



THE HISTORY OF ISLAMIC MAXIMS AS SHARI'AH MAXIMS

H. Syed Hamid Farooq Bukhari, Umeed Maalik Goraya

Doctor Hamid Farooq is currently Assistant Professor in Department of Islamic Studies, University of Gujrat, Hafiz Hayat Campus, Gujrat, Pakistan, PH +92 053 3643112, E-mail: bukhari292@gmail.com

Umeed Maalik Goraya has passed M.A & M.Phil. in Islamic Studies, from University of Gujrat, Hafiz Hayat Campus, Gujrat, Pakistan, PH+92 053 3643112. E-mail: is.u.m.goraya@gmail.com. She is currently working as a Research Scholar and Lecturer in Lasbella University of Agriculture, Water and Marine Sciences, Uthal, Balochistan, Pakistan, PH+92 0853 610770. E-mail: umeed.malik@luawms.edu.pk

KeyWords

Islamic Maxims, Islamic Formulae, Islamic Legal Formulae, Maxims, Shari'ah, Shari'ah Formulae, History of Shari'ah Maxims.

ABSTRACT

The History of Shari'ah Maxims is derived from the detailed study of Islamic jurisprudence (Fiqh), in the scheme of distinct statements. These doctrines are such universal policies that influence not only the law and its derivations. These are the outlines that the jurists assume to find the elucidation of complications in the reference of Islamic Law. These maxims are designed as golden words that can be perceived, or induced and stirred with any sort of believe, philosophy, values, and temper. Similar to other Islamic trainings these are tending and relating the unchanged compatibility with nature and its objects. Professional Muslim jurists with striking Islamic understanding of AL-Qur'an, AL-Hadith, AL-Fiqh, Quranic, Hadith and Fiqh Sciences, had framed these pinpoints. Voyage of centuries from the origin of Islam to the present is involved in this exertion. In such documentation approach that not only Monotheistic Religions fairly each well-educated human creed or thought can pledge with it. The drive of reporting these maxims was in fact to transport the solid and prominent rules to public performance. Not only have to record these rules but pretty making operative in life.

INTRODUCTION

Shari'ah Maxims (Islamic Legal Maxims) are such leading codes and rules in the light of which authentic researchers and academic logicians search the permissible directions of the continuing concerns. One deducted legal commandment doesn't cover up all the states and matters under consideration but its maximum statuses.

The statements of law are just by the Qur'an and the Nobel declarations of the Holy Prophet Muhammad (PBUH), or the Ijm'a (Consensus of Opinion), Ijtihad and Qias (Analogy) which are gathered from these mechanisms of the Shari'ah.

These Maxims are the expressions of the authorized commandment that make easy to recognize the philosophy behind. As the other central and forked rules of Islamic Jurisprudence are responsively and ultimately figure out from the Qur'an and Sunah, equally these Legal analyses are assembled from the chief sources of shari'ah.

DISCUSSIONS

1.3: History to Shari'ah Maxims

1.3.1: Foundation Phase

1.3.2: Developing Phase

1.3.3: Establishing Phase

1.3.4: Over the centuries

1.3.5: Contemporary Endeavour

1.3.1: Foundation Phase:

Sharī'ah Maxims together with other foundation knowledge forms extracted from main real sources.

1.3.1.1: From the emergence of Islam: In the life time of the holy Prophet Highness Ḥaḍrat Moḥammad (ﷺ) the intellectual, rational and logical approach is appreciated. Infact it becomes the inauguration of such forms of knowledge. The most famous Ḥdyth1 regarding Islamic Fiqh and preferably Ijtihād, prescribes the depth of thoughtful consideration and width of Islamic teachings.

حدثنا هناد، حدثنا وكيع، عن شعبة، عن أبي عون الثقفي، عن الحارث بن عمرو، عن رجال، من اصحاب معاذ عن معاذ، ان رسول الله ﷺ بعث معاذًا الى اليمن،

When the holy Prophet (ﷺ) appointed Ḥaḍrat M'adh (mercy to him) for Yaman he was asked by the Prophet (ﷺ): "How will you decide the judicial affairs?" فقال: "كيف تقضى". He replied: "I will take decisions according to the Holy Book Al-Qurān." فقال: "اقضى بما في كتاب الله".

