



## Survey of the Use of Qawaid Fiqhiyah in Current Cases in the Fields of Worship, Mu'amalah and Siyasah

**Putra Eka Zakran**

Dewan Pengurus Pusat Perkumpulan Advokat Negarawan Indonesia

E-mail: [putrazakran03@gmail.com](mailto:putrazakran03@gmail.com)

---

### Info Articles

#### Article History

Received : 2024-11-01

Revised: 2024-11-15

Published: 2024-12-30

#### Keywords:

*Mu'amalah, qawaid fiqhiyah, siyasah, survey*

### Abstract

Qawaid fiqhiyah are the principles of Islamic law which are used as guidelines in resolving various problems that arise in life, especially in the areas of worship, mu'amalah, and siyasah. As time goes by, the application of qawaid fiqhiyah in actual cases is increasingly relevant to study in order to understand how these principles are applied in the context of contemporary Islamic law. This research aims to analyze the use of qawaid fiqhiyah in various actual cases in three main areas: worship, mu'amalah, and siyasah, as well as assessing the extent to which these rules are able to provide legal solutions that are in accordance with the principles of Islamic justice. This research uses normative legal methods with a conceptual and statutory approach. Data was obtained through literature studies from classical and contemporary fiqh books, as well as analysis of actual cases that occurred in society. The research results show that qawaid fiqhiyah has a significant role in providing a legal basis that is flexible and adaptive to changing times. In the field of worship, principles such as al-masyaqqah tajlibu at-taysir are applied to facilitate the implementation of worship in difficult conditions. In mu'amalah, the principle of al-'adah muhakkamah is the basis for modern economic transactions. While in siyasah, the principle of tasharruf al-imam 'ala ar-ra'iyah manuthun bil maslahah is used in Islamic government policies. The conclusion of this study is that qawaid fiqhiyah remains relevant in facing the challenges of modern Islamic law. Its application in various fields shows that these principles are able to answer actual problems while maintaining the values of Islamic law that are fair and beneficial.

---

## I. INTRODUCTION

In the dynamics of Muslim life, various actual problems that arise in the areas of worship, muamalah and siyasa require solutions that are not only in accordance with religious texts, but are also relevant to the context of the times. As an important tool in Islamic law, qawaid fiqhiyah (fiqh rules) acts as a systematic guide in resolving new problems that are not directly explained in the texts. (Wahyuddin et al., 2023). The advantage of qawaid fiqhiyah lies in its flexible, universal nature, and is based on the principle of benefit, so that it can be applied to various conditions and situations. (Kartika & Alfarisi, 2023).

In the field of worship, differences in the context of the times often raise questions, such as the application of worship in emergency situations or the use of modern technology in worship rituals. In this case, rules such as al-masyaqqah tajlibu at-taysir (difficulty brings ease) become important guidelines for providing solutions that do not violate sharia principles. (Wahyuddin et al., 2023).

In muamalah, the emergence of contemporary issues such as digital transactions, the validity of contracts in online trading, to sharia financial issues require a legal approach that is not only based on literal texts, but also considers principles such as al-'adah muhakkamah (customs can be made into law) to answer the problems that arise.

As for siyasah, the development of modern politics, governance, and international relations require in-depth study based on the principles of Islamic law. Principles such as tasharruf al-imam 'ala ar-ra'iyah manuthun bi al-maslahah (the leader's policy towards the people must be based on the public interest) provide a philosophical basis for formulating policies that are in accordance with the needs of the people. (Mudzakir, 2020).

However, despite its importance, the application of qawaid fiqhiyah in solving actual problems is often not fully understood by most Muslims, including legal practitioners and academics. Research related to the implementation of this rule in everyday life is still

limited, so a survey is needed to evaluate the extent to which qawaid fiqhiyah has been used effectively in solving problems in the three main areas.

Therefore, this paper aims to examine and analyze the use of qawaid fiqhiyah in solving actual problems in the fields of worship, muamalah, and siyasah. This survey is expected to provide an overview of the relevance and effectiveness of the application of fiqh rules in responding to the challenges of contemporary life and offering solutions based on universal Islamic legal principles.

## II. RESEARCH METHODS

This research uses a normative legal approach (Jonaedi Efendi et al., 2018) which aims to analyze the application of qawaid fiqhiyah to actual cases in the fields of worship, mu'amalah, and siyasah. The following is the research methodology framework:

This study uses secondary data, consisting of fatwa verdict manuscripts from several fatwa institutions and other institutions that decide actual cases in the fields of worship, muamalah and politics. Data collection was carried out through a literature study. Searching for relevant literature, including fiqh books, Islamic legal documents, and ulama fatwas.

Data analysis was carried out qualitatively with the following steps:

- 1) Identification of Fiqh Principles. Identifying fiqh principles that are appropriate for the fields of worship, mu'amalah, and siyasah.
- 2) Classification and Comparison. Grouping cases by field and comparing their application with relevant fiqh rules.
- 3) Normative Interpretation. Interpreting qawaid fiqhiyah in the context of normative law to produce applicable solutions.

