
Idtirar (Constraint) its aspects and limitations in the light of Islamic Teachings

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Abstract

"The scholarly consensus of the Muslim community (*ijma*) guides. Another method of resolving the issues is recourse to *qiyas* (in Islamic law, analogical reasoning as applied to the deduction of juridical principles from the Qur'an and the Sunnah). But some new issues are identical to those whose injunctions are available in Shariah. In such a case, the new issues and the causes of the established commandments and precedents are searched. If the causes of the new and the old issues are analogous, the established injunction is applied to the new issue. If no Shariah injunction is found on an emerging issue, no similar problem-cum-solution exists, no precedents are existing, then the nature of the Qur'an and the Sunnah are observed in arriving at the solution; then *istihsan* (among Muslim theologians, the use of one's own judgment to determine the best solution to a religious problem that cannot be solved by citing sacred texts) or *masalihamursala* (considerations of public interest) are made guiding principles for laying down laws. Indeed, no man can survive alone, cut off from the entire society. Living with others, humans face problems which they must overcome to spend their life peacefully on the face of the earth. Islam, a complete code of life, presents effective solutions to such issues. The article on *idtirar* (Constraint) given below is related to a situation which may crop up in one's life. It guides us on how to behave when one is cornered and finds no way out."

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The literal meaning of *idtirar*

الاضطرار، الاحتياج الى الشيء.

The need of a certain thing is called *idtirar*.¹

Idtirar defined

In its technical sense, *idtirar* is defined as:

1. أحوج وألجئ وهو افتعال من الضرورة وامله من الضرر وهو الضيق.

To be in need of something and to look for a way out of one's difficulties. It is on the measure of *iftial* and its root is *darura* (a situation of necessity) whose root is *darar* (harm) which is reducing to straits.²

2. الاضطرار: اى أحوج وألجئ الى اكل شئ مما حرم الله بان لا يجد غيرها. *Idtirar* refers to being in need of something and being forced to eat something which Allah has proscribed and finding nothing lawful to consume.³

3. ان الاضطرار ليس افعال المكلف.

In a state of *idtirar*, the perpetrator of a crime is not made answerable for his actions.⁴

4. الوقوع فى الضرورة الى وقع فى ضرورة تنال شئ من هذه المحرمات.

Falling into a need—that is, there is an urgent need to partake of the following unlawful articles of food.⁵

Permissibility

If one is driven by necessity, not designing to sin, unlawful things become lawful. This view is buttressed by the verses from the Qur'an, the hadith literature, the sayings of savants and jurists of Islamic law. Some verses from the last divine scripture are cited to illustrate the point:

1. (إِنَّمَا حَرَّمَ عَلَيْكُمُ الْمَيْتَةَ وَالدَّمَ وَلَحْمَ الْخِنزِيرِ وَمَا أُهِلَّ بِهِ لِغَيْرِ اللَّهِ فَمَنْ اضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَلَا إِثْمَ عَلَيْهِ إِنَّ اللَّهَ عَفُورٌ رَّحِيمٌ (١٧٣))

*He has only forbidden you carrion, blood and pork and what has been consecrated to other than Allah. But anyone who is forced to eat it—without desiring it or going to excess in it—commits no crime. Allah is Ever-Forgiving, Most Merciful.*⁴

2. (فَمَنْ اضْطُرَّ فِي مَخْمَمَةٍ غَيْرِ مُتَجَانِفٍ لِإِثْمِهِ فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ ٣)

*As for him, however, who is driven (to what is forbidden) by dire necessity and not by an inclination to sinning—behold, God is much-forgiving, a dispenser of grace.*⁵

3. (قُلْ لَا أَجِدُ فِي مَا أُوحِيَ إِلَيَّ مُحَرَّمًا عَلَى طَاعِمٍ يَطْعَمُهُ إِلَّا أَنْ يَكُونَ مَيْتَةً أَوْ

دَمًا سَنَفُورًا أَوْ لَحْمَ خِنزِيرٍ فَإِنَّهُ رِجْسٌ أَوْ فِسْقًا أُهِلَّ لِغَيْرِ اللَّهِ بِهِ فَمَنْ اضْطُرَّ

غَيْرِ بَاغٍ وَلَا عَادٍ فَإِنَّ رَبَّكَ غَفُورٌ رَحِيمٌ ١٤٥)

*(Prophet) say, “In all that has been revealed to me, I find nothing forbidden for people to eat, except for carrion, flowing blood, pig’s meat—it is loathsome —or a sinful offering over which any name other than God’s has been invoked.” But if someone is forced by hunger, rather than desire or excess, then God is most forgiving and most merciful.*⁶

4. (وَمَا لَكُمْ أَلَّا تَأْكُلُوا مِمَّا ذُكِرَ اسْمُ اللَّهِ عَلَيْهِ وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ إِلَّا

مَا اضْطُررْتُمْ إِلَيْهِ)

*Why should you not eat such animals when God has already fully explained what He has forbidden you, except when forced by hunger?*⁷