قال: "فان لم يكن في كتاب الله". The Prophet of ALLAH (ﷻ) asked: "What you will do if it is not in the holy Book Al-Qurān." He replied: "Then, I will decide according to the Noble Ḥdyth." قال: "فبسنة رسول الله ﷺ".

قال: "فان لم يكن في سنة رسول الله ﷺ". The holy Prophet (ﷺ) asked him: "What you will do if it is unavailable in the Ḥdyth as well." He said: "At that time, I will strive for and decide by my opinion." This made the holy Prophet (ﷺ) very happy and satisfied. So, he showed his acceptance and approval being thankful to His MASTER. قال: "الحمد لله الذي وفق رسول رسول الله ﷺ". The Prophet of ALLAH (ﷻ) happily said: "ALL-PRAISE be to ALLAH Who Has Formed

Appropriate the messenger of the Messenger of ALLAH."

This commentary clearly predicts the calculated scheme of contemplation from divine sources everlastingly. The diverse Fiqhī genera are structured in the reflection of this narration. The format of Fiqh inspection governs through the same path ever since. The later academic activity in the field of Fiqh is based on this rule. Provide: Fiqh, Uṣwī al-Fiqh, Consensus, Ijtihād, Sharī'ah Objectives and Maxims.

A general view about Islamic Law: "...the institution of justice and impartiality among His servants...2

For further Study:

1: This reference involve following citations a & b:

a: Tirmidhī, Abw 'ysā Muḥammad bin 'ysā, Imam, Jam' at-Tirmidhī, volume 3, Book 13 "Judgement", Ḥdyth 1327, b: Abw Dāwud, Sulyman bin al-Ash'th as-Sijstānī, Imam, Sunan Abw Dāwud, volume 4, Book 25 "The office of the Judge", Ḥdyth 3585.

2: Ibn-Qaiyim, Muhammad Ibn Abi Bakr, al-Ḡauziya, At-Turuq al-hikmiya fi-s-siyasa as-sar'iya: au al-firasa al-mard'iya fi ahkam as-siyasa as-sar'iya, page 13, Volume 1, Chapter: Fil-'ml fil-Saltnah Bisyasiyah al-Shari'ah, Dār al-Ḥadīṭ, 1422-23A.H/2002.

1.3.1.2: From 5 explicitly electorates:

The rightly caliphs: Ḥaḍrat Abu Bakr, Ḥaḍrat 'Mr Farooq, Ḥaḍrat 'Thman Ghānī, Ḥaḍrat 'Li al-Murtdā, Ḥaḍrat Imam Ḥasan (Allah Almighty's grants with them), were compassionate towards their subjects. They were as firm in their faith and duty as the chain of Prophets from sons of Ḥaḍrat Yaqoob (Allah Almighty's awards on him). This authenticity of their character is evident from this noble Ḥdyth.3

Ḥdyth Abi Huryrah (mercy to him) from the Holy Prophet (ﷺ), He4 the Prophet of ALLAH Almighty (ﷻ) said, "كانت بنو اسرائيل تسوسهم الانبياء كلما هلك نبي خلفه نبي وانه لا نبي بعدى وسيكون خلفاء فيكثرون." "The governance of Banī-Israiyil was owned by the Prophets when a Prophet died then the other Prophet will become his successor to jurisdiction. But after me there will be no Prophet. Although Caliphs will be and they will be in large number."

This Ḥdyth enlightens the distinction, decorum and dignity of Islamic Caliphs in particular the first five are recognized as explicitly electorates. As much free of doubt is there governance so is their character. The most credible and familiar among these is Ḥaḍrat 'Mr Farooq (mercy to him). Whose decisions are still measured as documented, predictable and accepted authority not only to Muslims rather nonbelievers. **Few Examples:**

1. **The matter of** occupied land property of Iraq was settled to the opinion of Ḥaḍrat 'Mr Farooq (mercy to him). He said: "The people of occupied Iraq have to pay spendthrift (Khiraj 4), on their land property which they can utilize for work to earn. Also they have to pay a per capita tax for themselves (Jizyah5). These payments will be consumed to pay salaries to the state armies."