## III. RESULTS AND DISCUSSION

### A. Use of Qawaid Fiqhiyah in Resolving Actual Problems in the Field of Worship

In resolving actual problems that arise in the field of worship, several qawaid fiqhiyah (fiqh rules) provide practical guidance based on the principles of Islamic law. (Wahyuddin et al., 2023). In conducting a survey on the use of qawaid fiqhiyah in actual cases in the field of worship, the author used several fatwas issued by the fatwa institution regarding the implementation of worship during the Covid 19 pandemic.

The COVID-19 pandemic has raised many new problems in the implementation of worship. So

that various fatwa institutions such as the Indonesian Ulema Council (MUI), Dar Al-Ifta Al-Misriyyah, and others issued fatwas regarding the implementation of worship. (INDONESIA, 2024). From the various fatwas that have been compiled, it was found that qawaid fiqhiyah was used to provide guidance that was relevant to the emergency situation. The following is an example of the application of fiqh rules by a fatwa institution:

#### 1. The rules of Al-Masyaqqah Tajlibu At-Taysir

الْمَشَقَّةُ تَجْلِبُ التَّيْسِيرَ

*Difficulty Brings Ease* (Sanusi, 2007)

This rule is widely used to provide convenience in carrying out worship, especially in pandemic conditions. Among others, fatwas that use this rule are:

- a. MUI Fatwa No. 14 of 2020 concerning the Implementation of Worship in the Situation of the COVID-19 Outbreak.
- b. Fatwa of the Muhammadiyah Tarjih Council No. 1/SM/MTT/2020 concerning the Implementation of Worship during the COVID-19 Pandemic.

The MUI issued a fatwa that Friday prayers can be replaced with Dhuhur prayers at home to avoid crowds that can spread the virus. (Love, 2022). This is based on the principle of providing convenience in difficult situations (disaster syar'iyah).

According to the view of the Muhammadiyah Tarjih Council, the Al-Masyaqqah Tajlibu At-Taysir principle is used as a basis for allowing Friday prayers to be replaced with Dhuhur prayers at home if there is a risk of disease transmission. (Basri, 2022). This rule is used to provide convenience in carrying out worship in accordance with sharia principles.

The application of the rules of fiqh in these fatwas reflects the flexibility of Islamic law in accordance with the development of the times and the needs of society. The scholars agree that when there are significant difficulties in carrying out religious obligations, the sharia provides relief. This principle is applied in the form of rukhsah (dispensation), such as qashar and jamak in prayers while traveling or exemption from fasting for the sick.

This rule has derivatives that support its application, such as: (Kusuma et al., 2024)

إِذَا ضَاقَ الْأَمْرُ اتَّسَعَ

*(If a matter becomes narrow, it will be relaxed.)*

الضَّرُورَةُ تَقْدَرُ بِقَدْرِهَا

*(Emergencies are limited to the extent.)*

Rules *الْمَسْفُوفَةُ تَجْلِبُ التَّيْسِيرَ* the flexibility of sharia in facing difficulties. During the COVID-19 period, this principle became the basis of a fatwa to provide convenience in carrying out worship, such as replacing Friday prayers, not fasting for the sick, and tayammum as a substitute for ablution. The legal force of this principle is very strong because it is based on qath'i evidence, maqashid sharia, and ijma' of scholars.

## 2. The Rule of Ad-Darurat Tubihu Al-Mahzhurat

الضَّرُورَةُ تُبِيحُ الْمَحْظُورَاتِ

*Emergencies Permit the Forbidden.*(Al-Suyuthi, 1965)

This rule is used to allow actions that are usually prohibited in order to avoid greater harm. Dar Al-Ifta Al-Misriyyah in its fatwa allows the use of masks during prayer even though covering part of the face is usually prohibited, because masks are needed to prevent the spread of disease in health emergencies.(Adab, nd).

In the field of worship, this rule is used to provide dispensation or relief in carrying out obligations when someone is in an emergency. An emergency is defined as a situation that threatens a person's life, health, or physical ability to perform worship.

This rule only applies to real emergencies and not to fabricated reasons. When the emergency ends, the obligation returns to the original law. This is regulated in the derivative rule:

مَا أُبِيحَ لِلضَّرُورَةِ يُقَدَّرُ بِقَدْرِهَا

*What is permitted due to an emergency is limited to the extent*(Al-Suyuthi, 1965).

Rules *الضَّرُورَةُ تُبِيحُ الْمَحْظُورَاتِ* has a very important position in the field of worship because it provides a solution for Muslims to continue to carry out religious obligations in emergency situations. Its legal force is very high because it is based on the Qur'an, Sunnah, and Ijma'. However, its application must be limited according to its level, and Muslims are required to return to the original law after the emergency conditions are over.