The following hadith reports also offer proof of the fact that if someone is obliged by necessity to eat prohibited foods without intending to transgress, he is not guilty of wickedness:

1. According to Jabir b. Samura, the members of his family were in Harra and needed something to take nourishment. They submitted that their camel had died. Allah’s Messenger (Allah bless him and give him peace) granted them permission to partake of it.⁸

2. According to Abu Waqid al-Laythi, he said to Allah's Messenger (Allah bless him and give him peace) that he happens to go to some places where hunger overpowers them. They find nothing to eat but dead animals, but dead meat is not lawful for them. The Messenger (Allah bless him and give him peace) said, "If you have neither breakfasted, nor dined, nor have access to anything from vegetable kingdom, then you can live on the dead meat."⁹

Some quotes of experts in Islamic jurisprudence have also given some legal maxims on dealing with a state of necessity:

1. الضرر يزال.

Harm will be taken away.¹⁰

2. الضرورات تبيح المحظورات.

Needs sanction forbidden things.¹¹

3. الضرر يدفع بقدر الامكان.

Harm will be removed as far as possible.¹²

Boundaries of *idtisar* (Constraint)

Imam Razi, discussing at length the divine concession granted to the one under extreme duress, urges the affected person to adopt all needful measures to save his life.¹³ To back up his argument, he mentions the following verses of the Qur'an:

1. (وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا ٢٩)

*Do not slay yourselves, for God is merciful to you.*¹⁴

2. (وَلَا تُلْقُوا بِأَيْدِيكُمْ إِلَى التَّهْلُكَةِ)

*And let not your own hands throw you into destruction.*¹⁵

On this score, al-Qurtubi writes:

والاضطرار لا يخلو ان يكون باكره من ظالم أو بجوع في مخممة والذي عليه الجمهور.

The majority of scholars have come to the agreement that *idtisar* comes into effect when a tyrant ruler compels someone to death or one suffers from extreme hunger.¹⁶

Interpreting the verse number 173 of *Sura al-Baqara*, IbnKathir quotes the words of Mujahid:

The verse means there is no harm for someone, at the time of compulsion and helplessness, to eat an amount of food which

takes away helplessness and compulsion. It is also narrated one should not eat more than three bites. At such a time, by the grace and bounty of Allah, this prohibited food becomes lawful for the coerced person.¹⁷

IbnKathir writes quoting the words of Masruq:

If someone is compelled to eat anything prohibited and does not eat of it and dies, then he dies the death of a hellish person. It proves that consuming such (unlawful) things at such a time is needful.¹⁸

But the dispensation to partake of the prohibited things is not granted to everyone. IbnKathir elaborates who are not accorded this concession:

Providing an exegesis of the Qur'anic words *bagh* and *ad*, Mujahid says that prohibited things remain prohibited for a dacoit, robber, someone who launches an armed insurrection against a Muslim ruler, someone who opposes the Islamic dispensation, someone who disobeys Allah and his disobedience causes him to enter disbelief even in an involuntary state as well.¹⁹

Abd al-HaqqHaqqani sums up the usage of the forbidden things in circumstances when one is denied any choices:

First, nothing lawful remains with one (because of one's inability or unavailability of the required item when one happens to be in a desert, suffers terrible famine or is on a voyage). What is more the sufferer does not have the strength to move about due to malnutrition.

Second, if someone is taken seriously ill, and can find nothing except such (forbidden) things,²⁰ or the doctor prescribes one of these things for effecting a cure.

Third, if an autocrat tyrannizing someone pressurizes him into partaking anything religiously outlawed and threatens, "If you do not consume it, I shall kill you or I shall cut off your hands or feet," and the sufferer has also absolute certitude that if he does not give way, he will be brutally assaulted.²¹

In all such circumstances, Allah shows kindness to His slaves and makes allowances for them. When one faces such an unhappy state of affairs, using the illicit things—carrion, blood, the flesh of swine, and the animal over which, whilst sacrificing, the name of someone other than Allah has been invoked and even alcoholic drinks—is not only tolerated but also legitimate. One must consume them only as a life-

saving measure, neither coveting them nor exceeding one's immediate need.

The consumption of a forbidden item as a medicine

If someone's life is in mortal danger, he may take a forbidden item until his life is out of danger, provided that:

1. He is in a critical condition and his life is dangerously threatened. The concession does not apply to slight pain or minor ailments.
2. Nothing except something forbidden is immediately accessible or effective for treatment. Extreme hunger warrants the consumption of unlawful things when no pure provision is at hand.
3. The individual is clear in his mind that the intake of an lawful item will definitely save his life: when pangs of hunger overpower him, eating a bite or a couple of bites of forbidden meat will help save his existence.

If it is known that a certain medication is of benefit in such a certain malady, but its healing property is not trustworthy, then its dose is not permissible and its ingestion is not exempted and the exemption clause mentioned in the Qur'an (2:173) does not apply here. There are, in addition, two more Qur'anic essential preconditions for legalizing the forbidden item: one should neither crave it nor exceed one's immediate need.²²

The conditions of *Idtirar* (compulsion)

In constrained circumstances, the prohibited foods and beverages become lawful, provided that the following conditions are met.

