

## Legal Maxims in Sharia Economic Law: Epistemology and Methodological Roles of Qawā'id al-Fiqhiyyah

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### Abstract

The rapid development of the Islamic economic system in Indonesia has highlighted the urgency of a solid legal framework, particularly through the application of Islamic legal maxims (Qawā'id al-Fiqhiyyah). This study aims to analyze the concept, epistemology, and implementation of legal maxims within Sharia economic law. Using a qualitative descriptive approach through library research and normative juridical analysis, the study examines primary sources such as the Qur'an, Sunnah, juristic consensus, and classical as well as contemporary scholarly works. The findings reveal that Qawā'id al-Fiqhiyyah function as an epistemic tool that bridges normative texts and contemporary economic practices, offering methodological flexibility to address modern financial transactions. The discussion demonstrates their practical application in Islamic financial contracts, fatwa formulation by the National Sharia Council (DSN-MUI), and judicial considerations in Sharia Economic Courts. This study concludes that legal maxims are not merely theoretical constructs but a vital epistemological foundation for developing adaptive, contextual, and solution-oriented Sharia economic law in line with maqāṣid al-sharī'ah.

**Keywords:** Islamic Economic Law; Qawā'id al-Fiqhiyyah; Islamic Legal Epistemology; Islamic Economics; Contemporary Sharia Regulation.

### Abstrak

*Perkembangan pesat sistem ekonomi syariah di Indonesia menegaskan urgensi kerangka hukum yang kokoh, khususnya melalui penerapan kaidah hukum Islam (Qawā'id al-Fiqhiyyah). Penelitian ini bertujuan menganalisis konsep, epistemologi, dan implementasi kaidah hukum dalam hukum ekonomi syariah. Dengan menggunakan pendekatan kualitatif deskriptif melalui studi pustaka dan analisis yuridis normatif, kajian ini menelaah sumber primer seperti al-Qur'an, Sunnah, ijma', serta karya ulama klasik dan kontemporer. Hasil penelitian menunjukkan bahwa Qawā'id al-Fiqhiyyah berfungsi sebagai instrumen epistemologis yang menjembatani teks normatif dengan praktik ekonomi modern, sekaligus memberikan fleksibilitas metodologis untuk merespons transaksi keuangan kontemporer. Pembahasan menegaskan relevansi penerapannya pada akad keuangan syariah, penyusunan fatwa oleh Dewan Syariah Nasional (DSN-MUI), serta pertimbangan hakim di Peradilan Ekonomi Syariah. Penelitian ini menyimpulkan bahwa kaidah hukum bukan sekadar konstruksi teoretis, melainkan fondasi epistemologis penting dalam pengembangan hukum ekonomi syariah yang adaptif, kontekstual, dan solutif sesuai dengan maqāṣid al-sharī'ah.*

**Kata Kunci:** Hukum Ekonomi Islam; Qawā'id al-Fiqhiyyah; Epistemologi Hukum Islam; Ekonomi Islam; Peraturan Syariah Kontemporer.

## Introduction

Over the last two decades, the development of Islamic economic law in Indonesia has experienced significant growth, both in regulatory formulation and institutional practice. The emergence of contemporary financial instruments—such as electronic-based *murābahah*, *musyārakah mutanāqīshah*, *sukuk*, Islamic microfinance, and various fintech-based Sharia models—has generated increasingly complex legal issues. These developments demand a methodological framework of Islamic law that is not only grounded in normative textual sources but also capable of rationally and systematically engaging with modern economic realities (Badan Perencanaan Pembangunan Nasional, 2018). Within this context, *qawā'id al-fiqhiyyah* (Islamic legal maxims) are frequently invoked as a flexible legal instrument to address new and unprecedented economic transactions.

Empirically, the strategic role of *qawā'id al-fiqhiyyah* in the operationalization of Islamic economic law in Indonesia is clearly observable. The National Sharia Council of the Indonesian Ulema Council (DSN–MUI) consistently employs legal maxims as part of its normative reasoning in formulating fatwas on Islamic finance and economic transactions (Lawang et al., 2025). Likewise, judges of the Religious Courts frequently rely on *qawā'id* as part of their legal considerations when adjudicating disputes in Islamic banking and Sharia economic cases (Taufiki et al., 2022). This widespread use indicates that *qawā'id al-fiqhiyyah* have moved beyond abstract doctrinal tools and now function as operative legal references within Indonesia's Sharia economic legal system.

