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**A Research Study on
Islamic Legal Maxims in the context of ‘Climate Resilient
Development Pathways’ (CRDPs)**

Muhammad Mahmood ul Hassan Shah

Ph.D Scholar, Department of Islamic Studies,
University of Okara, Okara, Pakistan.

mahmood2letters@gmail.com

<https://orcid.org./0000-0002-3294-9224>

Dr. Abdul Ghaffar

Assistant Professor, Department of Islamic Studies,
University of Okara, Okara, Pakistan.

Abstract

Islamic legal maxims (Al-Qawaid Al-fiqhiyyah) have been extensively extracted from the all-inclusive meanings of shariah. These legal maxims are very important as to encapsulate the Islamic legal philosophy (shariah’s objectives) in a sentence. They are not only capable to assess the data of other discourses in an Islamic legal method they also show the direction to them to the Islamic legal framework. Ergo, ‘how to stop the global climate change’, aka, ‘Climate Resilient Development Pathways’ (CRDPs) are assessed and directed by islamic legal maxims. In this article, it has been tried to apply the Islamic legal maxims to the data of ‘Climate Resilient Development Pathways’ in order to provide the Islamic legal philosophy for the climate science and management.

Keywords: Islamic Legal Maxims, CRDPs, Global Climate Change, Climate Science, Islamic Legal philosophy

1. Background

i. Vulnerability and resilience

Productive and healthy social systems, economies and environments are the foundations of sustainable development and the welfare of the mankind. To achieve these objectives, management sciences of the environmental, social and economic issues study present situation of the system; its good practices and evaluating the mistakes of the past. But this study alone is not sufficient to achieve that goal. There is a dire need to

address the control of the risk to get protected from damages and establish the sustainability.

There are two fundamental tools of management / climate science of global climate change.

Vulnerability (Consequences)

Resilience (Responses)

Things are identified from their opposites. Vulnerability cannot be understood until the concept of resilience does not emerge. They are conceptually conjoined with each other. In the objectives of Islamic Law, the concept of *tahqiq al-masalih* (attainment of benefits) and *dar'a al-mafasid* (prevention from harms) has significantly meaningful contrast with 'vulnerability' and 'resilience'.

Vulnerability as a basic concept is further extended to modern risk management and its three components: hazards; exposure and vulnerability. While the resilience in the modern science is classified into four tools, also known as Climate Resilient Development:

- i. Adaptation and mitigation
- ii. Innovation
- iii. Resources and engagement
- iv. Transformation.

ii. Sustainability

1. 'Sustainable Development Goals' are one of the primary objectives in the United Nations. Yet sustainability cannot be achieved during the exceedance of planetary boundaries or global climate change. So what is global climate change? According to the Intergovernmental Panel On Climate Change (IPCC), climate change "refers to any change in climate over time, whether due to natural variability or as a result of mankind activity."¹ To counter the threat and risk, Sustainable Development Goals (SDGs) are required to planned responses and resilience. These actions are called 'climate action' and 'sustainable development.' They are interlinked and interdependent processes and their leveraged interdependency is essential to pursue the Climate Resilient Development (CRD) in order to enhance mankind and ecological well-being.

2. iii.. What is CRD?

According to the IPCC's Sixth Assessment Report "Climate Resilient Development (CRD) is a process of implementing greenhouse gas mitigation and adaptation options to support sustainable development for all."²

The links between 'climate change' and 'development' has been discussing since the IPCC's First Assessment Report and successive Reports. The concept of CRD in the literature was firstly described as to reduce poverty and adaptation to climate change simultaneously, without properly mentioning mitigation; and later was mentioned with mitigation

and poverty reduction as 'low-carbon development', without explicit description of adaptation. Thus, a balanced and inclusive definition of CRD is drawn in the 6th Assessment Report (AR6) of IPCC.³

iv.. Scope of CRD

CRD discusses the matter of equity in which poor and developing countries are involved with regard to the payments for achievements from carbon-polluter developed countries. CRD involves the matter of system transitions in energy; industry; land, ocean and ecosystems; urban and infrastructure, and society. It also includes adaptation for mankind, ecosystem and planetary health.⁴

There are multiple factors that enable CRD. It includes societal behaviour to adjust the effects of climate change (adaptation); reduction in greenhouse gas emissions in order to mitigate the global warming, for exceedance of warming levels from 1.5°C could limit the prospects of CRD (mitigation); access to appropriate technology (innovation); CRD related investment, access to rapidly scaled-up finance as well as inclusive governance, enhance the functioning power of governments over all areas including individual and societal areas, (resources and engagement); urgent leveraging change in the development of people, prosperity, partnership, peace and planet (transformation).⁵

v. Importance of CRD.

