

QAWĀ'ID FIQHIYYAH AS A METHOD FOR RESOLVING CONTEMPORARY ISLAMIC LEGAL PROBLEMS

Amiruddin

Tgk. Chik Pante Kulu Islamic College (STAI), Banda Aceh

Correspondence: amir.samy050484@gmail.com

ABSTRACT

Law because they summarize numerous particular rulings into general principles that can be applied to emerging legal problems. This study analyzes the position of qawā'id fiqhiyyah as a method for resolving contemporary Islamic legal problems and examines their application to digital economy, family law, and socio-religious transformation. The research employs a qualitative library-research approach with a normative-descriptive character. Sources include the Qur'an, hadith, works on legal maxims, fiqh and uşūl al-fiqh books, recent journal articles, and relevant fatwas. Data are analyzed through qualitative content analysis by identifying relevant maxims, examining their legal foundations and limitations, and connecting them with contemporary cases. The findings indicate that the five major maxims—al-umūr bi maqāṣidihā, al-yaqīn lā yazūlu bi al-syakk, al-masyaqqah tajlib al-taysīr, al-ḍarar yuzāl, and al-'ādah muḥakkamah—provide a strong methodological bridge between normative principles and changing realities. Nevertheless, qawā'id fiqhiyyah cannot be applied mechanically or independently. Their application must consider revealed texts, maqāṣid al-sharī'ah, the characteristics of each case, juristic disagreement, and positive law. Thus, qawā'id fiqhiyyah can function as an adaptive and contextual instrument for contemporary legal problem solving while maintaining the objectives of justice, benefit, and prevention of harm.

Keywords: *Qawā'id Fiqhiyyah; Islamic Law; Ijtihad; Maslahah; Contemporary Issues*

INTRODUCTION

The development of Muslim society in the twenty-first century shows increasingly rapid change in almost every area of life. These changes affect not only technology and the economy but also family relations, patterns of social interaction, health services, financial systems, information governance, and religious practice. Islamic law faces a situation in which many new problems are not found in the same form in classical fiqh literature. This does not mean that the sources of Islamic law have lost their relevance; rather, it points to the need for methodological capacity to connect the principles of the sharia with a constantly changing reality. In this context, qawā'id fiqhiyyah (legal maxims) occupy an important position because they provide general formulations that can be used to understand many particular issues systematically. Recent studies position qawā'id fiqhiyyah as an instrument that helps maintain both the flexibility and the consistency of Islamic law in facing social and technological dynamics (Kodim et al., 2022; Sitepu et al., 2025).

Qawā'id fiqhiyyah can simply be understood as general maxims that encompass a number of fiqh issues and help connect various particular rulings within a framework of principles. These maxims emerged from a long process of observing fiqh cases, understanding the texts of revelation (naṣ), and the efforts of jurists (fuqahā') to formulate recurring legal patterns. Because of their general nature, qawā'id fiqhiyyah enable a legal scholar to view a problem not only in its outward form but also in terms of its character, cause, purpose, and legal consequences. Djazuli (2019) explains that legal maxims have a practical function in resolving life's problems because they

summarize legal principles that can be applied to various cases of a similar character (Djazuli & H., 2019). In the contemporary period this function is increasingly relevant because society faces complex and multidimensional phenomena.

The position of qawā'id fiqhiyyah needs to be distinguished from that of uṣūl al-fiqh. Uṣūl al-fiqh primarily discusses methods for deriving rulings from the sharia evidence, whereas qawā'id fiqhiyyah function more as generalizations of fiqh rulings that help organize and apply those rulings to diverse cases. This distinction is important so that qawā'id fiqhiyyah are not treated as a substitute for the texts or as a tool for establishing rulings without regard to the primary sources. Hermanto (2024) affirms that legal maxims can serve as a method and a supporting argument in dealing with current issues, but applying them demands care because their validity is general in nature and does not always cover every case absolutely (Hermanto & Agus, 2024). Qawā'id fiqhiyyah thus operate within a broader system of legal reasoning, together with the Qur'an, the Sunnah, uṣūl al-fiqh, maqāṣid al-sharī'ah, and other tools of ijtihad.

Contemporary problems often reveal a gap between new forms and familiar legal categories. In digital transactions, for example, a sale can take place without physical meeting, payment can be made through electronic wallets, and agreement can be expressed through a click or electronic consent. In family law, communication technology can affect evidence, the conveyance of intent, and patterns of relationships among family members. In health and bioethics, technological developments raise questions about transplantation, genetic engineering, and medical procedures that were not known in their modern form in the classical era. Firdaus, Hanif, Dahlan, and Muzammil (2025) show that qawā'id fiqhiyyah have been used in discussions of fintech, blockchain, genetic engineering, organ transplantation, and euthanasia, although their application also faces challenges in the form of differences among schools of law, authority, and legal certainty (Firdaus et al., 2025).

