 Duraynī, *Khaṣā'is*, 196-197.

42 Rifā'i, *al-Nuẓum al-Islāmiyyah*, 105-121.

43 Qarāfi, *al-Dhakhīrah*, 2/541-542.

44 Dihlawī, *Hujjat Allāh al-bālighah*, 1/260.

45 Abū Bakr Ibn Mas'ūd Kāsānī, *Badā'i' al-ṣanā'i' fī tartīb al-sharā'i'* (Beirut: Dār al-Fikr, 1996), 7/402.

46 Zayn al-Dīn Nujaym, *al-Baḥr al-rā'iḳ sharḥ kanz al-daqa'iq* (Beirut: Dār al-Ma'rifah, 1993), 8/407.

47 al-Muttaqī Hindī, *Kanz al-ummāl fī sunan al-aqwāl wa-al-af'āl* (Beirut: Mu'assasat al-Risālah), 4/11386.

leader and the driver in handling the load, it is akin to them directly causing the object to fall. Consequently, they bear responsibility for any damages resulting from the falling object.<sup>48</sup>

However, preparing the road for traffic and maintaining it, similarly, if a person places a stone on the road, constructs a building there, removes a trunk or a protruding rock from a wall onto the road, or erects a barrier, they are liable for any resulting harm because they have obstructed the road. They have introduced something on the road that could harm passersby or hinder their right of passage.<sup>49</sup> Sarakshi outlines the *miyyar* (standard) various aspects of jurisprudence about roads,<sup>50</sup> underscoring the keen interest of jurists in this domain.<sup>51</sup> It is evident from their discussions that jurists differentiated between different types of roads, particularly distinguishing the broad road - spanning seven cubits or more - from narrower paths. Their considerations encompassed factors such as ensuring safety for pedestrians, preventing obstructions that could lead to accidents, and maintaining adequate lighting along the route. Furthermore, they prohibited encroachment upon the sidewalk area for personal use, recognizing its importance in facilitating safe passage. Jurists' meticulous preparation and surveillance of roads aimed to safeguard pedestrians from hazards such as water accumulation, drainage issues, and obstacles like trees. Regarding the principle, safety measures should be prioritized for dangers that can be reasonably guarded against, while acknowledging those beyond control.<sup>52</sup> For instance, absolute prevention is not expected if an animal causes minor disturbances, such as raising dust or small pebbles. However, precautions are necessary for larger pebbles since their avoidance is feasible, unlike in crowded marketplaces where such actions may be unavoidable.<sup>53</sup> Similarly, if an adult experiences overwhelming anxiety, it may impede their actions, as fear typically accompanies it. Therefore, it is acceptable for anxiety to serve as a justification for ensuring a person's safety, such as by digging a well.<sup>54</sup> However, individuals who guide their animals with care and gentleness in regulating travel speed bear no responsibility. However, they are held liable if they drive their animal aggressively, resulting in injury.<sup>55</sup> Talking about the negligence of a driver in taking care of their vehicle or securing the load placed on it –where something falls from the truck or car, causing a windshield to break or damage to another vehicle, regardless of the extent of the damage– jurisprudence holds the driver responsible due to their negligence and obligates them to provide compensation.

## 5. The Roots of Traffic Safety Regulations in Islamic Jurisprudence

This section illustrates how Islamic law has established regulations to ensure traffic safety and prevent accidents. Rules governing returns relevant to the provisions of traffic law include the principle that current returns must be considered necessary according to Sharia. al-Shāṭibī emphasizes: "The law was established with interests in mind, and in such cases, it is imperative to ensure that returns are taken into account."<sup>56</sup> One implication of this principle is that actions known, through consistent practice, to contribute to accidents are prohibited by Islamic law, aligning with universal norms, such as overtaking hazardous curves. Al-Shāṭibī clarified that the consequence of a cause holds the same significance as the cause itself, regardless of whether the individual intended it as such. This is because when an action becomes a customary cause, it adheres to the principles of causality, much like the relationship between satiety and food or thirst and water. He further explained that whatever is encompassed within the cause is integral to it as a necessary component. This reflects the divine wisdom behind Allah's commands. Each action is ordained either to bring benefit or prevent harm.<sup>57</sup> Thus, any resultant effects

48 Abū Bakr Muḥammad Ibn Aḥmad Ibn Shams al-Dīn Sarakhsī, *al-Mabsūṭ* (Beirut: Dār al-Ma'rifah, 1993), 27/4.

49 Sarakhsī, *al-Mabsūṭ*, 27/6.

50 Wansharīsi, *Iddat al-burūq fī jam' mā fī al-madhab min al-jumū' wa-al-furūq*, 431-447.

51 Abū al-Walīd Muḥammad ibn Aḥmad Ibn Rushd, *Kitāb al-bayān wa-al-taḥṣīl* (Beirut: Dār al-Gharb al-Islāmī, 1988), 9/299.