This decision was a contrasting opinion. Regarding the one which was made according to an incident from the life time of the holy Prophet (ﷺ). Holy Prophet (ﷺ) has decided such a matter as: The occupied land was gifted to the conquerors.6

This decision of Ḥaḍrat 'mr Farooq (mercy to him) provides basis for several Fiqhī rules and Maxims. Like: **Following the opinion which is closer and effective in favor of Public interest.**

For further Study:

3: This reference involves following citations a & b.

a: Bukharī, Abw Abdullah Muḥammad ibn Ismā'yl, Imam al-Muḥadathin, Al-Jam' Al-Sahyḥ Al-Musnad Al-Mukhtsr min

Umwr Raswl Allah wa Ayâmihi, Book 60 "Prophets", Chapter 50 in which "Israi'î" is mentioned.

b: Fawad 'bdul Baqî, **Al-Lwlv wal-Marjân fymâ Itafq Alyh al-Sheikhân**, Kitab-ul Amârah, Bab-ul Amr Bil-Wafa Biby'til-khulafa Al-awal Fal-awal. Hdyth: 1208.

4: **Khiraj**: The tax on agriculture land, taken from non-Muslim owners of these lands. Who gained protection under Islamic State.

5: **Jizyah**: The per head tax imposed on the dhimis (non-believers in the Muslim States) for their protection and independent stay.

6: Abu Yousuf, Y'qwb bin Ibrahym, Imam, **Kitâb Al-Kharâj**, Dar-ul-m'rifah, Beirut: Lebanon, 1399A.H./1979A.D.

2. **Earlier in the** life time of the Prophet of ALLAH Almighty (ﷺ), there was no specified and fixed punishment for wine drinking. Later the penalty of 40 scourges was held. This remains to the governance period of Haḍrat 'mr Farooq (mercy to him). But as the state area grow bigger and bigger. In the nations newly adopting Islam disobedience about wine prohibition appears more and more. Then Haḍrat 'Mr (mercy to him) consulted to his companions for increasing and fixing the penalty. The matter was then decided by the opinion of Haḍrat Ali (marcy to him) as 80 scourges.

Haḍrat 'Li (mercy to him) explains the logic behind his opinion as: "When someone drinks wine then he will be out of senses. In this revelry condition he surely utters reviles and slanders. So, he should be punished as a compulsory penalty to scandal orienting." 7

In this way Haḍrat 'Li (mercy to him) made his opinion on the basis of two major Shari'ah Maxims. Which were finally formulated in the later stages.

As: 1) "Ruling regarding funds." In the words: "حكم بالمال" and

2) "To demolish destruction eliminate its cause." In the words: "سد ذريعہ".

Infect categorizing the issues as permitted or prohibited just their appearances are not considered rather their aftereffects must be kept in mind.

3. **When Haḍrat** 'bdullah bin Mas'wd (mercy to him) was appointed as a Justice to Kufah. Once he was asked about the waiting duration to revert (تعدت8) far a widow or divorced, Incase, when she will be pregnant.

He had given the decision from the verse of Holy Qurân.9 "وأولات الاحمال اجلهن ان يضعن حملهن"

"As for those who are pregnant, their term shall be until they have delivered."10

At this time At-Talaq Sorah was also famous by the name minor sorah An-Nisa'.

By this decision the difference between divorced or widow from a pregnant divorced and widow is cleared. When Haḍrat 'bdullah bin Mas'wd (mercy to him), derived this decision from the verse of the holy Qurân he said, "I verify that the major Sorah An-Nisa' was revealed first and the

revelation of the minor Sorah An-Nisa' held afterward."

From this cleared:

- 1) The command ordered first can be changed by an order which held later.
- 2) The conditions and positions of a previous order can be changed by a new one. Necessarily in every alternating order the later will be preferred.