Among the most important methodological questions is how to determine the appropriate maxim for a given case. A single problem may relate to more than one maxim. Online transactions, for example, can be analyzed through al-aṣlu fī al-mu'āmalāt al-ibāḥah, al-'ādah muḥakkamah, al-ḍarar yuzāl, and the maxims on the prohibition of gharar. Applying qawā'id fiqhiyyah is therefore not simply a matter of finding one maxim and then drawing a legal conclusion. The process requires identifying the facts, determining the 'illah (effective cause) or legal character, testing against the texts, weighing benefit and harm, and checking whether there are exceptions that prevent the maxim from being applied. Suhardiman, Syahnan, and Amar Adly (2026) stress the importance of distinguishing qawā'id kulliyyah, qawā'id far'iyah, dābiṭ fiqh, and nazariyyah fiqh so that the use of maxims remains proportionate (Suhardiman et al., 2026).

The Indonesian context offers wide scope for observing the function of qawā'id fiqhiyyah. Fatwa institutions such as the Indonesian Ulema Council (Majelis Ulama Indonesia, MUI) use various fiqh principles in providing guidance on new issues, while religious courts, Islamic financial institutions, and the public face legal problems that intersect with positive law. Fadilah and Tanjung (2025) show that qawā'id fiqhiyyah

have a place in the issuance of MUI fatwas (Fadilah et al., 2025), while Nurdin, Usman, Samad, and Mukhtar (2022) affirm that the primary orientation of Islamic law is human welfare (Nurdin et al., 2022). This shows that legal maxims are relevant not only in academic discourse but also in the formation of norms and the resolution of practical problems.

Social change also demands interpretation that is not trapped in old forms. The maxim al-‘ādah muḥakkamah, for example, opens room for recognizing valid custom as one legal consideration. In digital transactions, habits such as using marketplaces, cashless payment, and electronic consent can become part of a new ‘urf (custom) as long as they do not conflict with the principles of the sharia. Nasution and Muttaqin (2024) show that qawā'id fihiyyah can be developed across schools of law and contribute to contemporary Islamic legal studies (Nasution et al., 2024). However, recognizing custom does not mean that every popular practice automatically becomes valid under the sharia. Customs involving fraud, exploitation, injustice, or harm must still be rejected.

The maxim al-masyaqqah tajlib al-taysir is also highly relevant when society faces real hardship. The COVID-19 pandemic provided an example of how the need to preserve safety can lead to adjustments in the performance of certain religious practices. Andrizal, Nelli, and Gani (2023) show that this maxim can be used to analyze the issue of Friday prayer during the pandemic by taking into account the level of hardship and the risks involved (Andrizal et al., 2023). However, the principle of ease must not be understood as a general license to disregard obligations. Ease must relate to hardship (masyaqqah) recognized by the sharia, be proportionate, and be limited by the objectives of the law.

Likewise, the maxim al-ḍarar yuzāl places the prevention and removal of harm as an important part of legal reasoning. In digital transactions, this maxim can be used to assess fraud, data leaks, hidden fees, manipulative practices, and harmful ambiguity to consumers. In family law, it can help in understanding situations where maintaining a given state of affairs actually causes greater harm. Karmelia (2023) shows that applying qawā'id fihiyyah in family law can help distinguish between words and actions on the basis of intention, context, and legal purpose. Maxims thus serve not only to make the law easier but also to prevent disproportionate decisions.

The maxim al-umūr bi maqāṣidihā affirms the importance of purpose in assessing actions. It is closely related to maqāṣid al-sharī'ah because actions that appear outwardly identical can have different legal consequences depending on their purpose and context. In the digital economy, for example, a technology may be used to facilitate lawful transactions or to carry out practices involving usury (riba), fraud, or speculation. The technology is the same, but the structure and purpose of the transaction differ. Legal assessment therefore cannot rest only on the product label or the name of an application. This approach is in line with the findings of Aprianto et al. (2025), who position qawā'id fihiyyah as an ethical and methodological basis for consumer protection and risk mitigation in e-commerce transactions (Aprianto et al., 2025).

Based on the above description, the main question of this study is how qawā'id fiqhiyyah can be used as a method for resolving contemporary Islamic legal problems, what the limits of their application are, and how these maxims work in actual cases. This study does not intend to place qawā'id fiqhiyyah as the only method of establishing law, but examines their role as an instrument connecting the principles of the sharia with reality. The study focuses on three aspects: the methodological position of qawā'id fiqhiyyah; the application of the five fundamental maxims to contemporary problems; and a model of application that takes into account maqāṣid al-sharī'ah, public interest (maṣlaḥah), social change, and the limits of positive law.

The objectives of this study are to explain the concept and position of qawā'id fiqhiyyah, to analyze the application of the maxims to various contemporary Islamic legal problems, and to formulate methodological steps that can be used so that applying the maxims does not become simplistic. Academically, this study is expected to strengthen the understanding that qawā'id fiqhiyyah form part of the toolkit of legal reasoning and have adaptive capacity. Practically, it can serve as a reference for students, researchers, legal practitioners, managers of Islamic financial institutions, and the public in reading new problems more systematically. With this framework, the flexibility of Islamic law can be developed without losing its attachment to the sources, objectives, and basic principles of the sharia.

METHODS

This study uses a qualitative approach with a normative-descriptive library research design. The normative approach is used to examine qawā'id fiqhiyyah as part of Islamic legal methodology, while the descriptive approach is used to map the application of the maxims to contemporary problems. This research model was chosen because the object of study consists of concepts, principles, legal arguments, and the results of earlier research that can be traced through library sources.