52 Alī Aḥmad Nadwī, *Mawsū'at al-qawā'id wa-al-dawābiṭ al-fiqhiyah* (Algeria: Dār al-'ālam al-Ma'rifah, 1999), 3/145.

53 Ibrāhīm Shams al-Dīn Muḥammad Ibn Farḥūn, *Tabṣirat al-ḥukkām fī uṣūl al-aqdiyah wa-manāhij al-aḥkām* (Riyadh: Dār 'Ālam al-Kutub lil-Nashr wa-al-Tawzī', 2003), 2/255.

54 al-Ḥusayn ibn Muḥammad al-'Ukbarī Ḥanbalī, *Ru'ūs al-masā'il al-khilāfiyah bayna jumhūr al-fuqahā'* (Riyadh: Ishbiliyā, 2001), 5/528.

55 Ya'qūb ibn 'Abd al-Wahhāb Bāḥusayn, *al-Qawā'id al-fiqhiyah: al-mabādi'-al-muqawwimāt-al-maṣādir-al-dlilyh* (Riyadh: Maktabat al-Rushd, 1998), 9/259.

56 al-Shāṭibī, *al-Muwāfaqāt*, 2/245.

57 al-Shāṭibī, *al-Muwāfaqāt*, 1/172.



are contingent upon the occurrence of the anticipated benefits or harms inherent in the cause. However, ordinary actions do not attain the status of acts of worship unless the right intentions accompany them.<sup>58</sup> This principle underscores the importance of considering the consequences of one's actions. al-Shāṭibī elaborated that if an action is attributed to its cause by divine law, the individual conducting the action must be mindful of its implications, lest they incur outcomes beyond their anticipation.<sup>59</sup> This pertains to reward and punishment, as an action may elevate one's status to levels known only to Allah or lead to descent into the depths of Hell and torment, the severity of which only Allah Almighty comprehends. Al-Shatibi further remarked that the *straight path* as guidance is enjoined. Misguidance is forbidden, and just as righteousness in obedience leads to outcomes beyond one's comprehension, by the Almighty's decree: And whoever saves a life, it is as if he saved the life of all mankind.<sup>60</sup>

In addition, Islamic Sharia evaluates permissible things based on their impact on achieving fundamental purposes.<sup>61</sup> For example, driving is acceptable during heavy rain or thick fog. Obtaining advanced vehicles with features like air conditioning and ABS for safe driving is advisable, even for enjoying permissible pleasures and exercising greater control. This choice can earn rewards from Allah for preserving wealth and lives. Thus, allowable actions are evaluated based on their contribution to achieving these fundamental purposes.

Regarding precaution and the extent of action's potential for corruption, regulations foster a sense of accountability within this category and underscore the necessity of Sharia's religious ethos. Upon closer examination, this aspect is not merely a facet of precautionary measures. Engaging in any pretext here is tantamount to embracing the referenced corruption, such as exceeding the curvature of a road.<sup>62</sup> However, when customary practice indicates that specific actions seldom result in corruption, such as riding in cars or buses, they are unequivocally permissible and remain rooted in the principle of general permission.<sup>63</sup> Al-Shāṭibī asserts that if harm arises infrequently, it aligns with the principle of permission. This is because when the benefit outweighs the damage, there is no need to reconsider the permission granted for such actions. In this scenario, the action commonly leads to harm, neither definitively nor rarely, but frequently. In such instances, the emphasis is placed on specific knowledge, as preventing pretexts necessitates fully taking precautions against corruption, such as driving a car on a day with heavy rain or dense fog. Actions in this category typically result in corruption in numerous instances. However, this high frequency does not reach the threshold of definite knowledge or constitute prevailing suspicion. Consequently, this category becomes a point of contention between what is permissible and what is forbidden.

Islamic jurisprudence emphasizes the importance of maintaining and repairing roads, identifying the responsible party for damage, and bearing the entire liability for compensation. It differentiates between unavoidable hazards, such as small gravel, and avoidable hazards, such as large stones and obstacles. If a driver does not take precautions or deliberately runs over these objects, they bear responsibility for the consequences of their actions.

Excessive speeding in residential areas or zones with restricted speed limits can result in liability. Excessive vehicle overloading can reduce a driver's ability to control the vehicle. However, drivers or road users, even pedestrians, cannot use the excuse that they did not intend the accident to occur as a defense to avoid liability. In modern legal systems, traffic liability is often governed by tort principles, particularly negligence and strict liability. Islamic law shares a similar reasoning that drivers are held accountable for intentional harm and preventable accidents. Like civil law systems, Islamic law distinguishes between direct and indirect causation and permits compensation, regardless of intention, if harm was foreseeable.

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58 al-Shāṭibī, *al-Muwāfaqāt*, 1/172.

59 al-Shāṭibī, *al-Muwāfaqāt*, 1/184.