Previous scholarly works have extensively discussed the importance of Islamic legal methodology in the economic sphere. Susanto et al. (2025), for instance, emphasize the necessity of a dynamic legal methodology to ensure the adaptability of Islamic law in modern economic contexts. Similarly, Syam et al. (2025) highlight the role of Islamic legal culture in enhancing the performance and governance of Islamic banking institutions. Other studies, such as Saputra et al. (2025), underline the function of *qawā'id al-fiqhiyyah* as a conceptual bridge between normative religious texts and evolving social realities. However, despite these contributions, most existing studies remain concentrated at the conceptual or descriptive level and rarely engage in a systematic examination of the epistemological foundations and methodological implications of *qawā'id al-fiqhiyyah* in contemporary Islamic economic law.

A closer review of the literature reveals a significant theoretical gap. While *qawā'id al-fiqhiyyah* are frequently explained as general legal principles, limited attention has been given to their epistemological construction—namely, how these maxims are derived, how their legal authority is validated, how they relate to *maqāṣid al-sharī'ah*, and how they function as

instruments of legal reasoning. As a result, the application of *qawā‘id* in Islamic economic practice often appears pragmatic and fragmented, lacking a coherent methodological framework that situates their use within a structured theory of Islamic legal epistemology.

Moreover, existing studies have not sufficiently mapped the patterns of *qawā‘id* utilization by the DSN–MUI and Religious Court judges. Specifically, there remains limited analysis of when *qawā‘id* operate as tools of textual interpretation (*ta’wīl*), as justificatory premises for *ijtihād*, or as normative legal arguments in fatwas and judicial decisions. This gap creates a disconnect between the practical deployment of *qawā‘id al-fiqhiyyah* and their theoretical positioning within Islamic legal theory, particularly in addressing the structural challenges of modern economic systems.

Based on these considerations, this article focuses on three interrelated dimensions: the conceptual position, epistemological structure, and practical implementation of *qawā‘id al-fiqhiyyah* in Islamic economic law. Employing an analytical and comparative approach, this study seeks to address the following research questions: How is the epistemological structure of *qawā‘id al-fiqhiyyah* constructed within Islamic legal theory? How is their legal validity established? And how can their implementation be systematically mapped in contemporary Sharia economic regulations, fatwas, and judicial practices?

By addressing these questions, this article aims to contribute a structured epistemological framework that repositions *qawā‘id al-fiqhiyyah* not merely as supplementary legal formulas, but as a strategic and methodologically grounded source of Islamic legal reasoning. In doing so, this study offers a conceptual contribution to the development of Islamic economic law that is both adaptive to modern financial dynamics and firmly rooted in the objectives of *maqāṣid al-shari‘ah*.

## Methods

This study employs a qualitative research design based on library research, selected in accordance with the epistemological nature of the research object. *Qawā‘id al-fiqhiyyah* are products of text-based *ijtihād* derived from the Qur'an, Hadith, and the methodological reasoning of *uṣūl al-fiqh*. Therefore, their conceptual meaning, epistemological structure, and legal implications can only be adequately examined through normative-textual and comparative analysis. This approach enables a systematic exploration of the rationality of *ijtihād* and the role of *qawā‘id* within contemporary Islamic economic law.

Primary data consist of classical and contemporary works on *uṣūl al-fiqh* and *qawā‘id al-fiqhiyyah*, DSN–MUI fatwas, and Religious Court decisions that explicitly apply legal maxims

in resolving Sharia economic disputes. Secondary data include peer-reviewed journal articles, academic books, and official reports on Islamic economic law, such as the *Indonesia Sharia Economic Outlook* (ISEO) 2024. Data were collected through systematic documentation and analyzed using normative analysis—to identify the epistemological foundations, textual bases, and *maqāṣid al-sharī‘ah* orientation of *qawā‘id*—and comparative analysis to examine variations in their application across classical jurisprudence, fatwa formulation, and judicial reasoning. Data validity was ensured through source triangulation by comparing classical literature, contemporary scholarship, and institutional practices, thereby enhancing the analytical rigor and applicative relevance of the findings (Creswell, 2012; Moleong, 2019).