## 3. The rules of Al-Yaqin La Yazulu bi Asy-Syak

الْيَقِينُ لَا يُزِيلُ بِالشَّكِّ

*Faith Cannot Be Removed by Doubt*(Al-Suyuthi, 1965).

This rule is used to overcome doubts that arise, especially regarding the transmission of the virus during worship. The Indonesian Ulema Council (MUI) Fatwa Number 17 of 2020 concerning "Guidelines for the Intentions of Prayer for Health Workers Wearing Personal Protective Equipment (PPE) when Treating and Handling COVID-19 Patients".

One of the uses of this principle can be seen in the MUI fatwa on Health Protocols for Muslim Medical Personnel. The MUI issued a fatwa that allows tayammum for health workers who use complete personal protective equipment (PPE) if they are unable to perform ablution due to time constraints or work conditions. This is implemented to maintain the belief that worship remains valid even in limited conditions.(Mutaakabbir & Said, 2021).

This fatwa provides guidance for Muslim medical personnel in performing obligatory prayers while on duty using PPE, including provisions regarding tayammum, combined prayers, and other special conditions that may be encountered while treating COVID-19 patients.

Rules *الْيَقِينُ لَا يُزِيلُ بِالشَّكِّ* has high legal force in Islamic jurisprudence because it is based on a very basic principle in Islamic law, which is related to belief (yaqin) and doubt (shakk). Here are some reasons why this principle has strong legal force. Scholars agree that in many fiqh issues, doubt cannot invalidate a previously believed law, especially in matters related to worship that are certain. This principle is accepted by all major schools of thought in Islam.

Rules *الْيَقِينُ لَا يُزِيلُ بِالشَّكِّ* has a very important position in Islamic jurisprudence, especially in providing legal certainty regarding worship in conditions full of doubt, such as those experienced by medical personnel during the COVID-19 pandemic. This rule provides convenience and ensures that worship remains valid even though there is doubt, because initial belief cannot be canceled by mere doubt. Thus, medical personnel can perform prayers without being burdened with unnecessary doubts, and this is in accordance with the principles of sharia that make it easier for people to worship.

## 4. The rules of Tasharruf Al-Imam 'Ala Ar-Ra'iyah Manuth bi Al-Maslahah

تَصَرَّفَ الْإِمَامُ عَلَى الرَّعِيَّةِ مَنُوطٌ بِالْمَصْلَاحَةِ

*Government policies towards its people must bring benefits*(Al-Suyuthi, 1965).

This rule is used as one of the legal bases in the Joint Circular of the Government and MUI The government, in collaboration with MUI, regulates the implementation of Eid al-Fitr worship by implementing strict health protocols or carrying it out at home. This is to maintain the public interest, namely preventing the transmission of the virus.

This rule provides legitimacy for decisions by government and religious institutions in regulating the implementation of worship for the public good.

### 5. The Principle of Al-'Adatu Muhakkmah

العادة محكمة

*Customs can be used as a legal basis*(Al-Suyuthi, 1965).

This principle is used as one of the arguments in the Fatwa of the Muhammadiyah Tarjih Council regarding the Use of Hisab to Determine Worship Times No. 02/SM/MTT/2015 concerning Determining the Start of Prayer Times and the Start of the Hijri Month.

This fatwa supports the use of the hisab method to determine the beginning of prayer times and the Hijri month. The customs of people who have accepted astronomy and technology as tools for determining time are used as a legal basis that is strengthened by the principles of this rule.

Basically, determining the beginning of the month in the Hijri calendar depends on the sighting of the crescent moon (new moon), which indicates the beginning of the lunar month. However, in modern times, several fatwa institutions, such as the Indonesian Ulema Council (MUI), have recognized the use of the hisab method (astronomical calculations) to determine the beginning of the month. One of the bases used is the principle *العادة محكمة*, which acknowledges that the customs and methods generally accepted by society in determining the beginning of the month, as long as they do not conflict with sharia, have a legitimate standing.(Iqbal, 2016).

Rules *العادة محكمة* giving legal force to customs that have been widely accepted in society, as long as they do not conflict with Islamic law. In the case of determining the beginning of the lunar month, the custom accepted by the majority of society using the hisab method for worship purposes is considered valid and acceptable(Iqbal, 2016). The application of qawaid fiqhiyah during the pandemic shows the flexibility of Islamic law in

responding to emergency conditions. These principles ensure that worship can still be carried out in a relevant and sharia-compliant manner, without neglecting the safety of the people.

### B. Qawaid Fiqhiyah Used to Resolve Actual Cases in the Field of Muamalah

In the field of muamalah, including cases of sharia economics, qawaid fiqhiyah (jurisprudence rules) play an important role in providing solutions to various contemporary problems. The following are some qawaid that are often used by fatwa institutions such as the National Sharia Council-Indonesian Ulema Council (DSN-MUI) and the National Sharia Arbitration Board (BASYARNAS)(Mufid, 2019).