60 Ma'dah, 5/32.

61 Akgündüz, "Hanefi Fūrū' Metinlerinde Ta'zîr Bahsinin Gelişimi", 50-55.

62 Muḥammad Hishām Burhānī, *Sad al-dharā'ī' fī al-sharī'ah al-islāmīyah* (Dimashq: Dār al-Fikr, 1995), 90.

63 Muḥammad Abū Zahrah, *Uṣūl al-fiqh* (Cairo: Dār al-Fikr al-'Arabī, 2005), 272.

Instead, they must be told that their intention to engage in the cause is equivalent to intending the result. Jurists distinguish between errors in action and errors in the outcome of that action, such as excessive speeding during rain, driving under the influence of alcohol, and driving with impaired vision at night.

## 6. Islamic Legal Principles Governing Traffic Accidents

This section discusses how Islamic law meticulously outlines regulations concerning all aspects of traffic accidents and their associated responsibilities. Accordingly, Sharia law closely investigates specific rules intertwined with accidents, including regulations concerning error and its consequences, as well as those addressing direct and indirect causation.

a- Error and Its Equivalents: al-Jurjānī defines error as “that which a person does not intend,” it holds property liable for compensation in cases of error, just as it is in cases of intentional harm.<sup>64</sup> For instance, ignorance, which refers to perceiving something differently from its actual state,<sup>65</sup> does not exempt perpetrators from liability for damages.<sup>66</sup> These principles apply to individuals, as errors, ignorance, and forgetfulness do not exempt them from liability for property or bodily harm; however, they may mitigate moral blame (sin). Ibn Nujaym defines forgetfulness as the failure to recall something when needed, and it absolves one from sin by causing harm rather than ensuring compensation.<sup>67</sup>

b. Regulations Regarding Direct Causation: Direct causation refers to the direct cause of harm without an intermediary, rendering the person liable for the damage caused to others.<sup>68</sup> This principle applies to situations where two drivers or pedestrians collide, resulting in harm to both parties.<sup>69</sup> Both parties are liable because the other’s action harmed them. Jurists have differed on assigning liability in such scenarios, leading to two main viewpoints.

The Hanafīs, Mālikīs, and Hanbalīs stated that blood money for each is due to the other and the liability for their property, as each one perished due to the other’s action.<sup>70</sup> The Hanbalīs stated that if two equal ships collide and both captains are at fault, each is liable for the damage caused to the other’s boat, including lives and property.<sup>71</sup> This principle could be extended analogously to modern traffic accidents. When two vehicles collide due to mutual negligence, the Ḥanafī, Mālikī, and Ḥanbalī schools hold that each driver is liable for the damage they caused to the other’s property and life, based on the principle of *mutual causation* (*tasabbub mushtarak*) and analogy with cases of joint destruction.<sup>72</sup> This view assigns individual liability proportionally to each driver’s fault.

On the other hand, the Shafī’īs and Zufar from the Hanafī school argue that each party must pay half the value of the other’s blood money (*diyyah*) and half the damaged property due to their actions. The author of ‘Al-Bayān fī Madhhab al-Imam al-Shafī’ī states that each party must pay half the value of their ship and half the value of what is in it, as each party caused damage through their actions.<sup>73</sup> The implications of this rule, as highlighted by Al-Kāsānī, also extend to cases where, if a rider is traveling on a public road and their animal accidentally tramples a person with its hoof or foot, the rider is held accountable. This is due to the concept of error in this context and its occurrence through direct action. As the animal bears the rider’s weight and serves as their tool, any resulting fatality caused by the rider’s weight is attributed to the rider, thus constituting direct causation.<sup>74</sup> However, the rule states that the directly involved is responsible, regardless of fault.<sup>75</sup> If an individual hits another person’s parked car, they are accountable for the damage caused by their vehicle to the parked car. This is considered a direct

64 Nadwī, *Mawsū’at al-Qawā’id wa-al-ḥawābiṭ al-fiqhiyah*, 3/279.

65 Alī ibn Muḥammad ibn ‘Alī al-Zayn al-Sharīf Jurjānī, *Kitāb al-ta’rīfāt* (Beirut: Dār al-Kutub al-‘Ilmiyah, 1996), 108.

66 Nadwī, *Mawsū’at al-Qawā’id wa-al-ḥawābiṭ al-fiqhiyah*, 3/350.

67 Nujaym, *al-Baḥr al-rā’iq sharḥ kanz al-daqa’iq*, 3/272-273.

68 Muḥammad Taqī Usmani, *Buḥūth fī qaḍāyā fiqhīyah mu’āṣirah* (Dimashq: Dār al-Qalam, 2003), 297.

69 Nadwī, *Mawsū’at al-Qawā’id wa-al-ḥawābiṭ al-fiqhiyah*, 1/341.

70 Muḥammad ibn Yūsuf Abū ‘Abd Allāh Mawwāq, *al-Tāj wa-al-iklīl li-mukhtaṣar Khalīl* (Beirut: Dār al-Kutub al-‘Ilmiyah, 1994), 8/309.

71 Shams al-Dīn ibn Muḥammad ibn Aḥmad Qudāmāh, *al-Sharḥ al-kabīr lilmqān’ wa-al-inṣāf* (Cairo: Dār al-Kitāb al-‘Arabī, 1995), 5/456.