The research data sources consist of primary and secondary sources. Primary sources include the Qur'an, the hadith that underlie the maxims, books on qawā'id fiqhiyyah, books on uṣūl al-fiqh and fiqh, and relevant fatwa documents. Secondary sources consist of scholarly journal articles published mainly in the period 2022–2026, particularly studies that discuss qawā'id fiqhiyyah, contemporary Islamic law, digital transactions, family law, fatwas, and public interest. Several older books are used as a conceptual foundation because these works are important references in discussions of legal maxims.

Data collection was carried out through literature searches, identification of themes, recording of main arguments, and grouping of sources according to the focus of the study. The literature was then classified into three groups: first, sources that discuss the definition, history, and position of qawā'id fiqhiyyah; second, sources that discuss the application of the maxims in contemporary Islamic law; and third, sources that examine concrete cases such as e-commerce, Islamic investment, family law, and social issues. Recent references were chosen so that the analysis has a strong connection to current developments in Islamic legal problems.

Data were analyzed using content analysis. The first stage is identifying the maxims relevant to each case. The second stage is tracing the normative basis and the limits of application. The third stage is connecting the maxims with the character of the facts and the purposes of the law. The fourth stage is comparing the potential benefits and harms. The fifth stage is formulating legal conclusions carefully, taking into account maqāṣid al-sharī'ah, differences of opinion among scholars, and the applicable positive law. Through these steps, qawā'id fiqhiyyah are used not as an automatic formula but as an analytical instrument that works together with other sources and methods of Islamic law.

This study also uses a conceptual case approach. The cases are not intended as field research but as examples to test how the maxims work. The examples chosen include e-commerce transactions, Islamic investment and fintech, family law issues, and changes in socio-religious practices. This approach allows the study to show how a single maxim can be applied differently depending on the facts, objectives, level of risk, and impact.

RESULTS AND DISCUSSION

The Position of Qawā'id Fiqhiyyah as a Methodological Instrument

Qawā'id fiqhiyyah hold an important position because they function as a bridge between particular rulings and more general legal principles. In fiqh, the number of branch issues is very large and continues to grow with the development of life. If every issue had to be analyzed separately without connecting principles, legal reasoning would become extremely complex. Legal maxims help identify recurring legal patterns so that various cases can be understood through the same principle. Djazuli (2019) positions legal maxims as a tool for understanding and resolving practical problems while keeping to the spirit of the Qur'an and hadith (Djazuli & H., 2019).

Epistemologically, qawā'id fiqhiyyah did not emerge from a vacuum. These maxims are related to the texts of revelation, the practice of the Prophet, the decisions of the Companions, the results of the jurists' ijtihad, and long experience in applying the law. They therefore have an inductive character: a number of particular rulings are observed, compared, and then formulated into general principles. Washil and Azzam (2023) regard qawā'id fiqhiyyah as an important part of understanding the Islamic legal system because the maxims make it easier to group issues and help find relationships between one case and another (Washil et al., 2023).

It is necessary to distinguish among fundamental maxims, general maxims, and specific maxims. The five fundamental maxims most widely used are al-umūr bi maqāṣidihā, al-yaqīn lā yazūlu bi al-syakk, al-masyaqqah tajlib al-taysīr, al-ḍarar yuzāl, and al-'ādah muḥakkamah. Beneath them are various more specific derivative maxims. This division shows that the more general a maxim is, the wider its area of application, but also the greater the need to verify exceptions. Suhardiman et al. (2026) emphasize that the relationship among qawā'id fiqhiyyah, ḍābiṭ fiqh, and naẓariyyah fiqh needs to be understood conceptually so that the use of maxims does not become mixed with different methodological categories (Suhardiman et al., 2026).

The methodological function of qawā'id fiqhiyyah can be seen in at least five forms. First, a classification function, which groups cases according to the same legal character. Second, an interpretive function, which helps in understanding the legal implications of an act. Third, a preventive function, which avoids applying rulings that cause harm. Fourth, an adaptive function, which gives Islamic law room to respond to changing forms of life. Fifth, a systematizing function, which ensures that legal decisions do not stand alone without connection to broader principles. Sitepu et al. (2025) show that the development of qawā'id fiqhiyyah over time is closely tied to the need to address increasingly complex social problems (Sitepu et al., 2025).

In the context of ijtihad, qawā'id fiqhiyyah function as an aid, not a replacement for the process of istinbāṭ (legal derivation). This matters because a maxim may have particular scope and exceptions. For example, the maxim al-aṣlu fī al-mu'āmalāt al-ibāḥah provides a starting point of permissibility in commercial dealings, but that permissibility lapses when there is a clearly prohibited element, such as riba, severe gharar, maysir (gambling), fraud, or a forbidden object. Hasibuan et al. (2025) emphasize that general maxims can serve as a basis for formulating and applying law, but must still be placed within a sound framework of legal argumentation.

Maxims also help avoid an overly formalistic approach to law. An act cannot always be judged solely by its outward form. Al-umūr bi maqāṣidihā teaches that purpose matters in legal assessment. In economic transactions, for example, a payment mechanism may take the same form while the underlying contract differs. Likewise in family law, the same words can have different consequences depending on intention and context. Karmelia (2023) shows how qawā'id fiqhiyyah can be used to read family issues by considering the intention and context of the act (Karmelia & Linda, 2023).