### **Conceptual Position and Normative Hierarchy of Qawā‘id al-Fiqhiyyah in Istinbāt**

Etymologically, *qawā‘id al-fiqhiyyah* derives from two Arabic terms: *al-qawā‘id* (القواعد) and *al-fiqhiyyah* (الفقهيّة). The term *al-qawā‘id* is the plural form of *al-qā‘idah*, which denotes a foundation, principle, or fundamental basis upon which other elements are constructed (Muiz, 2020). Linguistically, this meaning reflects the idea of stability and generality, indicating that *qawā‘id* function as foundational principles that underlie and organize a wide range of legal rulings within Islamic jurisprudence.

The conceptual usage of *al-qawā‘id* is also found in the Qur’ān, particularly in Surah al-Baqarah verse 127, where the term signifies a structural foundation rather than a specific legal command. The verse illustrates how the notion of “foundation” is associated with establishing something enduring and systematic, rather than incidental or partial. This semantic grounding reinforces the understanding that *qawā‘id* are not isolated rules, but comprehensive principles that support and structure broader legal reasoning.

وَإِذْ يَرْفَعُ إِبْرَاهِيمُ الْقَوَاعِدَ مِنَ الْبَيْتِ وَإِسْمَاعِيلُ رَبَّنَا تَقَبَّلَ مِنَّا إِنَّكَ أَنْتَ الْسَّمِيعُ الْعَلِيمُ

In this verse, the word *al-qawā‘id* is interpreted as “foundations,” emphasizing the act of establishing a firm structural base. The Qur’ānic usage conveys a broader conceptual meaning, suggesting that *qawā‘id* denote principles that are applicable to all constituent parts of a structure, not merely to one segment. Mustafa Ahmad al-Zarqā’, citing classical linguistic authorities, argues that this linguistic construction implies a legal meaning capable of general application across multiple cases and contexts (Firdaus, 2015: 8).

From a juristic perspective, *qawā‘id al-fiqhiyyah* are generally defined as overarching legal principles that serve as a basis for deriving particular legal rulings (Zarqā’, 1983; Adil & Arifin, 2025). These principles are formulated through inductive reasoning (*istiqrā‘*) based on

numerous juristic cases, allowing them to transcend individual rulings and operate across different fields of fiqh. Consequently, *qawā‘id* function as general legal patterns that guide jurists in understanding, organizing, and extending Islamic law.

However, within the discourse of Islamic legal epistemology, *qawā‘id al-fiqhiyyah* cannot be reduced to mere abstract generalizations. Normatively, they occupy a distinct hierarchical position within the process of *istinbāt al-ahkām*, operating between primary textual sources (the Qur'an and Sunnah) and the concrete application of law in specific cases. This intermediate position enables *qawā‘id* to function as methodological tools that translate normative texts into applicable legal reasoning without claiming independent legislative authority.

Accordingly, *qawā‘id al-fiqhiyyah* should not be understood as autonomous sources of law, but as instruments of legal reasoning that systematize and rationalize the derivation of rulings from Sharia evidence. In this respect, *qawā‘id* differ from *maqāṣid al-sharī‘ah*, which articulate the overarching objectives and values of Islamic law. While *maqāṣid* provide normative direction, *qawā‘id* operate as inferential patterns that bridge textual norms with empirical legal realities, ensuring coherence, consistency, and adaptability in the process of legal determination (Yusuf et al., 2024).

To clarify its epistemic operations within Islamic legal reasoning, *qawā‘id al-fiqhiyyah* must be distinguished from *dābiṭ fiqh*. This distinction is not merely terminological, but relates fundamentally to differences in scope, function, and methodological orientation. While both serve as tools for legal reasoning, their roles within the structure of *istinbāt* are conceptually and normatively distinct.

**Table 1.** Differences Between Qawā‘id al-Fiqhiyyah and Dābiṭ Fiqh

Aspect	Qawā‘id al-Fiqhiyyah	Dābiṭ Fiqh
Coverage	Across fiqh chapters, can be general	Limited to one chapter only
Role	General rational principles	Technical-systematic criteria
Characteristic	Presumptive and inferential	Restrictive and classificatory

As shown in Table 1, *qawā‘id al-fiqhiyyah* operate across various branches of fiqh and function as general rational principles that guide legal inference. In contrast, *dābiṭ fiqh* are confined to specific chapters and serve as technical criteria for classification and application within a narrow doctrinal scope. Due to this broader reach, *qawā‘id* perform a heuristic function by directing legal reasoning, whereas *dābiṭ* perform a diagnostic function by determining precise legal categories in particular cases.