72 Abd Allāh Ibn Muḥammad Qudāmāh, *al-Mughnī* (Riyadh: Dār ‘Ālam al-Kutub, 1997), 9/272.

73 Yaḥyā ibn Sālim Abū al-Ḥusayn ‘Umrānī, *al-Bayān Fī Madhhab al-Shafī’ī* (Jeddah: Dār al-Minhāj, 2000), 11/471.

74 Kāsānī, *Badā’i’ al-ṣanā’i’ fī tartīb al-sharā’i’*, 7/401.

75 Nadwī, *Mawsū’at al-Qawā’id wa-al-ḥawābiṭ al-fiqhiyah*, 1/341.

act of damaging someone else's property, and since the car is under their control, they are liable for the damage.

The principle of direct liability has exceptions, where the directly involved party is held accountable even if not at fault. These exceptions occur in genuine incapacity<sup>76</sup> cases and when the affected party's influence in causing the outcome is more pronounced.<sup>77</sup> Scholars often use the example of an animal overpowering its rider, causing them to lose control. This situation is not considered a liability, as the animal's actions post-escape are beyond the rider's control.<sup>78</sup> This is similar to a celestial calamity, where the animal acts independently, leaving the rider powerless to regain control.

The Council of the Islamic Jurisprudence Academy in Brunei Darussalam decided in 1993 that a driver is responsible for harm caused to others, provided the offense elements, including error and damage, are fulfilled. However, there are exceptions, such as when the collision occurred due to the injured party's actions, significantly influencing the outcome.<sup>79</sup>

c. Causation Principles: The causative agent is the individual who caused the damage through their actions, without any voluntary act.<sup>80</sup> Directness principles are crucial in traffic accident causation. Islamic jurists address these issues, stating liability requires wrongdoing, not just causing harm. Individuals are held accountable for their actions, regardless of intentional or negligent intent. This principle is inseparable from traffic accident causation principles. Ibn Hazm recounts one notable application of this principle in *Al-Muhalla*,<sup>81</sup> wherein a man was escorting his mother on a donkey. A horseman swiftly passed by during their journey, causing the donkey to startle and throw off its rider. Consequently, the mother fell from the donkey and died. The son sought judgment from Omar ibn Al-Khattab, who inquired whether the man had struck the donkey or if the donkey had sustained any injuries from the horse. When the answer was negative, Omar ruled that the son was not at fault for his mother's death, absolving him of any liability.<sup>82</sup> Similarly, another instance illustrating this principle involves an individual parking their car in an unauthorized location, leading to damage for which the car owner is held accountable. This liability arises from the owner's failure to adhere to parking regulations, thereby neglecting their duty and transgressing by improper parking, resulting in the damage incurred.

However, the causative factors resulting in harm can be classified into three categories like actions, inactions, and negligence.<sup>83</sup> Firstly, harm by action occurs when someone engages in activities that harm others. For example, this can happen when someone digs a well on a public road, trespasses on someone else's property, obstructs pathways with stones or metals, contaminates water sources, or introduces hazardous objects like watermelon peels. If these actions result in fatal injuries to people or animals, the person responsible is liable.<sup>84</sup> Similarly, suppose someone breaches traffic rules by overtaking restricted zones or hazardous curves, causing collisions, or forcing others off the road. In that case, they are accountable for any resulting harm to individuals or property. Secondly, harm by inaction is when adverse conduct or failure to act causes harm. For example, if an individual is walking on a road and another person behind them attempts to overtake. A third vehicle approaches from the opposite direction, the leading vehicle owner must move to the sidewalk or seek alternative solutions to avoid a collision. Failure to take appropriate action constitutes negligence, disregarding the duty to preserve one's safety and property, and warrants inclusion in liability considerations. Thirdly, harm by negligence occurs when an individual fails to exercise the necessary care and precaution when

76 Muḥammad ibn Aḥmad ibn 'Arafah Dasūqī, *Hāshiyat al-dasūqī 'alā al-sharḥ al-kabīr* (Beirut: Dār al-Fikr, 2001), 4/248.

77 Wahbah Zuḥaylī, *al-Fiqh al-Islāmī wa-adillatuh* (Dimashq: Dār al-Fikr, 1997), 7/5216.

78 Dasūqī, *Hāshiyat al-Dasūqī 'alā al-sharḥ al-Kabīr*, 4/248.

79 Zuḥaylī, *al-Fiqh al-Islāmī wa-adillatuh*, 7/5216.

80 Usmani, *Buḥūth fī qaḍāyā fiqhīyah mu'āṣirah*, 303.

81 'Alī Ibn Aḥmad Ibn Sa'īd Ibn Ḥazm, *al-Muḥallā* (Beirut-Lebanon: Dār al-Kutub al-'Ilmiyah, 2001), 11/9.