At the same time, qawā'id fiqhiyyah help keep the law oriented toward public welfare. Nurdin et al. (2022) explain that the aim of Islamic law is to realize human welfare (Nurdin et al., 2022). The maxims concerning the removal of harm, ease, custom, and the purpose of actions are fundamentally directed at preserving order in human life. However, maṣlaḥah must not be determined merely by preference or short-term benefit. It must be measured by the principles of the sharia, the level of need, the legal consequences, and the protection of the fundamental objectives of the sharia.

From a cross-school perspective, qawā'id fiqhiyyah also show that Islamic law possesses a broad methodological heritage. Nasution and Muttaqin (2024) show that the sources and development of qawā'id fiqhiyyah can be traced through the tradition of the four Sunni schools of law (Nasution et al., 2024). Differences in formulation or emphasis do not always mean total contradiction; in many cases they reflect different ways of understanding the facts, the evidence, and the limits of application. Contemporary studies therefore need to be open to comparison among schools without abandoning discipline in choosing the opinion that best fits the character of the case.

The position of qawā'id fiqhiyyah becomes even more important in the digital era. Technology gives rise to new forms, but legal principles do not always change. The

main challenge is determining whether a change in form also changes the 'illah of the ruling. If technology is merely a means, the maxims that apply to the substance of the transaction can still be used. Conversely, if technology changes the structure of risk, ownership, information, or the relationship between the parties, deeper analysis must be carried out. Qawā'id fiqhiyyah thus help distinguish between a change of means and a change of substance.

From the above, it can be concluded that the position of qawā'id fiqhiyyah as a problem-solving method lies in their ability to simplify legal complexity without abandoning principle. Maxims provide initial orientation, help identify issues, and structure arguments, but the final decision still requires examination of the evidence, facts, purposes, and legal consequences. This is what keeps qawā'id fiqhiyyah relevant in developing contemporary Islamic law.

Application of the Five Fundamental Maxims to Contemporary Islamic Legal Problems

The five fundamental maxims have very broad reach and can be applied in many areas of law. Nevertheless, the application of each maxim must take context into account. A simple mapping follows.

Maxim	Methodological meaning	Examples of contemporary issues	Analytical focus
al-umūr bi maqāṣidihā	Acts are judged by their purposes and intentions	Fintech, investment, digital contracts	purpose, contract, intention, transaction structure
al-yaqīn lā yazūlu bi al-syakk	Certainty is not overturned by doubt	Proof of transactions, ownership status	certainty of evidence and legal status
al-masyaqqah tajlib al-taysīr	Hardship recognized by the sharia brings ease	Worship in emergencies/pandemics	degree of hardship and need
al-ḍarar yuzāl	Harm must be removed	Fraud, data leaks, exploitation	prevention and removal of risk
al-'ādah muḥakkamah	Valid custom may be taken into consideration	E-commerce, digital payments	'urf, market practice, certainty of custom

First, al-umūr bi maqāṣidihā is strongly relevant to modern economic transactions. Technology can be used for different purposes, so the ruling cannot be determined by the tool alone. In Islamic investment, for example, an instrument must be examined in terms of its contract, purpose, source of profit, risk, and transaction mechanism. Ridho, Wulandari, and Rahman (2026) show that qawā'id fiqhiyyah can

help in reading modern Islamic investment issues such as changes to the list of sharia-compliant securities, speculation, fintech default risk, and digital assets (Ridho et al., 2026). The maxim of purpose encourages examination of substance, not merely the name of the product.

In e-commerce transactions, al-umūr bi maqāṣidihā helps distinguish between sales aimed at meeting needs and transactions designed to deceive, manipulate, or exploit. A flash-sale system, for example, can be a permissible marketing strategy if the information on goods, price, stock, and transaction mechanism is clear. However, if scarcity is falsely manufactured to manipulate consumers, the purpose and practice need to be examined. Hanifah, Anggraini, and Rahman (2025) show that applying qawā'id fihiyyah to digital sales can be used to assess the validity of the contract, the potential for gharar, and the prevention of harm (Hanifah et al., 2025).

Second, al-yaqīn lā yazūlu bi al-syakk relates to the principle of certainty. In modern life the issue of certainty is increasingly complex because many legal relationships depend on electronic data. In digital transactions, for example, disputes can arise over whether payment was actually made, whether goods were delivered, whether an account was used by its owner, or whether consent was actually given. This maxim directs reasoning to maintain an established legal state until there is sufficient evidence to change it. In legal practice, its application must be adjusted to the prevailing system of proof.

The maxim of certainty can also be applied to investment issues. It is not enough for an investor merely to have a suspicion about the risk or status of an asset. Legal assessment requires verifiable information about the object, the contract, ownership, the source of profit, and the transaction mechanism. This maxim thus encourages a culture of documentation and transparency. In the digital context, electronic evidence, transaction records, electronic contracts, and payment records are important for maintaining the certainty of legal relationships.