In classical and contemporary scholarship, two major epistemological views concerning *qawā‘id al-fiqhiyyah* can be identified (Thalib, 2016). The first view treats *qawā‘id* as

universally binding juridical principles that are capable of producing direct legal consequences. From this perspective, a maxim such as *lā darar wa lā dirār* may serve as an independent basis for validating, modifying, or even nullifying a contract that causes harm.

The second view conceptualizes *qawā‘id al-fiqhiyyah* as generalized abstractions derived from accumulated juristic practices rather than as independent legal propositions. In this framework, *qawā‘id* do not establish new law, but function as interpretive tools that help identify patterns across similar cases. Accordingly, their authority lies not in norm creation, but in methodological guidance that ensures coherence and consistency in legal interpretation.

This epistemic debate is significant because it directly affects the perceived authority of *qawā‘id* in contemporary Islamic economic law. In practice, particularly within DSN–MUI fatwa formulation and Religious Court adjudication, *qawā‘id* are frequently positioned as major argumentative premises. However, their theoretical status—whether normative or merely interpretive—often remains under-theorized, leading to methodological ambiguity in their application.

From a typological perspective, *qawā‘id al-fiqhiyyah* relevant to economic law can be classified into three categories: *qawā‘id al-kubrā* (universal maxims), *qawā‘id al-kulliyah ghayr al-kubrā* (semi-universal maxims), and *qawā‘id al-shughrā* (partial or specific maxims) (Fahrina et al., 2025). This classification is not a mere conceptual taxonomy, but serves an analytical function in determining the degree of generality and normative force of each maxim in economic cases. Through this typology, jurists can assess which level of maxim is methodologically appropriate for addressing particular contractual or financial issues.

Based on this analysis, *qawā‘id al-fiqhiyyah* perform four key epistemological functions in contemporary Sharia economic law: providing rational premises for interpreting texts in unprecedented cases, regulating legal flexibility in contractual and financial innovation, harmonizing classical doctrines with modern market realities, and serving as instruments of legal argumentation in DSN–MUI fatwas and judicial decisions. Accordingly, the study of *qawā‘id* must move beyond etymological definition toward an examination of their epistemological hierarchy, methodological role, and normative implications, which constitute the core focus of this article (Thalib, 2016).

## **Epistemology of Qawā‘id al-Fiqhiyyah**

Epistemologically, *qawā‘id al-fiqhiyyah* are not merely a compilation of general legal rules derived from the Qur'an, Sunnah, and *ijmā‘*, but rather the product of a methodological *ijtihād* process developed through conceptual generalization of diverse legal cases encountered

by *fuqahā* throughout the history of Islamic jurisprudence (Ansori, 2022). The emergence of *qawā‘id* reflects an intellectual effort to systematize numerous particular rulings that, while different in form, share similar argumentative foundations. Consequently, *qawā‘id al-fiqhiyyah* possess a dual epistemological function: descriptively, they explain recurring legal patterns, and normatively, they guide future *ijtihād* by providing structured legal reasoning.

Historically, the formulation of *qawā‘id al-fiqhiyyah* was shaped by the inductive efforts of jurists from the classical schools of law—Hanafi, Mālikī, Shāfi‘ī, and Ḥanbalī—who abstracted general principles from hundreds, and even thousands, of fatwas and fiqh cases. Through this process, legal reasoning transcended individual domains of fiqh, including *‘ibādāt*, *mu‘āmalāt*, *jināyāt*, family law, and *waqf*. These abstractions gave rise to what are known as *al-qawā‘id al-kulliyah*, such as *al-mashaqqah tajlib al-taysīr* (hardship necessitates facilitation), *al-yaqīn lā yazūlu bi al-shakk* (certainty is not removed by doubt), and *al-umūr bi maqāṣidihā* (matters are judged according to their objectives) (Hanifah & Sayuti, 2025).

This process demonstrates that the epistemology of *qawā‘id al-fiqhiyyah* is not confined to direct textual derivation, but is strongly supported by inductive reasoning (*istiqrā‘*). By identifying common rational patterns across diverse cases, jurists constructed principles capable of addressing legal questions beyond the explicit scope of classical texts. Accordingly, *qawā‘id* function epistemologically as a model of legal generalization that remains open to application in new and unprecedented circumstances (Ansori, 2022).