82 Zarqā, *al-Fi'l al-dārr wa al-damān fihi*, 49.

83 Aḥmad Muwāḥḥid, *al-Dḡararu fī al-fiqh al-Islāmī* (Saudi Arabia: Dār Ibn 'Affān, 1997), 2/988.

84 Ibn Qudāmah, *Al-Mughnī*, 9/564.

exercising their authority.<sup>85</sup> In rational jurisprudence, individuals often evoke fear or distress and bear responsibility for the consequences.<sup>86</sup> This principle is illustrated in “Heads of Controversial Issues,” where fear can cause harm to a pregnant woman’s fetus, cause physical injury, or even lead to mental impairment. Children may be prone to panic-induced accidents, requiring protection similar to precautions against hazards like wells in roadways.<sup>87</sup>

The fusion of causation and directness entails a fundamental principle wherein the ruling aligns with the immediate cause when both are intertwined.<sup>88</sup> The inclusion of direct causation depends upon the extent of its influence in producing the outcome; when its impact prevails, accountability is attributed to it, necessitating compensation. Nonetheless, exceptions to this rule exist, encapsulated within a clear principle: when the cause supersedes the direct effect in influence, the ruling aligns with the cause. This occurs because the direct effect assumes a subordinate role akin to a tool wielded by the causer (*Musabbib*).<sup>89</sup> Jurists explain an illustrative instance of this principle concerning the scenario involving the perpetrator and the rider. As stated by the author of *al-Hidāyah*, if an individual provokes or strikes an animal being ridden on a roadway, leading to the animal fleeing and causing harm to the assailant, the liability rests with the provocateur, not the rider. In scenarios where the cause is implicit rather than direct, several issues arise:

When a driver is temporarily blinded by bright lights and subsequently collides with an individual or property, liability falls upon the party responsible for causing the damage, as their influence on the outcome is deemed more significant.<sup>90</sup> Suppose a driver diligently adheres to all traffic regulations, and yet another individual forcefully thrusts someone in front of their vehicle, preventing them from stopping in time and resulting in a collision. In that case, the driver is not held liable. Instead, responsibility lies with the individual who initiated the action, as their influence outweighs that of the driver. This parallels situations where an animal is provoked to attack, resulting in harm to a person. In such cases, the liability rests with the provocateur, not the rider.

Should a driver halt their vehicle at a traffic light, awaiting a green signal, only to be rear-ended by another vehicle, causing their car to lurch forward and strike someone, the liability rests with the driver of the rear vehicle.<sup>91</sup> In this scenario, direct causation cannot be attributed to the front vehicle, as it is being operated normally and can be likened to a machine to the rear vehicle. Consequently, the Permanent Committee for Scientific Research and Fatwa issued a fatwa delineating this principle.<sup>92</sup>

In cases involving multiple causal factors, precedence is given to the most influential factor. Jurists prioritize the most vital causal factor, thereby holding the individual responsible for the resultant damage, irrespective of the initial cause.<sup>93</sup> Consequently, the Council of the Islamic Jurisprudence Academy, convening during its conference session in Dar-es-Salaam in 1414 AH (corresponding to 1993 AD), issued a fatwa delineating this principle. The fatwa stipulates that if two distinct causal factors converge, each contributing to the damage incurred, then liability is apportioned to each perpetrator according to the extent of their contribution to the damage. In cases where the influences of the causal factors are equal or indeterminate, both individuals share responsibility.<sup>94</sup> For instance, if two drivers

85 Muwāfi, *al-Ḍḍararu fī al-fiqh al-Islāmī*, 2/848-849.

86 Muḥammad Aḥmad Sirāj, *Ḍamān al-ʿadwān fī al-fiqh al-Islāmī* (Amman: Dār al-Thaqāfah wa-al-Nashr, 1990), 225.

87 Ḥanbalī, *Ruʿūs al-masāʾil al-khilāfiyah bayna jumhūr al-fuqahāʾ*, 5/528.

88 Nujaym, *al-Ashbāh wa-al-naẓāʾir ʿalā madhhab Abī Ḥanāfiyah al-Nuʾmān*, 170.

89 Usmani, *Buḥūth fī qaḍāyā fiqhīyah muʾāṣirah*, 305.

90 Nawsheen Tarannum Promy et al., “Developing a Smart System for Reducing Traffic Congestion”, *Inventive Communication and Computational Technologies*, ed. G. Ranganathan et al. (Singapore: Springer Nature, 2022), 669-683; Alexandre Caeiro, “The Legal Politics of Islamic Bioethics: Drunk Driving and the Reconfiguration of Privacy in the Modern Gulf”, *British Journal of Middle Eastern Studies* (2024), 1-19.

91 Zhiyong Liu et al., “Effects of the Penalty Mechanism against Traffic Violations in China: A Joint Frailty Model of Recurrent Violations and a Terminal Accident”, *Accident Analysis & Prevention* 141 (2020), 1-7; Hongxiao Wang - Guohua Liang, “Association Rules Between Urban Road Traffic Accidents and Violations Considering Temporal and Spatial Constraints: A Case Study of Beijing”, *Sustainability* 17/4 (2025), 1680.