Third, al-masyaqqah tajlib al-taysīr relates to the principle of ease when there is real hardship. This maxim is widely discussed in the context of worship, but its principle can be used in social and economic fields as long as the hardship is recognized by the sharia. Andrizal et al. (2023) show how this maxim was used to analyze the performance of Friday prayer during the pandemic (Andrizal et al., 2023). In that situation, health risk was a factor affecting the application of the law. Research on the use of qawā'id fihiyyah in actual cases also positions al-masyaqqah tajlib al-taysīr as an important principle for providing a flexible response to changing conditions (Ginting et al., 2026).

The maxim of ease is not identical to seeking the lightest option in every situation. The hardship that underlies a concession (rukhsah) must be of a relevant degree and not contrived. A legal reasoner must therefore explain the facts causing the hardship, measure its degree, see whether alternatives exist, and determine the limits of the concession. This principle is important so that qawā'id fihiyyah do not become an excuse for avoiding obligations. Ease must remain within the framework of the objectives of the sharia.

Fourth, al-ḍarar yuzāl is a very important maxim in dealing with economic and technological complexity. Its principle is that harm must be removed or at least reduced. In digital transactions, harm can arise through fraud, information manipulation, hidden fees, data leaks, identity theft, or an unclear refund mechanism. Aprianto et al. (2025) show that qawā'id fiqhiyyah can provide an ethical and methodological basis for consumer protection and e-commerce risk mitigation (Aprianto et al., 2025).

The maxim al-ḍarar yuzāl is also related to the principle of prevention. Not all losses need to occur before the law acts. If a transaction mechanism shows serious and disproportionate risk from the outset, preventive measures can be justified. This is connected, in some contexts, to the development of the principle of sadd al-dharā'ī', that is, blocking the means that are likely to lead to harm. In Islamic economic practice, this principle can be used to assess products that appear formally valid but in practice encourage speculation or exploitation.

Fifth, al-'ādah muḥakkamah shows the importance of valid custom or 'urf. In digital society, transaction habits change rapidly. Consent through a button, the use of OTP codes, payment through QR codes, and checkout systems are new forms of custom. However, such customs can be a legal consideration only if they do not conflict with the sharia and do not harm the parties. The research of Sanuri et al. (2025) on the transformation of 'urf in the DSN-MUI fatwa on e-commerce shows that digital customs can be considered part of legal construction when validated through the principles of maqāṣid al-sharī'ah.

The application of al-'ādah muḥakkamah can also be seen in local trade practices. In a community, the way goods are handed over, the timing of payment, certain measures, or forms of communication can be understood on the basis of well-known custom. As long as the custom is clear and does not conflict with the texts, it can help determine the intent of the parties. However, if the custom involves exploitation, fraud, or injustice, it is not a valid 'urf and cannot serve as a basis for legitimacy.

From these five maxims it can be understood that qawā'id fiqhiyyah do not work in isolation. A single case may require a combination of several maxims. An e-commerce transaction, for example, requires al-'ādah muḥakkamah to understand digital customs, al-ḍarar yuzāl for consumer protection, al-yaqīn lā yazūlu bi al-syakk for certainty of evidence, and al-umūr bi maqāṣidihā to examine the purpose and substance of the transaction. This combination shows that resolving contemporary legal problems requires integrative analysis.

In family law, a combination of maxims is also evident when a judge or legal scholar faces a conflict of interests. If two options both involve harm, one derivative maxim that can be used is choosing the lesser harm. Nurdin et al. (2022) link the application of such a maxim to the orientation toward public welfare in family law and economics. This principle does not mean automatically justifying divorce or any particular action, but helps assess the consequences of the available legal choices.

In the field of bioethics, qawā'id fiqhiyyah can help structure questions of risk and benefit. Firdaus et al. (2025) show that the maxims have been used in discussions

of organ transplantation, euthanasia, and genetic engineering. In such issues, al-ḍarar yuzāl and al-masyaqqah tajlib al-taysīr can relate to the protection of life, but their application still requires medical analysis, the degree of diagnostic certainty, alternative procedures, and the relevant sharia provisions. Qawā'id fiqhiyyah provide a framework, while medical facts and specific evidence are still needed to determine the ruling.

Accordingly, the five fundamental maxims can be seen as a navigational tool. They help determine the direction of analysis but do not replace the complete map, which consists of the texts, uṣūl al-fiqh, maqāṣid, the opinions of scholars, and positive law. This approach is what allows Islamic law to remain adaptive without losing its normative foundation.

A Qawā'id Fiqhiyyah-Based Model for Resolving Contemporary Legal Problems

For qawā'id fiqhiyyah to be truly usable as a problem-solving method, systematic stages are needed. The first stage is complete identification of the facts. A legal reasoner must not choose a maxim before knowing what actually happened. In a digital transaction, for example, one needs to know who the contracting parties are, what the object is, how payment is made, what terms and conditions were agreed, how delivery works, and what risks arise. In family law, one needs to know the context of the statement, the intention, the condition of the parties, and the consequences of the act. A mistake in reading the facts can lead to an inappropriate application of a maxim.

The second stage is takhrīj al-manāt, that is, identifying the relevant character or legal reason. At this stage the legal reasoner looks for the connection between the facts and the maxim. In online transactions, for example, the main issue is not merely "online" or "offline" but whether there is mutual consent, clarity of the object, certainty of price, ability to deliver the goods, and absence of prohibited elements. In this way, the form of the technology is not the only determining factor.