One of the central debates in the epistemology of *qawā‘id al-fiqhiyyah* concerns whether these maxims should be understood as descriptive (*wasfi*) or normative (*inshā‘ī*) in nature (Shofi et al., 2022). From a descriptive perspective, *qawā‘id* merely articulate existing legal patterns after concrete rulings have been established, serving as retrospective summaries of juristic practice. In contrast, the normative perspective views *qawā‘id* as major premises that can actively function as a basis for new legal reasoning and the formulation of legal judgments.

In contemporary practice, these two perspectives tend to converge rather than stand in opposition. *Qawā‘id al-fiqhiyyah* are generally constructed through descriptive abstraction, yet they are projected normatively in guiding future legal decisions. This dual character constitutes the epistemological strength of *qawā‘id*, enabling them to bridge classical fiqh heritage with the regulatory demands of modern economic systems and to remain relevant within evolving legal contexts.

Beyond their classificatory role, the epistemology of *qawā‘id al-fiqhiyyah* positions them as a comprehensive framework of legal reasoning (*manhaj al-fikr*), rather than a mere collection of formulas (Fatima & Pakeeza, 2020). Through this framework, complex legal issues can be

simplified into fundamental principles, consistency across legal rulings can be maintained, and *maqāṣid al-sharī‘ah* can be operationalized in practical decision-making. In situations where explicit textual evidence is absent, *qawā‘id* provide a rational basis for resolving legal problems while preserving normative coherence.

The epistemological capacity of *qawā‘id al-fiqhiyyah* becomes particularly evident when addressing contemporary legal issues that were unknown to classical jurists. In the context of fintech and digital financial transactions—such as electronic money, crowdfunding, and peer-to-peer lending—principles like *al-darar yuzāl* and *al-mashaqqah tajlib al-taysīr* are employed to ensure transparency, prevent harm, and regulate service fees (Asyifana & Fitriani, 2024). These applications illustrate how *qawā‘id* facilitate normative responses to technological innovation without departing from Sharia objectives.

Similarly, in the case of multi-contracts and hybrid contractual structures—such as the combination of *murābahah*, *wakālah*, and *ujrah*—the principle of *al-umūr bi maqāṣidihā* plays a decisive role. Rather than focusing solely on contractual form, this maxim allows jurists to assess the substantive objectives of the transaction, thereby permitting complex contractual arrangements as long as they do not generate *gharār* or *ribā* (Hasanudin et al., 2022). This demonstrates the epistemological flexibility of *qawā‘id* in adapting legal reasoning to complex financial realities.

In the sphere of *sukuk* and Islamic capital market instruments, the maxim *al-‘ādah muhakkamah* (custom is legally authoritative) serves as an epistemological justification for accommodating modern market practices. As long as prevailing commercial customs do not conflict with *maqāṣid al-sharī‘ah*, they may be integrated into Sharia-compliant financial structures (Akbar & Mohd Bakri, 2024). This further illustrates how *qawā‘id al-fiqhiyyah* function as a mediating framework between normative legal tradition and contemporary economic systems.

Within this epistemological framework, *qawā‘id al-fiqhiyyah* perform a transformative function by shifting fiqh from a purely particularistic textual orientation toward a normative and methodological approach that is adaptive to global economic developments. Although rooted in the Qur'an, Sunnah, and *ijmā‘*, the epistemology of *qawā‘id* is not literalist in nature. Rather, it operates through hermeneutical interpretation of texts into abstract principles, conceptual formulation of universal legal generalizations, and dialectical engagement with socio-economic realities. Consequently, *qawā‘id al-fiqhiyyah* should be understood as a structured model of methodological *ijtihād*, not merely as a summary of legal evidence (Arsadani et al., 2024).

## Implementation of *Qawā'id al-Fiqhiyyah* in Sharia Economic Law

In general, findings from the literature and judicial rulings indicate that the implementation of *qawā'id al-fiqhiyyah* in Islamic economic law is neither incidental nor fragmented. Rather, their application follows a relatively consistent epistemological pattern that shapes legal reasoning across different institutional arenas. In this context, *qawā'id* function not merely as supplementary arguments, but as a legal framework that influences normative positions adopted by transaction actors, the DSN–MUI, and Religious Court judges (Mustafa et al., 2016).