92 Usmani, *Buḥūth fī qaḍāyā fiqhīyah muʾāṣirah*, 312. See also, Ahmet Efe, “İslam Hukukunda Ceza İnfaz Yetkisi Açısından Töre Cinayetleri”, *Sakarya Üniversitesi İlahiyat Fakültesi Dergisi* 13/24 (December 15, 2011), 105-119.

93 Muwāfi, *al-Ḍḍararu fī al-fiqh al-Islāmī*, 2/1006.

94 Zuḥaylī, *al-Fiqh al-Islāmī wa-adillatuh*, 7/5215.



engage in reckless competition on a public thoroughfare, causing a bystander to crash into a building due to fright, both drivers bear responsibility for the resulting damages to the affected bystander and any other affected parties.

## 7. Principles of Compensation for Personal Injury and Property Damage

The sections of destruction Jurists distinguish between complete and partial destruction, which results in the depletion of the material's original form and purpose, rendering it unfit for its intended use. An example is burning a candle, which consumes its substance through illumination until it no longer functions as intended.<sup>95</sup> Moreover, a partial component of this phenomenon involves imparting a perception of the material that obstructs its utility despite its physical existence.<sup>96</sup>

Among the rules governing the guarantee of destroyed property are the limited, estimated rights necessary for the debtor's liability and resulting in debt from him. Another rule of *Qawaid Al Fiqhiyyah* or Legal Maxims states, "Necessities do not permit the destruction of another person's property without warranty,"<sup>97</sup> "necessity does not invalidate the right of another,"<sup>98</sup> and "whoever destroys something to prevent harm to him does not guarantee it,"<sup>99</sup> "If he destroys it to protect himself from harm, he is liable for it," and "Whoever destroys someone's property has no right to destroy that person's property; otherwise each of them is liable for what he destroyed."<sup>100</sup>

Classical jurisprudential works address traffic accidents and other incidents, with Muslim jurists dedicating chapters to compensation for damages. Some even authored entire books on the subject, such as Abu Muhammad Ghanim ibn Muhammad al-Baghdadi al-Hanafī's (d. 1030 AH) *Majma' al-Damānāt fī Madhhab al-Imām al-A'zam Abī Hanīfa al-Nu'mān*. These rules relate to compensation for property damage, with three types: '*Damān al-Ayn*', which restores damaged items to their original condition before destruction; '*Damān al-Mithl*,' providing equivalent replacements in the market; and '*Damān al-Qeemah*,' compensating for items without equivalents or accepted variation in value."<sup>101</sup>

In Islamic law, blood money is compensation for bodily harm, determined by the severity of the injury. There are categories for injuries unique to the body, such as body loss and loss of four or more. The amount of blood money is 1000 gold dinars, equivalent to 4.25 grams. The loss of blood money results in the soul becoming damaged.<sup>102</sup> Organs like the nose, tongue, and testicles are considered obligatory and valuable. The loss of the nose is more repulsive than the loss of the ears,<sup>103</sup> as they can only be covered by hair or a turban. The tongue is considered excellent and has beauty,<sup>104</sup> and the testicles are repulsive if severed or broken without healing,<sup>105</sup> so the full blood money is due for it,<sup>106</sup> as the Prophet stated.<sup>107</sup> Abū Ḥanīfah and Ahmad said that full blood money is required for cutting off head and beard hair if the loss is permanent and recovery is not expected.<sup>108</sup> Mālikī and Shāfi'ī schools also state that full blood money is due for flaying the skin unless it regenerates and returns to its previous state.<sup>109</sup>

95 Kāsānī, *Badā'i' al-ṣanā'i' fī tartīb al-sharā'i'*, 7/264.

96 Kāsānī, *Badā'i' al-ṣanā'i' fī tartīb al-sharā'i'*, 7/264.

97 Nadwī, *Mawsū'at al-qawā'id wa-al-dawābiṭ al-fiqhiyyah*, 3/93.

98 Muṣṭafā Aḥmad Zarqā, *Al-Madkhal al-fiqhī al-āmm* (Beirut: Dār al-Qalam, 2004), 2/213.

99 Nadwī, *Mawsū'at al-qawā'id wa-al-dawābiṭ al-fiqhiyyah*, 3/24.

100 Zarqā, *al-Fi' al-dārr wa al-damān fīhi*, 94.

101 Zuḥaylī, *al-Fiqh al-Islāmī wa-adillatuh*, 6/4802.

102 Qudāmāh, *al-Sharḥ al-kabīr lilmqān' wa-al-inṣāf*, 9/563.

103 Wansharīsī, *'Iddat al-burūq fī jam' mā fī al-madhhab min al-jumū' wa-al-furūq*, 706.

104 Jalāl al-Dīn 'Abd Allāh Najm, *Aqd al-jawāhir al-thamīnah fī madhhab 'ālam al-madīnah* (Beirut: Dār al-Gharb al-Islāmī, 2003), 3/1117.