The third stage is choosing the main maxim and supporting maxims. The choice need not be limited to one maxim. Complex cases often require several maxims at once. The maxim al-ḍarar yuzāl can be the main principle in consumer protection, while al-'ādah muḥakkamah helps explain transaction customs. Al-yaqīn lā yazūlu bi al-syakk can be used for the aspect of proof, while al-umūr bi maqāṣidihā helps in understanding the purpose of the transaction. Such a pattern makes the argument more comprehensive.

The fourth stage is testing the maxim against the texts and specific principles. This is an important stage because general maxims must not be used to nullify provisions that are already clear. If there is an explicit and relevant text, the maxim must be understood as an instrument for applying, not replacing, that provision. Hermanto (2024) reminds us that qawā'id fiqhiyyah are aghlabī in nature, that is, generally valid but subject to exceptions. Researchers or practitioners must therefore look for any specific evidence that limits the application of the maxim (Hermanto & Agus, 2024).

The fifth stage is testing maṣlaḥah and mafsadah (benefit and harm). Islamic law aims to protect religion, life, intellect, lineage, and property, and to realize benefit

and prevent harm. In digital transactions, for example, ease of transacting is a benefit, but that ease must not sacrifice the security of property and consumer rights. In family law, preserving a marriage can be a benefit, but if the relationship produces serious harm, the analysis must consider the consequences of each option. This principle shows the close relationship between *qawā'id fiqhiyyah* and *maqāṣid al-sharī'ah*.

The sixth stage is considering 'urf and social change. Technological change produces new customs that may not be known in classical literature. A legal reasoner therefore needs to distinguish between valid changes in custom and corrupt customs. In e-commerce, the use of electronic consent can be a new form of offer and acceptance (*ījāb-qabūl*) or a sign of agreement if identity, object, price, and consent can be verified. However, the habit of engaging in manipulative practices cannot gain legitimacy simply because it is widespread. Sanuri et al. (2025) show that the transformation of 'urf in the digital context needs to be validated by *maqāṣid* and the principles of the sharia.

The seventh stage is considering differences among schools of law and the opinions of scholars. Contemporary issues often lie in areas without a single consensus. In such conditions, comparison among schools can widen the methodological options. However, opinions must not be chosen haphazardly. Consideration must include the strength of the evidence, conformity with the objectives of the sharia, social conditions, and legal consequences. Nasution and Muttaqin (2024) show that the development of *qawā'id fiqhiyyah* across schools of law is an important source for enriching contemporary Islamic legal reasoning (Nasution et al., 2024).

The eighth stage is examining positive law and institutional arrangements. In the context of a modern state, Islamic law interacts with legislation, regulatory policy, and fatwa institutions. In digital economic matters, for example, applying sharia principles needs to be read together with regulations on consumer protection, payment systems, and the provision of financial services. *Qawā'id fiqhiyyah* can provide sharia orientation, but practical application still requires legal certainty recognized by the state. Firdaus et al. (2025) identify the problems of authority and legal certainty as one of the challenges in using *qawā'id fiqhiyyah* in contemporary fatwas (Firdaus et al., 2025).

The ninth stage is formulating the ruling in graded terms. Not every problem must end in a black-and-white category. In some cases the ruling may be permissible with conditions, permissible in certain circumstances, disliked (*makrūh*) because of risk, or prohibited if the prohibited element is proven. A graded approach helps avoid overly simple conclusions. For example, digital transactions are in principle acceptable, but certain mechanisms can be prohibited if they contain severe *gharar* or fraud. The ruling is thus directed at actual structure and practice.

The application of this model can be seen in e-commerce. The first step is to identify the form of the transaction. The second step examines the contract. The third step examines the object, the price, and the delivery mechanism. The fourth step uses *al-'ādah muḥakkamah* to understand digital practices that have become customary.

The fifth step uses al-ḍarar yuzāl to test consumer protection. The sixth step examines the maqāṣid, especially the protection of property. The research of Aprianto et al. (2025) and Hanifah et al. (2025) shows that qawā'id fihiyyah can be applied to assess e-commerce in terms of the clarity of the contract, gharar, risk, and the protection of the transacting parties.

In dropshipping, a problem arises because the seller may market goods that are not yet in his possession. Khoiriyah (2023) shows that alternative contracts such as salam, wakālah, and samsarah can be used depending on the circumstances of the transaction. From the perspective of qawā'id fihiyyah, the issue can be read through the principle of the permissibility of commercial dealings, clarity of the contract, avoidance of gharar, and protection of the rights of the parties involved. That is, the legal focus is not on the term "dropship" but on the actual structure of the legal relationship.

In Islamic investment, the principle of al-ḍarar yuzāl can be used to assess disproportionate risk. Investment is not merely an activity of seeking profit but also a relationship that carries risk. Ridho et al. (2026) position qawā'id fihiyyah as one instrument for reading speculation, default risk, changes in the status of securities, and digital instruments. The maxim al-yaqīn lā yazūlu bi al-syakk is also relevant when investors face uncertain information. Certainty about the status of the asset, the contract, and the source of profit must be obtained through verifiable data.