These are not only powerful tools to Islamic Law rather to all the law systems working in the world.11

For further Study:

7: Al-Khan, Muşţfâ, S'yd, Dr., **Athr al-Ikhtlaf fi Al-Qawâ'id al-Uşwliyah fi Ikhtlafil Fuqhaa**, page 121, Third Edition, Beirut, Lebanon 1983A.D.

8: **عدت**: The time extent for which a Muslim women have to wait to remarry while she is a widow or divorced. During this time span she lives preferably in seclusion.

9: **At-Talaq** 65, Verse 4.

10: Itani, Talal, **QURAN English Translation**, Clear, Pure, Easy to read Modern English, Translated from Arabic, page 217, ClearQuran, Dallas, Beirut.

11: Al-Khan, **Athr al-Ikhtlaf fi Al-Qawâ'id al-Uşwliyah fi Ikhtlafil Fuqhaa**, page 122.

1.3.2: Developing Phase:

The development of Shari'ah Maxims in the figurative form was done by the pupils of the companions and later. This time the abstract appearance of maxims which, was in the mind of companions was given the theoretical structure. During this phase the hidden formulae of Shari'ah were fetched out as part of Fiqh literature.

1.3.2.1: The discovery of Shari'ah Maxims:

The formation of Shari'ah Maxims was not done by a single sitting of experts. It is a discovery involving the expertise of Shari'ah experts over the ages. With the emergence of Islam and soon after all knowledge was as a bunch. This parcel was in the

full understanding of its early learners. They don't need to division its domains. But as the literary habit developed the various aspects raised and solved. This process of a continuous struggle is in process from its start to the end of human race. Because, the real sources of Islam have to rule forever. Everyday new issues will be elevated and their solution in the Islam will be generated. Due to this fact the configuration of Shari'ah formulae was occurred.

The more experts of real sources are more familiar to their outgrowths. So, they were very talented to perform in their direct light. Their performances provide the basis to do the next generations. These activities were stored as knowledge and then as phrases. Explored and recognized by the late comers the themes behind these expressions. In this way the discovery of maxims was done in two ways.

1. From the real text
2. From the literary efforts

*The real text is Al-Qurān and the noble traditions of the holy prophet (ﷺ).

*The literary efforts were Fiqhī literature as form of Ijtihād made by the companions and then chains of their pupils. **The most prominent figures** of developing phase were: Imam Abw Yusuf and Imam Shaybanī Muḥammad bin al-Ḥassan (grace gained) from the ending of second Islamic century and Imam Muḥammad bin Iddress Shāf'ī (grace gained) from starting of third Islamic century. Many maxims were scattered in their Fiqhī literature which were developed later by jurists who structured this discipline. 12

1.3.2.2: The evolution of Shari'ah Maxims:

Hierarchy of Islamic legal maxims was shaped like Maxims of other laws of world. With the passage of time new disciplines of knowledge were organized from Al-Qurān and Al-Ḥdyth. In this way the basic ideas, contemplations, deliberations and themes behind the orders of these real sources comes forward. The intellectuals of every age add in these considerations and reflected them as axioms. They contributed from their readings and investigations of the existing scholarly stabs. Accordingly the discipline of Shari'ah Maxims was deliberated, designed and developed.

For further Study:

12: **Im-E-Uṣul-E-Fiqh, An Introduction**, page 351, Volume 2, Shari'ah Academy International Islamic University, Islamabad, Pakistan.

1.3.3: Establishing Phase:

The Science of Shari'ah Maxims was organized and established in a standard form in the later centuries. However, the subject matter was dispersed primarily in the Fiqhī literature of second Islamic century.

1.3.3.1: Defined Terminology:

This extended and repetitive effort was then distinguished by variety of terms. In the beginning these axioms were mere rules and principles explaining Shari'ah commands. These Shari'ah bases were then measured as formulae for the amplification of Islamic teachings.