105 Najm, *Aqd al-jawāhir al-thamīnah fī madhhab 'ālam al-Madīnah*, 3/1117.

106 Qudāmāh, *al-Sharḥ al-kabīr lilmqān' wa-al-inṣāf*, 9/599.

107 Abū 'Umar Yūsuf ibn 'Abd Allāh Ibn 'Abd al-Barr, *al-istihkār al-jāmi' li-madhāhib fuqahā' al-amṣār* (Beirut: Dār al-Kutub al-'Ilmiyyah, 2002), 8/36 (No. 1575).

108 Kāsānī, *Badā'i' al-ṣanā'i' fī tartīb al-sharā'i'*, 7/460.

109 Muḥammad ibn al-madanī Būsāq, *al-Ta'wīd 'an al-darar fī al-fiqh al-Islāmī* (Riyadh: Dār Ishbīliyyā, 1999), 316.

However, the principle states that if a man's organs are damaged in pairs, the person who damages one must pay half of the blood money. This applies to injuries to the hands, eyes,<sup>110</sup> ears, lips<sup>111</sup>, testicles<sup>112</sup>, eyebrows,<sup>113</sup> and female organs. Women's breasts and nipples are considered full-blood money due to their beauty and benefits. If one of the four essential parts is damaged, the person must pay a quarter of the blood money. Eyelids or eyelashes also incur blood money, unlike Mālik, who stipulated milk to stop spoiling.<sup>114</sup> Mālik and Al-Shāfi'ī argue that blood money is not required for damaging eyelashes, while Ahmad and Abū Ḥanīfah argue that full blood money should be paid if they are removed and do not grow back.<sup>115</sup> The Prophet teaches that destroying one of a person's ten fingers or toes is a crime, and blood money is required for each finger.<sup>116</sup>

The rule obligates the full blood money for any crime resulting in the loss of sex benefit, as destroying it is like destroying oneself. If a crime is committed against an organ, the blood money is obligatory for the lost benefit, as missing sex benefits the soul and damages it in every way.<sup>117</sup> Ashbagh said that the blood money is divided into twenty-eight parts according to the letters of the dictionary, with any letters missing reducing the blood money according to its proportion and taste.<sup>118</sup> Shafi'is believe there is a penalty for destroying beauty,<sup>119</sup> but there is no disagreement about the obligation of blood money for disabling intercourse or walking abilities<sup>120</sup>.

However, in the case of al-Arsh, it refers to obligatory money for bodily harm, including blood money. If the missing part is estimated, blood money is compensated. If impossible, a ruling is made. Abū Ḥanīfah and Mālik argue that the lack of meaning is due to a lack of knowledge. Half of the blood money is taken from organs with two or four.<sup>121</sup>

However, the ruler's judgment determines the penalties for non-fatal injuries, such as paralysis or dental damage. Ibn Rushd stated that only surgery is penalized. Jurists assess compensation after healing, considering any complications. A hadith supports delaying judgment until recovery, ensuring fair legal rulings for injuries.<sup>122</sup>

## Conclusion

This study has demonstrated that Islamic jurisprudence offers a coherent and principled framework for regulating traffic safety. It is grounded in foundational legal concepts such as liability (*ḍamān*), harm prevention (*dar' al-mafāsīd*), and the preservation of life and property. Islamic law reaffirms its continued relevance in promoting road safety and public order by aligning modern regulatory needs with classical legal ethics. It is necessitated by humanity's many and diverse needs, which help guide and elevate humans toward virtue. Procedures, systems, and laws are established to achieve the goals of rational individuals and lead societies toward order and virtue. Benefiting from experiences and generalizing them is a social necessity for achieving security and guiding a nation's progress. The laws in Sharia developed naturally in response to societal needs and temporal developments. The traffic law in Sharia is one of those laws that developed naturally. Its distinction lies in the fact that through it, we have proven that Sharia was the first to precisely regulate the traffic security system in its various fields

110 Zarqā, *al-Fi'l Alḍarr wa al-ḍamān Fihī*, 4/294.

111 Abū 'Umar Yūsuf ibn 'Abd Allāh Ibn 'Abd al-Barr, *al'istdhkār al-jāmi' li-madhāhib fuqahā' al-amṣār* (Beirut: Dār al-Kutub al-'Ilmiyah, 2002), 8/36.

112 Ibn 'Abd al-Barr, *al'istdhkār al-jāmi' li-madhāhib fuqahā' al-amṣār*, 8/36.

113 Muḥammad ibn Aḥmad ibn Muḥammad ibn Aḥmad Rushd, *Bidāyat al-mujtahid wa-nihāyat al-muqtaṣid* (Beirut: Dār al-Ma'ārif, 1982), 2/678.

114 Najm, *Aqd al-jawāhir al-thamīnah fī madhhab 'ālam al-Madīnah*, 3/1117.

115 Kāsānī, *Badā'i' al-ṣanā'i' fī tartīb al-sharā'i'*, 7/459.

116 Najm, *Aqd al-jawāhir al-Thamīnah Fī Madhhab 'Ālam al-Madīnah*, 3/1117; Ibn Rushd, *Bidāyat al-mujtahid wa-nihāyat al-muqtaṣid*, 2/679.