### 1. Implementation in *Mu'āmalāt*: Orientation toward Transaction Validity and Protection

An examination of legal maxims commonly applied in economic transactions—such as *al-āṣl fī al-mu'āmalāt al-ṣīḥḥah*, *al-'aqd bi al-riḍā*, and *al-kharāj bi al-damān*—reveals a clear methodological pattern. First, these maxims establish the foundational validity of transactions by affirming the principle of permissibility, with *al-āṣl fī al-mu'āmalāt al-ṣīḥḥah* serving as the normative starting point. Second, they function to protect contractual justice by emphasizing consent, responsibility, and the equitable distribution of risk and benefit through principles such as *al-riḍā bi al-shay' riḍā bi mā yatawalladu minhu* and *al-kharāj bi al-damān*.

Methodologically, the application of *qawā'id al-fiqhiyyah* in *mu'āmalāt* exhibits three main characteristics. These include a preventive orientation aimed at avoiding *gharār* and value manipulation, a protective orientation that safeguards consumers and parties with weaker bargaining power, and an emphasis on transaction stability rather than mere contractual formality. This pattern demonstrates that the epistemology of *qawā'id* in *mu'āmalāt* not only validates transactions, but also cultivates a legal ethos oriented toward fairness, balance, and sustainability in economic relations.

### 2. Implementation in DSN–MUI Fatwas: Dominance of Preventive and Maṣlaḥah-Oriented Principles

An analysis of more than 160 DSN–MUI fatwas reveals a relatively consistent methodological reliance on *qawā'id al-fiqhiyyah* in the formulation of Sharia economic norms (Fateh, 2018). Two dominant categories of maxims frequently appear in these fatwas. The first consists of preventive principles, particularly *dar' al-mafāsid muqaddam 'alā jalb al-maṣālih*, which prioritize the prevention of harm over the pursuit of benefit and are commonly applied in financing contracts such as *ijārah*, *murābāhah*, and *istiṣnā*.

The second category involves the principle of permissibility with normative limitations, most notably *al-āṣl fī al-mu'āmalāt al-ibāhah*. While this maxim affirms flexibility and

innovation in economic transactions, its application in DSN–MUI fatwas is consistently constrained by harm-prevention principles. Moreover, the frequent invocation of *al-darar yuzāl*—for example, in fatwas regulating *murābahah* down payments—illustrates a strong protective orientation aimed at safeguarding consumers and maintaining systemic stability. This practice confirms that *qawā‘id* in fatwa-making serve a normative and regulatory function, operating as mechanisms of risk mitigation rather than mere illustrative references.

### 3. Application in Judicial Reasoning: Protection of the Weak Party and Substantive Justice

In Religious Court decisions concerning Islamic economic disputes, three legal maxims are most frequently employed. The first is *lā darar wa lā dirār*, which serves to protect parties who are structurally or economically disadvantaged. The second is *al-riḍā bi al-shay’ riḍā bi mā yatawalladu minhu*, emphasizing responsibility for contractual consequences, while the third is *al-darar yuzāl*, which provides the basis for nullifying or modifying clauses that impose excessive or unjust burdens.

Unlike the DSN–MUI’s predominantly preventive orientation, judicial applications of *qawā‘id al-fiqhiyyah* tend to emphasize substantive justice over formal contractual validity. In Decision No. 0354/Pdt.G/2016/PA.Ba, for instance, the court revoked an obligation to pay legal service fees on the grounds that enforcing the clause would disadvantage the weaker party, explicitly invoking the principle of *lā darar wa lā dirār*. This example illustrates that *qawā‘id* function judicially as corrective instruments designed to restore fairness, rather than as tools merely used to affirm the literal terms of a contract.

More broadly, judges employ *qawā‘id al-fiqhiyyah* as jurisprudential tools for reconstructing justice in concrete cases. Their use extends beyond validating or invalidating transactions and instead operates to realign contractual relationships with Sharia values of equity and proportionality. When viewed across the three arenas of application—*mu‘āmalāt* practice, DSN–MUI fatwas, and judicial rulings—a coherent epistemological pattern of *qawā‘id* usage becomes evident.