The National Sharia Arbitration Board (BASYARNAS) often faces disputes related to sharia economics, such as financing, investment or commercial contract cases.(Makarim, 2019). In resolving these cases, BASYARNAS refers to the rules of fiqh (qawaid fiqhiyah) as guidelines to ensure resolution in accordance with sharia principles. Following are some commonly used qawaid. The author has tracked several DSN MUI and BASYARNAS fatwas in answering and resolving several actual problems in the muamalah problem, including:

#### 1. Kiadah idza ijtama' al-halal wa al-haram ghuliba al-haram

إِذَا اجْتَمَعَ الْحَلَالُ وَالْحَرَامُ غَلِبَ الْحَرَامُ

*If the halal and haram are mixed, then the haram is dominant*(Al-Suyuthi, 1965).

This rule is often applied in contexts where the mixture of halal and haram cannot be separated, such as in food or drink. This is to maintain caution (ihtiyat) in avoiding something that is haram.

The National Sharia Council of the Indonesian Ulema Council (DSN-MUI) has issued Fatwa Number 80/DSN-MUI/III/2011 concerning the Application of Sharia Principles in the Equity Securities Trading Mechanism in the Regular Market of the Stock Exchange. This fatwa discusses, among other things, the mixing of halal and haram assets in the context of stock investment.(Robby & Rizka, 2023).

In the fatwa, DSN-MUI introduced the Tafriq al-Halal 'an al-Haram method, which is the separation between halal and haram assets. This method is used to determine the halal status of a company that may have mixed income between halal and haram. The basic principle is that if halal

and haram assets are mixed, then the haram part must be separated and removed, so that what remains is the halal asset.

This method is different from the general rule which states that if halal and haram are mixed, then the haram is more dominant (*idza ijtama' al-halal wa al-haram ghuliba al-haram*). DSN-MUI views that this general rule is more suitable to be applied in the context of liquid food or drinks, where the mixture of halal and haram is difficult to separate. While in the context of property or money, which is not haram because of its substance but because of how it is obtained, the *Tafriq al-Halal 'an al-Haram* method is considered more appropriate.

Thus, Fatwa Number 80/DSN-MUI/III/2011 provides guidelines for Muslims in investing, especially in relation to companies with mixed income, so that they can ensure the halalness of their assets by separating them in accordance with sharia principles.

## 2. The Principle of *Al-'Adah Muhakkamah* (Customs Can Be Made into Law)

*العادة محكمة*

*Customs can be used as a legal basis*(Al-Suyuthi, 1965).

This principle states that customs that do not conflict with sharia can be used as considerations in determining laws. An example is the DSN-MUI Fatwa. In the fatwa on sharia banking products such as the *murabahah* contract (buying and selling with margin), the DSN-MUI considers common local business practices, such as how to determine margin prices. This is done so that the contract is in accordance with the local market context without violating sharia.

BASYARNAS also uses this principle in cases of disputes between Islamic banks and customers regarding the interpretation of contract clauses, BASYARNAS considers customary practices in the Islamic financial industry. If the custom does not conflict with sharia, then the custom is used as the basis for settlement. In disputes over sharia financing, the business actor's custom is the basis for determining whether a practice is considered valid or violates the contract. BASYARNAS's view, if traced, is in line with the opinion of Ibn Qayyim, who states that customs that are in accordance with sharia can be used to determine the law in *muamalah* transactions.(Makarim, 2019).

## 3. The Rule of *Al-Dharar Yuzalu*

*الضرر يُزال*

*Danger must be eliminated*(Al-Suyuthi, 1965).

This rule is used to prevent or eliminate things that could harm one of the parties in a transaction.

For example, the DSN-MUI Fatwa prohibits usury (interest) in financial transactions because it is considered a form of harm that harms one party. Instead, contracts such as *ijarah* (rent) or *musyarakah* (cooperation) based on justice are offered.

Rules *الضرر يُزال* used by the Indonesian Ulema Council (MUI) as one of the legal bases in prohibiting the practice of usury, which is considered to be able to bring great harm to individuals and society. Usury, in the view of Islam, is an addition received on a loan or debt that is not legitimate and harms one party, either the borrower or the lender.

Rules *الضرر يُزال* applied in the MUI fatwas to prohibit usury and provide a legal basis that all forms of transactions that cause unfair losses must be avoided. In this case, the MUI emphasized that the interest system in unfair loan transactions must be stopped to avoid major losses to the borrower. The MUI also reminded that the Islamic economic system that is free from usury prioritizes justice and the welfare of the people.