In family law, the application of qawā'id fihiyyah shows that context and intention play a role. Karmelia (2023) shows that words that outwardly resemble a pronouncement of divorce (ṭalāq) need to be analyzed on the basis of intention and context. Here al-umūr bi maqāṣidihā plays an important role (Karmelia & Linda, 2023). However, the maxim must still not be used to disregard the specific conditions of ṭalāq and the provisions of family law. That is, the maxim helps in understanding the facts, but the legal category must still be examined through the specific rules.

In socio-religious matters, al-masyaqqah tajlib al-taysīr provides room for adaptation when normal conditions cannot be fulfilled. The pandemic experience showed that emergencies or serious hardship can change how some obligations are performed. However, the change must be proportionate and have an accountable basis. The survey by Ginting et al. (2026) shows that maxims such as al-masyaqqah tajlib al-taysīr, al-'ādah muḥakkamah, and dar'u al-mafāsīd muqaddam 'alā jalb al-maṣāliḥ (averting harm takes precedence over securing benefit) are used in reading actual cases of worship and commercial dealings (Ginting et al., 2026).

Across all of these applications, several main limits emerge. First, qawā'id fihiyyah must not contradict a definitive text (naṣ qat'i). Second, maxims must not be applied without understanding the facts. Third, maṣlaḥah must not be separated from the objectives of the sharia. Fourth, custom does not automatically become a source of law if it is corrupt (fāsīd). Fifth, ease must not be used as an excuse for eliminating obligations without a recognized cause. Sixth, the application of maxims must take positive law and institutional arrangements into account so that the results have certainty.

Recent studies show that qawā'id fiqhiyyah continue to develop. Pahlevi, Syahnan, and Amar Adly (2025) stress the urgency of studying qawā'id fiqhiyyah because the maxims are a tool for systematizing law and an instrument of ijtihad in dealing with social, economic, and public policy problems (Pahlevi et al., 2025). Meanwhile, Sitepu et al. (2025) show that the historical development of the maxims demonstrates their ability to adapt to legal needs (Sitepu et al., 2025). The development of qawā'id fiqhiyyah today can thus be directed toward forming derivative maxims capable of reading new phenomena without severing the link to the fundamental maxims.

The qawā'id fiqhiyyah-based resolution model can ultimately be summarized in a formula: identify the facts, determine the legal issue, find the relevant maxims, check the specific texts, analyze the maqāṣid, assess benefit and harm, examine 'urf and the opinions of the schools, adjust to positive law, and then formulate the ruling together with its conditions and limits. This formula can be used in academic research as well as in the practice of legal reasoning. Its advantage lies in its ability to combine general principles with specific realities.

Qawā'id fiqhiyyah thus have a strategic role in maintaining the balance between continuity and change. Islamic law need not change its basic principles merely because the forms of life change. Rather, changing realities need to be read through existing principles and then developed with responsible methods. This approach makes qawā'id fiqhiyyah more than theoretical material in fiqh teaching; they become a living analytical tool in resolving contemporary problems.

CONCLUSION

Qawā'id fiqhiyyah are an important methodological instrument for resolving contemporary Islamic legal problems. The maxims help summarize various particular rulings, identify legal patterns, connect sharia principles with reality, and provide a framework for analyzing continually evolving issues. The five fundamental maxims—al-umūr bi maqāṣidihā, al-yaqīn lā yazūlu bi al-syakk, al-masyaqqah tajlib al-taysīr, al-ḍarar yuzāl, and al-'ādah muḥakkamah—have broad utility in reading problems of the digital economy, family law, investment, bioethics, and socio-religious change.

Qawā'id fiqhiyyah cannot be applied mechanically. The maxims must be placed within a system of legal reasoning that takes into account the Qur'an, the Sunnah, uṣūl al-fiqh, maqāṣid al-sharī'ah, the opinions of scholars, the character of the facts, the degree of benefit and harm, and positive law. General maxims also have exceptions, so care is needed in determining whether a case truly falls within the scope of a maxim. Qawā'id fiqhiyyah are therefore better understood as an analytical instrument and a supporting method of ijtihad than as the sole source for establishing law.

The resolution model offered in this study comprises identifying the facts, determining the legal issue, selecting the maxims, examining the specific texts, analyzing the maqāṣid, assessing benefit and harm, examining 'urf and differences among the schools, adjusting to positive law, and formulating the ruling together with the conditions and limits of its application. This model allows Islamic law to remain

responsive to technological development and social change without losing its normative principles.

Accordingly, the study of qawā'id fiqhiyyah needs to be strengthened in Islamic legal education, academic research, the drafting of fatwas, and legal practice. Mastery of the maxims must be accompanied by the ability to read contemporary facts and understand social change. Going forward, research can be directed at developing qawā'id fiqhiyyah models for artificial intelligence, fintech, data protection, bioethics, the digital economy, and modern family issues using an interdisciplinary approach. In this way, qawā'id fiqhiyyah can continue to function as a legal instrument that is adaptive, proportionate, and oriented toward public welfare.