**Table 2.** Epistemological Patterns of the Use of Qawā‘id al-Fiqhiyyah

Arena of Application	Epistemological Pattern	Function of Qawā‘id al-Fiqhiyyah
Classical fiqh literature	Descriptive–inductive	Generalization of recurring legal rulings derived from accumulated juristic practice
DSN–MUI fatwas	Normative–preventive	Risk mitigation and prevention of harm in Sharia economic regulation
Contemporary <i>mu‘āmalāt</i> practices	Heuristic–methodological	Framework of reasoning to assess substance, objectives, and contractual fairness
Religious court adjudication	Corrective–substantive	Instrument for restoring substantive justice and protecting weaker parties

Arena of Application	Epistemological Pattern	Function of Qawā'id al-Fiqhiyyah
Comparative legal studies	Epistemic-analytical	Validation of legal rationality and coherence across different legal systems

To systematically understand how qawā'id al-fiqhiyyah operate within contemporary Sharia economic law, it is necessary to identify the epistemological patterns through which these legal maxims are constructed, deployed, and validated in practice. Rather than functioning in a uniform manner, qawā'id demonstrate distinct modes of operation across doctrinal reasoning, regulatory formulation, contractual practice, judicial adjudication, and comparative legal analysis. These patterns reveal how qawā'id may emerge descriptively from accumulated fiqh practices, operate normatively as foundational legal premises, function heuristically as a framework of reasoning, serve preventively as instruments of risk governance, act correctively to restore substantive justice, and operate comparatively as epistemic structures of legal rationality. The following six patterns illustrate the diverse epistemological roles of qawā'id al-fiqhiyyah and clarify their methodological significance in shaping contemporary Sharia economic law.

### 1. Descriptive-Inductive Pattern

In the descriptive-inductive pattern, *qawā'id al-fiqhiyyah* function as generalized formulations derived from accumulated judicial and juristic practices rather than as independent normative premises. Empirical studies on Religious Court decisions in *murābahah* disputes show that judges often invoke the maxim *lā darar wa lā dirār* as a reflective summary of established fiqh practices, not as a standalone legal proof. As demonstrated by Taufiki et al. (2022), the maxim typically appears after the substantive reasoning has been constructed, indicating that *qawā'id* emerge *ex post facto* as descriptive (*wasfi*) representations of legal patterns already applied in concrete cases.

### 2. Normative-Deductive Pattern

The normative-deductive pattern positions *qawā'id al-fiqhiyyah* as primary premises in the formulation of legal norms. This is evident in DSN-MUI fatwas on *murābahah* down payments, where the maxim *al-darar yuzāl* is employed from the outset as a normative basis to restrict practices that may harm customers. Unlike the descriptive model, *qawā'id* here operate *a priori* and function in an *inshā'ī* (norm-creating) manner, guiding the direction of legal determination before specific contractual rules are articulated. Scholarly analysis by Novia (2016) confirms that DSN-MUI consistently uses legal maxims not merely as justification, but as foundational tools in shaping Sharia economic regulation.

### 3. Heuristic–Methodological Pattern

Under the heuristic–methodological pattern, *qawā‘id al-fiqhiyyah* serve as a framework of legal reasoning (*manhaj al-fikr*) rather than as isolated textual arguments. This pattern is observable in DSN–MUI’s treatment of hybrid contracts combining *murābahah*, *wakālah*, and *ujrah*, where no single textual dalil governs the complex structure. Instead, the maxim *al-umūr bi maqāṣidihā* is applied to evaluate the substantive objectives of the transaction rather than its formal composition. As shown by Hasanudin et al. (2022), *qawā‘id* in this context operate heuristically, enabling jurists to navigate contractual complexity while maintaining Sharia coherence.

### 4. Preventive–Maṣlahah Pattern

The preventive–maṣlahah pattern highlights the function of *qawā‘id al-fiqhiyyah* as instruments of risk governance in modern economic regulation. In the regulation of Sharia-compliant fintech and peer-to-peer lending, maxims such as *dar’ al-mafāsid muqaddam ‘alā jalb al-maṣālih* are employed to limit excessive fees, enforce transparency, and prevent exploitative practices. Empirical research by Asyifana and Fitriani (2024) shows that *qawā‘id* in this setting do not merely legitimize innovation, but actively constrain it to ensure alignment with *maqāṣid al-sharī‘ah*. This demonstrates an epistemological shift in which *qawā‘id* function as preventive regulatory tools rather than post hoc moral validations.