Rules *الضرر يُزال* has a strong legal standing in Islamic jurisprudence, especially in prohibiting usury. This principle shows that all forms of loss must be eliminated, and usury is a form of transaction that causes great losses for both the lender and the borrower. Therefore, the MUI fatwa prohibiting usury is based on the principle of this principle, which prioritizes justice and the welfare of Muslims. This principle not only underlies the prohibition of usury but also provides guidelines for society in choosing transactions that do not harm one party and maintain the principle of justice.

This rule is also applied in resolving disputes over agreements/contracts. In cases of contract agreements that contain elements of fraud or exploitation, BASYARNAS uses this rule to cancel invalid agreements.(Makarim, 2019).

## C. *Qawaid Fiqhiyah* Used in Settlement of Actual Cases in the Field of *Siyasah*

In the field of *siyasah* (politics and government), *qawaid fiqhiyah* (fiqh rules) plays an important role in providing sharia principles that can be used to resolve problems that arise in political and social life.(Salina et al., 2025). These rules are very relevant to ensure that government policies and actions remain in accordance with

Islamic teachings and can bring benefit (good) to the people. The following is an explanation of the use of fiqh rules in solving actual cases in the field of siyasah:

### 1. General Election Issues

The use of qawaid fiqhiyah in general election issues, such as empty city candidates (empty boxes), golput (white groups), and other related issues, is very important to understand the position of Islamic law regarding these actions (Salina et al., 2025). In the context of politics and general elections, the rules of Islamic jurisprudence play a role in assessing whether an action or decision is acceptable according to sharia, as well as what are the obligations and rights of voters in the democratic process. Some of the rules of Islamic jurisprudence that can be used to analyze the law of abstaining from voting include:

First rule:

درء المفاسد مقدم على جلب المصالح

*Preventing harm takes precedence over achieving benefit* (Al-Suyuthi, 1965).

If abstaining from voting can cause greater damage (for example, electing a cruel leader), then voting becomes more important/obligatory.

Second rule

ما لا يتم الواجب إلا به فهو واجب

*If something is incomplete, it is obligatory without it, then it becomes obligatory* (Al-Suyuthi, 1965).

If voting is a way to prevent injustice and realize justice, then participating in elections is an obligation.

The third rule

إذا تعارض مفسدتان روعي أعظمهما ضررا بارتكاب أخفهما

*If two evils conflict, the one with the least danger is chosen* (Al-Suyuthi, 1965).

In cases where all candidates are considered less than ideal, choosing the one with the least harm is considered a better option.

Based on several rules above, the law of golput (not voting in the election) can be seen according to its context. Islam encourages its people to participate in goodness and avoid evil, including in choosing a just leader. However, there are different views of scholars regarding the legal status of golput, which can be detailed as follows:

Views that argue that you must vote. In a context where a Muslim's vote can determine the election of a fair and trustworthy leader, some scholars argue that voting is an obligation (fardhu kifayah or even fardhu 'ain) (Hidayat, 2024). This is based on the principle of amar ma'ruf nahi

munkar. Thus the law of abstaining from voting in this view is haram.

The view that states that the law is permissible or not to vote. If there is no candidate worthy of being elected or the election does not have a significant impact on the condition of the people, then not voting is considered permissible, because there is no obligation to vote for a candidate who does not meet the leadership requirements in Islam. So in this view the law of abstaining from voting is permissible.

Furthermore, the most actual and hot issue is EMPTY BOXES IN ELECTIONS. Several fiqh qawaid that can be used to analyze the empty box problem are described as follows:

First rule:

الضَّرَرُ يُزَالُ

*Danger must be eliminated* (Al-Suyuthi, 1965).

This principle teaches that the harm or disadvantage caused by a policy or action must be avoided or eliminated. In the context of a general election, if a candidate or party is proven to bring harm or damage the social and moral order of society, choosing an empty city candidate can be considered an effort to avoid greater harm.

Likewise, if the general election system is unfair or there are indications of fraud, choosing to abstain can be seen as a form of rejection of a system that is detrimental to the people. The legal basis for this principle is the saying of the Prophet SAW "There should be no harm (dharar) and no harmful actions (dharar)." (HR. Ibn Majah). This principle can be applied in elections, where actions that are considered dangerous or detrimental to the people must be avoided, including when choosing candidates who have the potential to harm society.

Second rule

الْيَقِينُ لَا يَزُولُ بِالشَّكِّ

*Faith Cannot Be Removed by Doubt* (Al-Suyuthi, 1965).

This rule states that belief cannot be erased simply because of doubt. When voters feel certain that there is no worthy candidate, for example because there is no candidate who truly complies with sharia principles, they can choose an empty city candidate or choose not to vote (golput). This is a form of determination based on their belief that there is no better choice. This decision can also be understood as an attitude to maintain principles and values in the general election, even though there are doubts about the existing candidates.

The fiqh principle, "Conviction is not lost with doubt," also covers decisions regarding elections, where doubts about the quality of a candidate cannot change the decision not to vote if none of them meet the desired standards.