The terms **Aṣal** (main), **Uṣwl** (principles) were introduced first which then converted to **Qawā'id** and **Maxims**. To make a distinction of these formulae from, other disciplines of Fiqh.

1.3.3.2: Forward Steps:

With the progress of this discipline:

1. Various maxims were being sort out according their adeptness. E.g.: Covering variety of subjects like: **Universal Maxims**.
2. Single subject covering maxims are termed Principles. Like: Worship. E.g.: In the Hanfi school of thought. A principle: **"Once a voluntary act is started to worship then it is enforced."** This works for prayer, fasting, Hajj and sacrifice. 13
3. A competition among the literary circles was conventionally seen for developing and establishing the Shari'ah Maxims. 14
4. Various schools of thought defining Islamic jurisprudence Ḥanfi, Maaliki, Shāf'ī and Ḥanbli, made great contributions in establishing Shari'ah Maxims.
5. Academic activities in this regard were flourished.

E.g.: Prominent works including:

- a. Uṣwl al-Karkhi
- b. Uṣwl al-Fityā
- c. Anwar-ul Brooq fi Anwar-ul Farooq
- d. Qawā'id al-Aḥkām fi Mṣal-E-al-Anam
- e. Takhriy al-Faro' 'lal-Uṣwl
- f. Taqryr-ul Qawā'id wa Tahryf-ul Fawaid
- g. Al-Qawā'id wal-Fawaid al-Uṣwliyah
- h. Al-Manthor fi al-Qawā'id al-Fiqhiyah

i. Al-Ashbah wal-Nazâir

For further Study:

- 13: **‘Im-E-Uşwl-E-Fiqh**, page 353.
14: This reference is quoted in
As-Sywti & Ibn-Nujaym, **Al-Ashbah wal-Nazâir**.
15: **‘Im-E-Uşwl-E-Fiqh**, page 357-369.

1.3.4: Over the Centuries:

Sharī‘ah Maxims were recognized as a whole in its compact appearance after more than ten centuries struggle.

“Sharī‘ah Maxims were originated mainly in the age of replication (taqlid), because they are in the nature of extrication (tak-hrij) procedure from the thorough study of Fiqhī literature which was contributed in the era of first three Islamic centuries by the scholars, known as the age of ijtihād.” 16

1.3.4.1: First Islamic Century (1-100A.H/623-719A.D):

In this time of golden era of Islam, first the real sources Al-Qurān and Al-Ḥdyth were compiled. This compilation was gradually grown through various steps. From these real texts all Islamic disciplines of knowledge gradually emerged.

***Sharī‘ah Maxims Example:** An authorized principle, From Al-Qurān, "لا يكلف الله نفسا الا وسعها ج" 17

“ALLAH does not charge a soul except [with that within] its capacity.” 18

This piece of holy verse is also translated as: “ALLAH does not burden any soul beyond its capacity.” 19

***‘Jāmi‘ah Fādhdhah’:** means: “comprehensive and exclusive”. It is a description for two verses of Holy Qurān by **holy Prophet** (ﷺ). It indicates their importance as general principles. 20

The words of Al-Qurān in these two verses: 21 “فمن يعمل مثقال ذرة خيرا يره 0 ومن يعمل مثقال ذرة شرا يره 0”

“So whoever does an atom’s weight of good will see it. And whoever does an atom’s weight of evil will see it.” 22

*Hazrat **‘Mr Farooq** (mercy to him), settled the matter of a couple in favor of wife. Who have conditioned to remain in her own house after marriage. The husband’s right was suspended to force her to his will. Hazrat **‘Mr Farooq** (mercy to him) give the rule: “**Enforcement of basic rights can be perched when there is a stipulation.**” Companions of the Holy prophet (ﷺ) including Hazrat **‘Ā’ishah** (mercy to her) were famous to produce legal opinions. Throughout their life span to newly raised issues. 23

For further Study:

- 16: As-Sabunī, ‘bdur Rahman, **Al-Madkhal al-Fiqhī wa Tarikh at-Tashri’ Al-Islamī**, page 398, Maktabah Wahbah, Cairo 1402-03A.H/1982A.D.
17: **Al-Baqarah** 2, Verse 286.
18: Surah Al-Baqarah [2:286]-Al-Qur’an al-Kareem- القرآن الكريم quran.com (<https://quran.com/2/286>).
19: Itani, Talal, QURAN English Translation, page 17.
20: Al-Rūgī, Muhammad, **Nazariyyat al-Ta‘ūd al-Fiqhī wa-Atharuhā fī Ikhtilāf al-Fuqahah**, page 88. Damascus: Syria, Dār al-Qalam, 1418-19A.H/1998A.D.
21: **Az-Zalzalah** 99, verses 7 & 8.
22: Surah Az-Zalzalah [99:7-8]-Al-Qur’an al-Kareem- القرآن الكريم quran.com (<https://quran.com/99/7-8>).
23: Al-Bahusayn, Ya‘qūb, **Al-Qawā‘id Al-Fiqhiyyah: Al-Mabādi’, Al-Muqawwimāt, Al-Maṣādir, Al-Daliliyyah, Al-Tatawwur**, page 290,291, Riyadh, Maktabat al-Rushad, 1426-27A.H/2006A.D.

***Imam Abw Ḥanyfah N‘man bin thabit (grace gained) 80A.H:**

“Abw Ḥanyfah worked for about five hundred thousand issues in his life time.” 24

At this stage Qawā‘id were familiar to explain legal rulings and analogical reasoning in legal matters. 25

1.3.4.2: Second Islamic century (101-200A.H/720-816A.D):

***Imam Abw Yusuf Y‘qob ibn Ibrāhym al-Ansarī (grace gained) 113A.H, in Kitāb Al-Kharāj:**

To explain a Ḥdyth in the perspective of personal property, he says:

“A leader is not allowed to occupy a person’s property without recognized authority.” 26

Giving rise an origin to a Qā‘idah: “Belongings as continuously existing shall remain as such.” 27

Also applicable to: “Supervision of civilian’s affairs is reliant to the public interest.” 28

***Imam Al-Shaybānī Muḥamad ibn Al-Ḥasan (grace gained) 132A.H, in Kitāb Al-Aṣal:**

In chapter of liability or warranty, he said, “Compensation and accountability to make good loss do not run collectively.” Mention in Turkish Majallah al-Aḥkam. 29

***Imam Al-Shāf'ī Abw 'bdullah Muḥammad ibn Idrys (grace gained) 150A.H, in Kitāb Al-'mm: 30**

In case of a threatened person, he said: "Disbelief directs to special legal decisions as divorcing to wife and death penalty etc. Yet ALLAH Almighty has pardoned him."

Because of the rule: "When a superior thing fails, slighter items resulting from it fail as well." 31

This century was contributed with the compilation of Fiqh by these renowned jurists. Their immortal work in this field was first attempt to give academic picture of Islamic Jurisprudence. In this Fiqhī literature Shari'ah Maxims were sprinkled and spread. These dispersed exertions of framing principles were then further refined and designed as a separate discipline of Qawā'id.

For further Study:

24: Al-Bāḥusayn, Ya'qūb, Al-Qawā'id Al-Fiqhiyyah: Al-Mabādi', Al-Muqawwimāt, Al-Maṣādir, Al-Daliliyyah, Al-Taṭawwur, page 115.

25: Ibid. page 298.

26: Abu Yousuf, Y'qwb bin Ibrahim, Imam, Kitāb Al-Kherāj, page 65-66.

27: Al-Nadwī, Ab-ul Ḥasan 'lī, Al-Qawā'id al-Fiqhiyyah: Mafhūmuhā, Nash'atuhā, Taṭawwuruhā, page 95, Fourth Edition, Damascus: Dār al-Qalam, 1418-19A.H./1998A.D.

28: Al-Bāḥusayn, Al-Qawā'id Al-Fiqhiyyah, page 300.

29: Al-Zarqā, Aḥmad, Sharḥ Al-Qawā'id al-Fiqhiyyah, page 431, Second Edition, Damascus: Dār al-Qalam, 1409-10A.H./1989A.D.