### 5. Corrective–Judicial Pattern

In the corrective–judicial pattern, *qawā‘id al-fiqhiyyah* are utilized as instruments to restore substantive justice, particularly in cases involving unequal bargaining power. Religious Court judges have annulled or modified burdensome contractual clauses based on the maxim *lā darar wa lā dirār*, even when such clauses are formally valid under contract law. The study by Zuhdi and Widyawati (2022) illustrates that judges prioritize equity and proportionality over strict formalism, using *qawā‘id* as corrective mechanisms rather than as tools for textual validation. This pattern underscores the jurisprudential role of *qawā‘id* in aligning legal outcomes with Sharia’s ethical commitments.

### 6. Comparative Epistemological Pattern (Cross-Legal Systems)

The comparative epistemological pattern situates *qawā‘id al-fiqhiyyah* within a broader framework of legal reasoning across different legal traditions. Comparative studies between Islamic legal maxims and common law maxims demonstrate that *qawā‘id* operate as an epistemic filter through which legal rationality, coherence, and moral justification are assessed. Wasiq and Magoge (2025) show that, similar to maxims in common law, *qawā‘id*

function not merely as norms, but as underlying epistemes that structure how legal reasoning is produced and validated. In this sense, *qawā‘id al-fiqhiyyah* transcend doctrinal boundaries and operate as a foundational mode of legal cognition.

Based on this mapping, *qawā‘id al-fiqhiyyah* cannot be reduced to brief legal formulations or abstract moral guidelines. Rather, they function as epistemic premises that guide the operation of Islamic economic law at multiple levels, from market transactions and fatwa institutions to judicial jurisprudence. Through this role, *qawā‘id* ensure methodological coherence while allowing Islamic economic law to respond adaptively to contemporary legal and economic challenges.

Taken together, the analysis demonstrates that *qawā‘id al-fiqhiyyah* operate as a coherent epistemological and methodological framework that systematically links transactional practice, fatwa formulation, and judicial reasoning, thereby enabling Sharia economic law to function adaptively, consistently, and justice-oriented within contemporary legal and economic contexts.

## Conclusion

This study confirms that *qawā‘id al-fiqhiyyah* is not merely a collection of legal slogans or ethical principles, but has epistemological status as a methodological framework that guides *istinbāt*, producing adaptive legal answers in the contemporary economic realm. *Qawā‘id* becomes an “epistemic bridge” that connects classical texts with the reality of modern financial transactions. Its epistemological strength lies in its ability to reconstruct (*ta’ṣīl*) and contextualize (*tanzīl*), so that sharia norms are not frozen in texts, but work as a rational, responsive, and consistent legal ethic in achieving *maqāṣid*.

Based on the implementation study, significant methodological patterns are evident. First, the DSN-MUI tends to use preventive and protective *qawā‘id*, such as *dar’ al-mafāsid muqaddam ‘alā jalb al-maṣāliḥ* and *al-ḍarar yuzāl*, so that the orientation of its fatwas not only ensures the validity of contracts but also avoids potential systemic losses in the financial industry. Second, in religious court practice, judges more often apply *qawā‘id* that is corrective justice, such as *lā ḏarar wa lā ḏirār* and *al-riḍā bi al-shay’ riḍā bimā yatawalladu minhu*, which protect the weak party and uphold the equality of responsibility of the parties. Third, in muamalah transactions, the dominance of *qawā‘id* which is normative in nature, such as *al-aṣl fī al-mu‘āmalāt al-ibāḥah* and *al-aṣl fī al-‘uqūd al-riḍā*, which provides flexibility for product innovation without having to go beyond the boundaries of *maqāṣid*.

These findings demonstrate that *qawā'id* serves as a method of rationalizing Islamic economic law, allowing regulations, fatwas, and rulings to move across disciplines without losing their roots in *fiqh*. Thus, this article asserts that the epistemological role of *qawā'id* in the modern economic context is not only conservative (maintaining principles) but also progressive (enabling directed innovation). This is the conceptual contribution this research presents: positioning *qawā'id* as a systematic, justice-oriented rationale for Islamic economic law, compatible with the dynamics of the contemporary financial industry.

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