In general election issues such as empty city candidates or abstentions, qawaid fiqhiyah provides a basis for viewing these actions from a sharia perspective.

Elections conducted for the sake of public welfare and avoiding harm are highly considered. The decision to choose abstain or empty city candidates in certain contexts can be understood as an effort to maintain principles and values, as well as responding to situations where there is no choice that can bring greater benefits to the people.

In Islam, the basic principles in choosing leaders are to uphold justice, safeguard the benefit of the people, and prevent evil. In the context of general elections that pit a single candidate against an "empty box," Islamic political views on this phenomenon depend on sharia principles and Islamic political goals (maqashid as-siyasah).

In Islam, the election of leaders can be analyzed through two main perspectives. (Mansor & Mohd Hamzah, 2015).

- a. If the Candidate is Eligible and Trustworthy. If the sole candidate meets the criteria as a fair, trustworthy, and competent leader: It is mandatory to vote for the candidate because abstaining or choosing an empty box can cause uncertainty in leadership, which can have an impact on the destruction of society.
- b. If the Candidate is Not Eligible. In this context, choosing an empty box can be considered as a form of amar ma'ruf nahi munkar to reject a leader who is oppressive or incompetent. The rule of fiqh "نفع الضرر أولى من جلب النفع" (Avoiding harm is more important than taking benefit) can be used as a reference. However, it must be ensured that choosing an empty box does not make things worse.

In practice, the victory of the empty box will trigger a re-election. In this case, Islam does not forbid it as long as the effort can produce a better leader. If a single candidate wins legitimately, then the community is obliged to obey the leadership as long as it does not violate Islamic law, based on the hadith: "اسمعوا وأطيعوا وإن تأمر عليكم عبد حيشي" Listen and obey, even if the person leading you is a Habasyi slave).

## 2. General State Administration Issues

The following are several examples of other constitutional cases that are relevant to be applied using qawaid fiqhiyah in resolving problems related to politics and government (siyasah).

### a. The Case of Government Authority in Handling the Crisis

When the government faces a major crisis, such as a natural disaster, pandemic, or social unrest, and must take emergency measures. The government needs to take extraordinary measures that may involve restricting personal rights to maintain public safety and order. The rules that can be used are:

الضَّرَرُ يُزَالُ

*Danger must be eliminated* (Al-Suyuthi, 1965).

In the COVID-19 pandemic situation, the Indonesian government and many other countries have implemented social restriction policies that affect freedom of religion, assembly, and activity. One example is the temporary closure of places of worship and the regulation of restrictions on large events such as weddings or other religious activities.

In this case, this fiqh rule is used to justify the policy. The main objective is to protect the soul (hifz al-nafs), which is one of the main objectives of sharia. (Bahsoan, 2011). Closing places of worship and limiting social activities aims to prevent the spread of viruses that can harm many people.

As explained in the principle of al-'adhārah yuzāl (danger must be eliminated), the government's actions in reducing the dangers of the pandemic by regulating worship and other activities are an effort to reduce losses and protect public safety.

To determine the policies and steps taken by the government, the basic principle and benchmark is the public interest. Therefore, all government policies for the people must be able to bring about public interest. This is in accordance with the rules of fiqh:

تَصَرَّفَ الْإِمَامُ عَلَى الرَّعِيَّةِ مَنْوُوطٌ بِالْمَصْلَاحَةِ

*Government policies towards its people must bring benefits* (Al-Suyuthi, 1965).

In line with this rule, ulama who hold important positions in government or in providing advice to state leaders need to act in accordance with the principle of public benefit, and must not abandon justice and the benefit of the people for the sake of personal or certain group interests.

### b. Giving orders/instructions

In giving orders to the people, a leader must give orders that are ma'ruf. This is in accordance with the rules of Islamic jurisprudence:

الأمر بالمعروف والنهي عن المنكر

*Ordering what is right (good) and preventing what is evil (bad)*(Al-Suyuthi, 1965).

This principle suggests that a leader should guide the people to do good deeds (ma'ruf) and avoid bad deeds (munkar). In the context of governance, this refers to policies that support the common good and prevent harm.

Example of Implementation. The government can create policies to combat corruption, prohibit practices that are detrimental to society such as gambling or document forgery, and support policies that improve the quality of life such as education and health development. These policies are the implementation of amr bil ma'ruf wa nahy anil munkar.

This rule is one of the fundamental principles in Islam, based on Allah's command in the Qur'an:

أَتَأْتُونَ الذِّكْرَ أَلْفُ مِائَةٍ نِدْعُوكُمْ إِلَى الْخَيْرِ وَيَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ  
عَنِ الْمُنْكَرِ وَأُولَئِكَ هُمُ الْمُفْلِحُونَ

*Meaning: (And let there be among you a group of people who call to virtue, enjoin what is good, and forbid what is evil. And they are the lucky ones).*(QS. Ali Imran: 104)

This principle is the basis of a Muslim's social responsibility to maintain the social order so that it always remains in goodness and avoids evil.