Mankind has relentlessly been using the resources of their future generations as well as contaminating the air, water, land, and biosphere for the last two centuries. Therefore, we are culprit to commit the sin of exceedance of planetary boundaries such as: biodiversity loss, changes in land systems, freshwater use, novel entities (chemicals, plastics, nuclear waste etc.), altered biogeochemical cycles (acidic oceans etc.) and climate change.⁶

Anthropogenic activity has heated the environment that is unbelievable in at least the last two thousand years.⁷

The degree of current alteration all over the environment collectively, and the present condition of many areas of the environment are unbelievable over several centuries to many thousands of years.⁸

Mankind activities, primarily through releasing of GHGs, have unequivocally brought about world-wide warming, with world-scale earth temperature has got 1.1 °C above 1850-1900 in 2011-2020. World-wide GHGs release are being increased from the changing of land, the use of land and carbon energy, living style of people, their growth and productivity as well as their culture of consumption.⁹

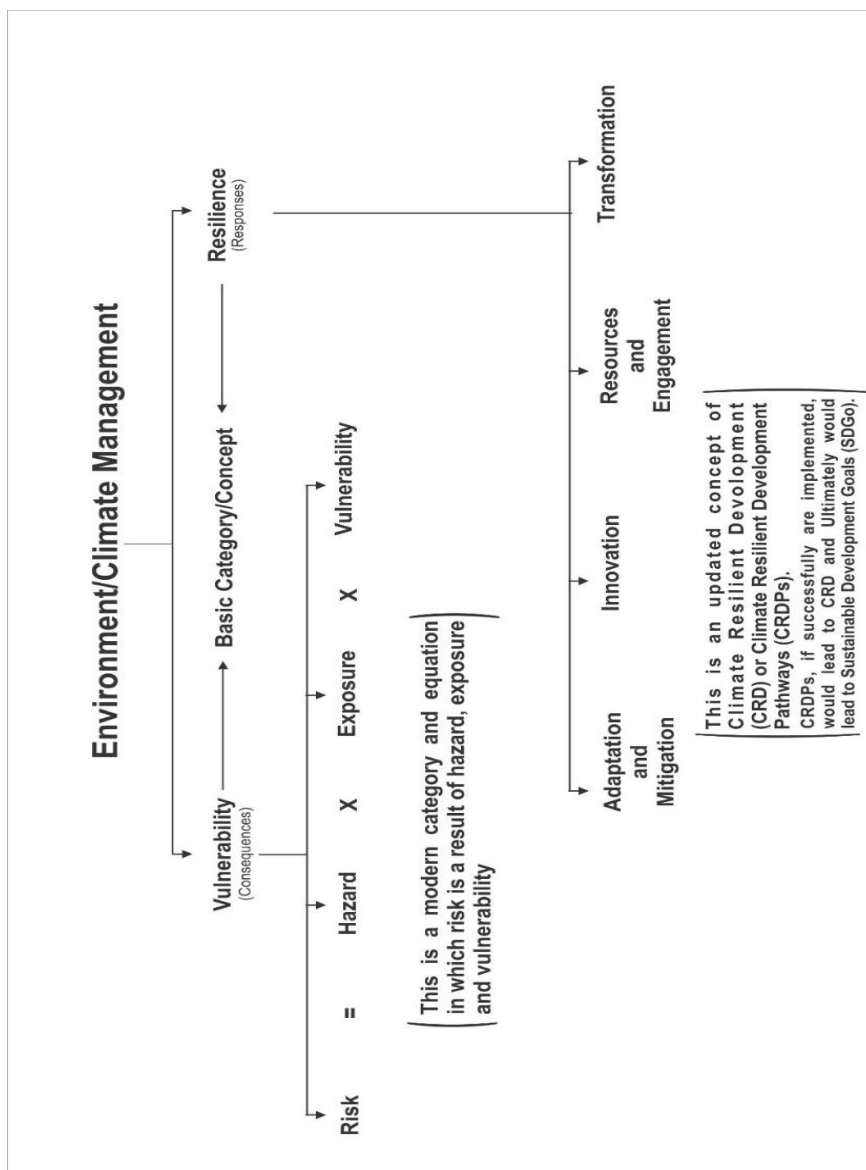
Large and rapid alterations in the air, cryosphere, sea and upper sphere have happened. Mankind-induced climatic alteration is already intensifying several weather and climate extremes in every location of the world. This has caused global-scale disaster and damages to nature and

people. Poor nations who have historically contributed the least to present world-wide environmental changes are brutally affected.¹⁰

This generational level inflation of planet Earth will take an unbearable toll from our future generations. These all exceeded planetary boundaries are undermining CRD to achieve the SDGs.¹¹

vi. What is CRDPs?

To operationalize the concept of CRD in a decision making context is required a methodology to implement it. This methodology is descried by CRD Pathways (CRDPs). CRDPs mean: “development trajectories that successfully integrate mitigation, adaptation and sustainable development.”¹²



2. To Apply Islamic Legal Maxims over the Data of CRDPs.

After contemplating deep into the significance of principles of shariah (Quran, Sunnah, Ijma etc.), a concise expression of shariah's objectives was emerged in the form of Islamic legal maxims (al-qawaid al-fiqhiyyah) by the laborious efforts of Islamic jurists. Abu Tahir al-Dabbas and Abu Al-Hassan Al-Karkhi were the pioneer in this field. There are five following fundamental legal maxims¹³ that have been applied over the data of CRDPs.

i. Intention Matters!