BIBLIOGRAPHY

- Andrizal, Nelli, J., & Gani, E. (2023). *Konstruksi Kaidah Fiqhiyyah Al-Masyaqqah Tajlibu Al-Taysir dalam Masalah Hukum Sholat Jum'at di Tengah Pandemi Covid-19*. Jotika Research in Business Law, 2(1). <https://doi.org/10.56445/jrbl.v2i1.74>
- Aprianto, Rahmatika, C. I., Lestari, F. I., & Sunarti, G. (2025). Implementasi Qawaid Fiqhiyyah dalam Transaksi Ekonomi melalui E-Commerce. *Tashdiq: Jurnal Kajian Agama Dan Dakwah*, 17(4), 81–90.
- Djazuli, & H., A. (2019). *Kaidah-Kaidah Fikih: Kaidah-Kaidah Hukum Islam dalam Menyelesaikan Masalah-Masalah yang Praktis* (Cet. Prenada Media).
- Fadilah, Rizki, & Tanjung, D. (2025). Kedudukan Qawaid Fiqhiyyah dalam Penetapan Hukum (Studi terhadap Fatwa Majelis Ulama Indonesia). *YUSTISI*, 12(1), 208–216. <https://doi.org/10.32832/yustisi.v12i1.18995>
- Firdaus, C., Ridho, M. N., Hanif, M. A., Dahlan, M. N. F., & Muzammil, S. (2025). Aplikasi Qawa'id Fiqhiyyah dalam Fatwa Kontemporer. *Iqtishaduna: Jurnal Ilmiah Mahasiswa Hukum Ekonomi Syariah*, 6(2), 439–460. <https://doi.org/10.24252/iqtishaduna.vi.54006>
- Ginting, Dinanta, F., Syahnan, M., & Adly, M. A. (2026). Survey Penggunaan Qawaid Fiqhiyyah pada Kasus-Kasus Aktual Bidang Ibadah dan Mu'amalah. *Mudabbir: Journal Research and Education Studies*, 5(2). <https://doi.org/10.56832/mudabbir.v5i2.2519>
- Hanifah, Nazwa, Anggraini, S., & Rahman, A. (2025). Analisis Qawaid Fiqhiyyah pada Akad Jual Beli Digital dalam Perspektif Ekonomi Syariah. *Jurnal Masharif Al-Syariah: Jurnal Ekonomi Dan Perbankan Syariah*, 10(5). <https://doi.org/10.30651/jms.v10i5.29897>
- Hermanto, & Agus. (2024). *Al-Qawa'id Al-Fiqhiyyah: Dalil dan Metode Penyelesaian Masalah-Masalah Kekinian*. Literasi Nusantara.
- Karmelia, & Linda. (2023). Implementasi Qawaid Fiqhiyyah dalam Menyelesaikan Problematika Hukum Keluarga Islam. *Maqasid: Jurnal Studi Hukum Islam*, 12(2). <https://doi.org/10.30651/mqsd.v12i2.19313>
- Kodim, Anton, & Ridwan, M. (2022). Qawaid Fiqhiyyah dan Peranannya dalam Pengembangan Hukum Islam. *Jurnal Indragiri Penelitian Multidisiplin*, 2(3), 172–180. <https://doi.org/10.58707/jipm.v2i3.259>

- Nasution, Adawiyah, R., & Muttaqin, I. (2024). Sumber Qawaid Fiqhiyyah dalam Lintas Mazhab dan Pengembangannya dalam Studi Hukum Islam. *Tabayyanu: Journal of Islamic Law*, 1(1), 16–38.
- Nurdin, Abidin, Usman, B., Samad, F., & Mukhtar, M. (2022). Tujuan Hukum Islam untuk Kemaslahatan Manusia: Penerapan Kaidah Fiqhiyah dalam Bidang Ekonomi dan Hukum Keluarga. *El-Usrah: Jurnal Hukum Keluarga*, 5(1), 41–55. <https://doi.org/10.22373/ujhk.v5i1.14665>
- Pahlevi, Reza, S., Syahnan, M., & Adly, M. A. (2025). Qawaid Fiqhiyyah: Pengertian, Urgensi Mempelajari, Ruang Lingkup, Periode Pembentukan dan Perkembangan Kontemporer. *Mudabbir: Journal Research and Education Studies*, 5(2). <https://doi.org/10.56832/mudabbir.v5i2.2518>
- Ridho, Muhammad, Wulandari, N., & Rahman, A. (2026). Pengaruh Qawaid Fiqhiyyah dalam Menjawab Problematika Investasi Syariah Kontemporer. *An-Nisbah: Jurnal Perbankan Syariah*, 7(1). <https://doi.org/10.51339/nisbah.v7i1.4652>
- Sitepu, Nubli, A., Tamara, A. L., & Hasanah, U. (2025). Fase Pembukuan dan Perkembangan Kontemporer Serta Karya-Karya Penting Qawaid Fiqhiyyah. *Jurnal Cendikia ISNU SU*, 2(1), 133–137. <https://doi.org/10.70826/jcisnu.v2i1.793>
- Suhardiman, Syahnan, M., & Adly, M. A. (2026). Relasi antara Qawaid Fiqhiyyah, Dhabit Fiqh, dan Nazhariyyah Fiqhiyyah: Analisis Konseptual dalam Formulasi Hukum Islam. *Mudabbir: Journal Research and Education Studies*, 5(2). <https://doi.org/10.56832/mudabbir.v5i2.2522>
- Washil, M., N. F., Azzam, & M, A. A. (2023). *Qawaid Fiqhiyyah*. Amzah.