#### c. Recognition of the Existence of Customary Community Rules/Laws

Customary law in Indonesia is accepted as living law(Vollenhoven, 1918)(living law) which is part of the national legal system(Fakhrurozi & Syahrudin, 2022). Its existence is recognized in various laws and legal practices, especially because it reflects the cultural values and norms that exist in local society.

The Islamic jurisprudence rules relevant to the recognition of the existence of customary law are:

العادة محكمة

*Custom is considered as law*(Al-Suyuthi, 1965).

This rule shows that established and accepted customs or traditions in society can be the basis of law in several matters, especially in the context of muamalah and social life, as long as they do not conflict with sharia principles. This custom is often used to determine decisions in matters that are not explicitly explained in sharia texts.(Al-Suyuthi, 1965).

Based on this principle, the government is allowed to use customs or traditions that do not conflict with sharia as the basis for policy or law.

Application Examples. In modern government systems, the state often follows customs and traditions in resolving social or economic issues. For example, in drafting tax laws or regional regulations, local customs can be taken into consideration, as long as they do not conflict with sharia principles. In many cases, fiscal or social policies in Indonesia that adopt elements of local customs in certain areas, such as in the distribution of social assistance, are considered in accordance with this principle.

Ibn Qayyim in I'lam al-Muwaqqi'in stated that customs that do not conflict with sharia can be used as a basis for decision making in government affairs.(Al-Jawziyyah, n.d.).

In the field of siyasah, the application of qawaid fiqhiyah helps leaders and state institutions make decisions that are fair and in accordance with sharia principles. These decisions not only cover the political and governmental fields, but also ensure that the policies taken still prioritize the good and benefit of the people, as well as ensuring that all actions are in accordance with Islamic teachings. The application of these rules leads to the formation of a country that is just, prosperous and in accordance with sharia values.

The use of qawaid fiqhiyah in various constitutional issues such as government authority, fair elections, social change, and the laws of war is very important to ensure that government policies remain based on sharia principles. These rules provide guidance in making decisions that not only take into account legal aspects, but also the benefit of the people as a whole, as well as social justice which leads to the welfare of society.

## IV. CONCLUSION AND SUGGESTIONS

### A. Conclusion

In general, qawaid fiqhiyah functions to regulate and resolve problems that arise in the context of Islamic law with flexible principles but still maintaining the essence of sharia. In the field of worship, these rules provide explanations regarding valid worship procedures in certain conditions, for example in the COVID-19 pandemic situation which requires adjustments in the performance of prayers and other forms of worship. In mu'amalah, rules such as *الضَّرُّ يُزَالُ* And *الْيَقِينُ لَا يَزُولُ بِالشَّكِّ* helps resolve economic problems and transactions involving doubts and losses. Meanwhile, in siyasah, rules such as: *المَشَقَّةُ تُجَلِّبُ التَّيَسِيرَ* implemented in policies that aim to make it easier for people to carry out social and political life in accordance with Islamic principles.



The presence of qawaid fiqhiyah is an important support in responding to the challenges of modernization and globalization that affect the lives of Muslims, especially in responding to new problems that were not encountered in classical times. Therefore, these rules must be understood and applied carefully in order to provide fair solutions, in accordance with the needs of the times and still maintain conformity with Islamic teachings.

## B. Suggestion

1. Increasing Understanding of Qawaid Fiqhiyah. As a first step, it is important to increase understanding of qawaid fiqhiyah among Muslims, especially among scholars, ulama and practitioners of Islamic law. A deeper understanding will help in applying these rules appropriately and relevantly to actual cases that develop.
2. Contemporary Fiqh Education. Contemporary fiqh education needs to be strengthened so that Muslims can understand the application of fiqh principles in dealing with problems that arise due to changes in the times, such as problems related to technology, the digital economy, and modern politics. This will also broaden the community's understanding of the importance of ijtihad in dealing with new problems.
3. Collaboration between Ulama and Experts in Other Fields. Closer collaboration is needed between ulama and experts in other fields such as economics, politics, and health in answering complex social problems. By integrating scientific and fiqh perspectives, it is hoped that the resulting solutions will be more applicable and contextual.
4. Implementation of Rules in Public Policy. The government and institutions authorized to make public policies can integrate the rules of fiqhiyah in the formation of regulations related to the lives of Muslims. Thus, the policies taken will be more in accordance with Islamic values and can avoid losses and injustice in society.

## REFERENCE LISTAN

Adab, T. P. (n.d.). *FIKIH PANDEMI BERBASIS MAQASID SYARIAH*. Penerbit Adab.  
Al-Jawziyyah, I. Q. (n.d.). *1423H. I 'lam al-Muwaqqi*

*'in 'An Rabb al-'Alamin*. Al-Dammam: Dar Ibn Jawzi.