الْأُمُورُ بِمَقَاصِدِهَا¹⁴

Actions are determined according to their intention.

This shariah's legal maxim demands to every person and institution of the world to play its role 'with honesty' to reduce their carbon footprints.

ii. Certainty or Doubt?

الْيَقِينُ لَا يَزُولُ بِالشَّكِّ¹⁵

Certainty does not be overruled by doubt.

- This Islamic legal maxim may lay down the following rulings:

- Faith on One True Allah and His Messengers' Law cannot be overruled by the very doubt of 'science'.
- If climate change is caused by mankind activities for certain, it cannot be overruled by climate natural variability.
- If global warming is certain, it cannot be overruled by the doubt of global cooling.

a. الْأَصْلُ فِي الْأَشْيَاءِ إِبَاحَةٌ حَتَّى يَدُلَّ الدَّلِيلُ عَلَى غَدْمِ الْإِبَاحَةِ / التَّحْرِيمِ -¹⁶

Things are permitted in principle unless evidence leads them to prohibition.

- This legal maxim allows mankind to satisfy their curiosity and experimentation unless the boundaries of Allah Almighty or the Laws of prophets are not transgressed.
- It is also indicated that this anthropogenic new world was an experimentation of the reason-led Enlightenment. Yet, its culmination to materialism as well as God-forgotten civilization has a second chance to repent to its Allah Almighty.

iii. How to Avoid Harm?

لَا ضَرَرَ وَلَا ضِرَارَ¹⁷

Harm and returning of harm is not allowed.

- This saying of Prophet Muhammad PBUH as a legal maxim may lay down the following rule in the context of global climate change or climate science.
- Any technology or mankind experiment that have been proved harmful must not be repeated, reproduced, retransported and redistributed.

- a. ¹⁸ الضَّرَرُ يُزَالُ
Harm would be avoided
- It is a collective duty of the mankind to tackle the global climate change.
- b. ¹⁹ الضَّرَرُ لَا يُزَالُ بِالضَّرَرِ
Harm would not be avoided by another harm.
- Reason-based experimental temporary solutions must not be tried time and again.
 - Green energy must be pure green energy. Combustion-based energy and its related applications must not be deceived by green energy.
- c. ²⁰ الضَّرُورَاتُ تُبَيِّحُ الْمَحْظُورَاتِ
Necessities bring permission about prohibited ones.
- Reason-led Enlightenment and material-drenched civilization need time to aware Allah Almighty.
 - Although combustion of fossil fuels is harmful, it would be tolerated for a while as many lives and systems are depended on it.
- d. ²¹ مَا أُبِيحَ لِلضَّرُورَةِ يُقَدَّرُ بِقُدْرَتِهَا
That has been permitted owing to necessity must has limitations.
- There must be a certain timeline to phasing out the fossil fuels and other greenhouse gases.
- e. ²² يُتَحَمَّلُ الضَّرَرُ الْخَاصُّ لِأَجْلِ دَفْعِ الضَّرَرِ الْعَامِ
Private harm is tolerated in order to avoiding the public harm.
- Capitalists and industrialists are one of the primary contributors to global climate change. Ergo, their harm of loss must be tolerated against public harm.
- f. ²³ إِذَا تَعَارَضَ مَفْسَدَتَانِ رُوِيَ أَعْظَمُهُمَا ضَرَرًا بِإِتِكَابِ أَحَقَّهُمَا .
If two harms are faced together, committing lesser harm instead of greater harm would be considered.
- This shariah legal maxim calls for to decisively and effectively cut down to global emissions of GHGs in the atmosphere to that level in which the harm must not be higher than the consequences of not mitigating them.
- g. ²⁴ دَرْءُ الْمَفَاسِدِ أَوْلَى مِنْ جَلْبِ الْمَصَالِحِ
Prevention from harms has priority over attainment of benefits.
- This shariah's legal maxim demands mitigation prior to adaptation.
 - It is also indicated that to reduce the release of emission is more important than planting the trees.
- iv. **Ease is Intended!**

a. ²⁵ الْمُسْتَقَّةُ تَخْلِبُ النَّيْسَ

Hardship causes ease.

Hard decisions about drastic reduction of fossil fuels and improving renewable resources of energy would bring about ease, peace and stability in the world.

b. ²⁶ أَنْ الْأَمْرَ إِذَا ضَاقَ التَّسَعُ وَإِذَا التَّسَعُ ضَاقَ

When a matter hardens it is relaxed and when a matter relaxes, it is hardened.

- Mankind needs relaxations in the negative feedback loop of reason-led scientific and technological advancement by believing in revelation in order to get hardened for the sake of positive feedback loop of futuristic balanced scientific advancements.

v. **Universal Custom**

²⁷ الْعَادَةُ مُحْكَمَةٌ

Common recurrent mankind practice (al-urf) is an authority to legislation.

- Reason-based approach, instead of revelation, is a global custom. This is not accepted in the sight of prophets' Laws. For any custom that is contrary to the fundamentals of Quran and Sunnah is absolutely rejected.

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