1. In a state of compulsion, one is not allowed to kill someone. But if the assailant launches a murderous attack, the defender acting in self-defence may kill the violent offender. The Qur'an warrants this type of killing:

(فَمَنْ آتَدَىٰ عَلَيْكُمْ فَآتَدُوا عَلَيْهِ بِمِثْلِ مَا آتَدَىٰ عَلَيْكُمْ)

*Thus, if anyone commits aggression against you, attack him just as he has attacked you.*²³

2. Dead meat, blood and the flesh of swine are categorically prohibited for the faithful, but if someone is driven to necessity to take them, the Qur'an does not disapprove of it. Should the coerced person opt against eating those items, unlawful items, he will be sinful. There is a consensus of opinion on this issue.²⁴

According to Imam Jafar al-Sadiq, if someone does not resort to a prohibited food and dies of starvation, he will be deemed an infidel. Imam Jafar passes his legal judgment:

فمن اضطر الى الميتة والدم ولحم الخنزير فلم ياكل شيئاً من ذلك حتى يموت فهو كافر.

If anyone is forced by necessity to partake of carrion, blood, the flesh of swine and refuses to take anything and he meets his end, he will die the death of a disbeliever.²⁵

3. The amount of unlawful food allowed for the oppressed person is that which meets a dire need. The surplus consumption is not authorized as the old maxim of jurists goes,

ما يبيح للضرورة يقدر بقدرها.

Any forbidden thing that becomes permissible because of a pressing need can only be utilized to the extent of satisfying the need.²⁶

4. If someone is forced to act against his will (but not sorely), it is not allowable for him to hurt another fellow, to meet his need. If the one in need harms, he will be obliged to make up for the loss.

الاضطرار لا يبطل حق الغير.

Idtirar (compulsion) does not do away the right of another individual.²⁷

***Idtirar* (compulsion) is a situation of need**

The following examples show that *idtirar* (compulsion) is a circumstance of need. On occasions, one is faced with such a state of affairs that may involve the loss of life. Then strict prohibitions turn into permissions.

1. If someone goes along a road and comes face to face with a dog, a rabid dog, and the people are shouting to alert him to the imminence of the danger, then he may enter a house without seeking permission. Under the circumstances, his entry into a stranger's house will be justified because knocking at the door and awaiting the permission to step in is tantamount to seeking out death.

2. If it hails out of the blue and someone gets caught in hailstones, he must go to a shelter. Failing to seek shelter from a hailstorm may seriously endanger his life. Should the alien enter a house without being asked or invited, to escape from the adverse weather conditions, it is permissible for him.

In such conditions, the victim is allowed to have recourse to prohibited things because at that juncture their usage is not frowned on.

End notes

¹ IbnManzur al-Afriqi, *Lisan al-Arab*, 4:483.

² Al-Razi, *al-Tafsir al-kabir*, 5:13.

³ Al-Barwasi, Ismail Haqqi, *TafsirRuh al-Bayan*, 1:277.

⁴ Al-Razi, *al-Tafsir al-kabir*, 5:13.

The unlawful items include carrion, blood, the flesh of swine, and that over which any name other than God'

⁵ Al-Alusi, *Tafsir Ruh al-Maani*, 6:61.

⁶ Qur'an 2:173.

⁷ Ibid, 5:3.

⁸ Ibid 6:145.

⁹ Ibid, 6:119.

¹⁰ Ahmad b. Hanbal, *al-Musnad*, 6:92.

¹¹ Ibid, 6:286.

¹² *Majalla al-Ahkam al-Adliyya*, madda 20.

¹³ Ibid, 21.

¹⁴ Ibn Nujaym, *al-Ashba wa al-nazair*, 2:107.

¹⁵ Al-Razi, *al-Tafsir al-kabir*, 5:14–16.

¹⁶ Qur'an 4:29.

¹⁷ Ibid, 2:195.

¹⁸ Al-Qurtubi, *al-Jami li ahkam al-Qur'an*, 2:225.

¹⁹ IbnKathir, *Tafsir al-Qur'an al-Azim*, 1:243.

²⁰ Ibid, 1:243.

²¹ Ibid.

²² The unlawful items such as carrion, blood, the flesh of swine, and the animal over which, whilst sacrificing, the name of someone other than Allah has been invoked.

²³ Al-Haqqani, Abd al-HaqqDehlavi, *TafsirHaqqani*, 1:29.

²⁴ Muhammad Shafi, Mufti, *Maarif al-Qur'an*, 1:425.

²⁵ Qur'an 2:194.

²⁶ *Mawsuat al-Fiqh al-Islami*, 4:65.

²⁷ Al-Qummi, *Man la yahdurhu al-faqih*, 3:218.

²⁸ Ibn Nujaym, *al-Ashba wa al-nazair*, 2:119.

²⁹ *Majalla al-Ahkam al-Adliyya*, madda 33.

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