- Al-Suyuthi, J. (1965). *al-Asybah wa al-Nazhair*. Surabaya: Al-Hidâyah.
- Asmara, M. (2022). Komparasi Fatwa Ulama Indonesia dalam Menyikapi Pandemi Coronavirus Disease 2019 (COVID-19). *Al-Manahij: Jurnal Kajian Hukum Islam*, 16(1), 29-44.
- Bahsoan, A. (2011). Mashlahah sebagai maqashid al syariah (tinjauan dalam perspektif ekonomi Islam). *Jurnal Inovasi*, 8(01).
- Basri, M. R. (2022). Hadis-Hadis tentang Salat pada Masa Pandemi Covid-19 dalam NU dan Muhammadiyah. *Taqaddumi: Journal of Quran and Hadith Studies*, 2(2), 85-107.
- Fakhrurozi, R., & Syahrudin, E. (2022). Hukum Adat Dalam Perkembangan: Paradigma Sentralisme Hukum Dan Paradigma Pluralisme Hukum. *The Juris*, 6(2), 472-484.
- Hidayat, R. (2024). *Kriteria Tindak Pidana Ikhtilâf (Studi Pendapat Ibn Qayyim Al-Jauziyyah)*. UIN Ar-Raniry Banda Aceh.
- INDONESIA, M. D. A. N. F. M. U. (2024). HUKUM KHITAN BAGI PEREMPUAN MENURUT FATWA DAR AL-IFTA AL. *Jurnal Madzhab Vol*, 1(2).
- Iqbal, M. (2016). *Fiqh Siyasaah Konstektualisasi Doktrin Politik Islam*. Kencana.
- Jonaedi Efendi, S. H. I., Johnny Ibrahim, S. H., & Se, M. M. (2018). *Metode penelitian hukum: normatif dan empiris*. Prenada Media.
- Kartika, R. F., & Alfarisi, U. (2023). Qawaid Fiqhiyyah Terhadap Fatwa Mui Dalam Pelaksanaan Ibadah Di Masa Covid-19. *Penerbit Tahta Media*.
- Kusuma, N. R., Januri, F., & Muharni, Y. (2024). Tinjauan Kaidah Fiqih Ju'alah dan Maisyir. *Eco-Iqtishodi: Jurnal Ilmiah Ekonomi Dan Keuangan Syariah*, 5(2), 171-188.
- Makarim, A. (2019). *Penyelesaian sengketa Perbankan Syariah Lewat Mediasi Di Lembaga Litigasi Dan Non Litigasi (Studi Kasus: Pengadilan Agama Jakarta Selatan, Badan Arbitrase Syariah Nasional Jakarta, Dan Lembaga Penyelesaian Sengketa Perbankan Indonesia)*. Fakultas Syariah dan Hukum UIN Syarif Hidayatullah Jakarta.
- Mansor, R., & Mohd Hamzah, M. I. (2015). Kepimpinan Berkualiti: Perspektif mengenai Kompetensi yang Diperlukan untuk Memimpin dengan Berkesan. *Jurnal Pengurusan*, 45.
- Mudzakir, A. (2020). *PARADIGMA ETIS (Sebuah Kajian Ayat-Ayat Insya Allah dalam Al-*

- Quran).
- Mufid, M. (2019). *Kaidah Fikih Ekonomi Dan Keuangan Kontemporer: Pendekatan Tematis dan Praktis*. Prenada Media.
- Mutaakabbir, A., & Said, R. A. R. (2021). Dinamisasi Hukum Islam, Analisis Fatwa MUI Masa Pandemi Covid 19. *Palita: Journal of Social Religion Research*, 6(2), 173–192.
- Robby, M. A., & Rizka, S. A. (2023). *Upaya Hukum Terhadap Pelanggaran yang Terjadi di Pasar Modal Syariah*. Universitas Muhammadiyah Surakarta.
- Salina, S., Almagfiroh, S. S., Lesmana, A., & Ridwan, M. (2025). Hubungan dan Perbedaan Kaidah Fiqiyah dan Nazhriyah Fiqhiyyah. *AL-DALIL: Jurnal Ilmu Sosial, Politik, Dan Hukum*, 3(1), 8–18.
- Sanusi, M. M. (2007). The application of al-qawācid al-fiqhiyyah in the area of Islamic economics. *Nd*. [Http://laif.ir/Images/Khareji/Articles/Other/58.Pdf](http://laif.ir/Images/Khareji/Articles/Other/58.Pdf).
- Vollenhoven, C. (1918). *Het adatrecht van Nederlandsch-Indië*.
- Wahyuddin, W., Itang, I., Jasri, J., Abidin, Z., Qurtubi, A. N., Zulfa, M., Melina, F., & Mustika, M. (2023). *Kaidah Fiqih Ekonomi Syariah*. PT. Sonpedia Publishing Indonesia.