117 Kāsānī, *Badā'i' al-ṣanā'i' fī tartīb al-sharā'i'*, 7/460.

118 Qudāmah, *al-Mughnī*, 9/598.

119 Būsāq, *al-Ta'wīd 'an al-darar fī al-fiqh al-Islāmī*, 340.

120 Būsāq, *al-Ta'wīd 'an al-darar fī al-fiqh al-Islāmī*, 340.

121 Kāsānī, *Badā'i' al-ṣanā'i' fī tartīb al-sharā'i'*, 7/475.

122 Aḥmad ibn al-Ḥusayn ibn 'Alī Bayhaqī, *Sunan al-Bayhaqī al-kubrā* (Kahire: Dāru'l-Mārif, 2007), 8/65 (No.15891); Muḥammad Ṣidqī ibn Aḥmad ibn Muḥammad Būrnū, *Mūsū'ah al-qawā'id al-fiqhiyah* (Beirut: Mu'assasat al-Risālah, 2003), 10/731; Bayhaqī, *Sunan al-Bayhaqī al-kubrā*, 8/65 (No.15891).

in a manner that aligns with its (Sharia's) nature in dealing with universal and human laws, both material and moral. The precedence in establishing traffic rules in Sharia, building upon them, its ability to encompass incidents, and its realistic adaptability have all been proven in the article. This establishes a definitive judgment that Islamic Sharia is divine in origin and is prepared to build human beings and preserve all their interests. The Islamic jurists of the early centuries, led by our master, the Messenger of Allah (peace and blessings be upon him), were able to establish the regulatory rules for the traffic security system. They created comprehensive rules encompassing all traffic regulations and their practical developments, qualifying them to guide humanity towards civilization and to preserve human beings and their society. Practical measures could include incorporating Sharia-based liability education in driving schools, designing road infrastructure based on harm-prevention principles in Islamic jurisprudence (*fiqh*), and establishing Islamic insurance (*takāful*)<sup>123</sup> schemes for accident compensation. Highlighting ethical responsibilities grounded in Islamic law can also enhance public awareness campaigns.

However, these systems, procedures, and laws, if based on practical experience and field studies and if designed to serve legitimate interests, can be described as legitimate means because they encompass three aspects:

a. They address the needs of the people and maintain their affairs in a manner that aligns with the context of time and place. Without considering these laws, their interests would be threatened.

b. They preserve the legitimate interest derived from the evidence, and the means are considered based on their outcomes. The stronger the interest intended to be preserved, the more significant the means become, even if these means are initially permissible. The legitimate interest governs them. The jurists, just as they have established the principle of blocking means to prevent harm, have also established the principle of opening means, which implies that if a means, even if initially not legitimate, achieves more significant benefits than its harm, it is considered a legitimate means.

c. The ruler's permission, the command to adhere to these laws, and the prohibition against violating them. The principle is that the ruler's actions towards his subjects are based on their best interest. Establishing systems, rules, and procedures involves understanding and scrutinizing reality. Many juristic branches consider the ruler's permission and the arrangement of rulings based on his commands and prohibitions.

What has changed are the specific rules, which vary according to time and place. For example, what is permissible is constrained by the condition of safety, the ruler's permission is considered, and the transgressor, whether driving, walking, or parking, is held liable. To focus on comparative studies between Sharia and law, to promote them in international forums and conferences, and to strive to spread and generalize successful experiences related to these studies, because they provide a broad avenue for introducing the characteristics of Sharia and its necessity for humanity in various fields. Sharia, in the field of transactions, was the first to investigate issues of accidents, link causes to their effects, and issues of liability with definitive texts and empirical science. To ensure greater adherence to traffic laws:

The genuine will to reduce traffic accidents requires leveraging media to promote a culture of road use and adherence to its Sharia-based etiquette. This can only be achieved by awakening the religious conscience in individuals, making it unnecessary to impose deterrents and increase the number of supervisors and security personnel.

A simplified and focused appendix should be added to the "Traffic Law" book, covering the Sharia aspects related to human dignity, the various types of killing, and the causes of liability. Candidates seeking to obtain a driving license should be questioned about the content mentioned in the previous point. Liability should be imposed on drivers who excessively speed, drive vehicles with defects that

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123 A. H. M. Ershad Uddin, "Development of Islamic Insurance (Takaful) in Bangladesh: Legal Barriers and Challenges", *Trabzon İlahiyat Dergisi* 10/2 (2023), 7-30.

could lead to accidents, disregard traffic laws, or drive under the influence of any intoxicants or drugs. Drivers who frequently cause accidents should undergo a thorough medical examination, as these accidents may be due to poor eyesight, difficulty concentrating, slow reaction times, or other underlying health issues. If any deficiencies are found, they should be legally prohibited from driving to ensure their safety and the safety of others, following the principle that “preventing harm takes precedence over achieving benefits.



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