30: Al-Shāf'ī, Muḥammad Ibn Idrys, Al-Om, Second Edition, Beirut: Dār-ul-Ma'ārifah 1393A.H/1973A.D.

31: Al-Nadwī, Ab-ul-Ḥasan 'lī, Al-Qawā'id al-Fiqhiyyah, page 100.

1.3.4.3: Third Islamic century (201-300A.H/817-913A.D):

In this century jurists use Qawā'id to explain their work activity in various sections. The main activity of this century was to purely accumulate and assemble the Fiqhī literature of various schools of thought. 32 The jurists of this era were familiar to the proficiency and utility of Shari'ah Maxims as a separate discipline.

In establishing various schools of thought and deriving maxims, leading jurists of this century were contributed. Chains of pupils of grace gained

1. Imam Abw Ḥanyfah N'mān bin thabit
2. Imam Malik, ibn Anas, al-Madanī
3. Imam Shaf'ī, Abw 'bdullah Muḥammad bin Idrys
4. Imam Aḥmad bin Muḥammad bin Ḥanbal.

Few distinctive and multidimensional intellectuals of this century also contributed for principles of Fiqh.

- i. Muḥammad ibn jaryr al-Ṭabrī
- ii. Muḥammad bin Dāwd al-Zāhirī 33

1.3.4.4: Fourth Islamic century (301-400A.H/914-1010A.D):

Shari'ah Maxims were recorded in this century. Still these were not fully confined in their final form but clear and verdict.

*Imam Abw Tahir Dabās was famous for collecting seventeen qawā'id from the detailed and deep study of Imam Abw Ḥanyfah's opinions and Ijtihād.34

*Imam Abw ul-Ḥasan 'bydullah bin Al-Ḥusayn Karkhī prepared a document of 39 Qawā'id referred as: "Uṣwī al-Karkhī". This is considered to be the oldest compiled work in this regard. 35

*Imam Muḥammad bin Ḥarith Asadakhshī presented his manuscript naming: "Uṣwī-al-Fatya".36

For further Study:

32: Islamic Legal Thought A Compendium of Muslim Jurists, page 118, Brill, Leiden. Boston: United States, 1434-35A.H/2013A.D.

33: A. Rabb, Intisar, Doubt in Islamic Law: A History of Legal Maxims, Interpretation, and Islamic Criminal Law, page 82, Cambridge Studies in Islamic Civilization, Cambridge University Press, New York, USA, 1436-37A.H/2015A.D.

34: Ash-Shirāzī, Abw Is-ḥāq Ibrahim Ibn-E-'lī, Tabqāt Al-Fuqahā', page 142, First Edition, Beirut, Lebanon: Dār ar-Rā'id, Al-'rabī press, 1389-90A.H/1970A.D.

35: This reference involves following citations a, b & c.

a: Al-Bāḥusayn, Y'qwb, Al-Qawā'id Al-Fiqhiyyah, page 316.

b: Al-Nadwī, Ab-ul Ḥasan 'lī, Al-Qawā'id Al-Fiqhiyyah, page 136.

c: Al-Zarqā, Mustafā, Al-Madkhal Al-Fiqhī al-'Am, page 971, Volume 2, First Edition, Damascus, Dār al-Qalam, 1418-19A.H/1998A.D.

36: **Im-E-Uşul-E-Fiqh**, page 361, Volume 2, Shari'ah Academy International Islamic University Islamabad.

1.3.4.5: Fifth Islamic Century (401-500A.H/1011-1107A.D):

***Imam Abw Zaid 'baydullah bin 'mr Dabwsī** presented his work on Shari'ah Maxims as form of a book named, "**Tās̄ys-un-Nazr**". In his book Imam Dabwsī not only prescribed the maxims he added the examples of subsidiary regulation as well. He mentioned few controller maxims in accordance with various Fiqhī subjects.

Specifications in "**Tās̄ys-un-Nazr**":

- a. In eight Chapters 74 Uşwl were imparted
- b. Each Maxim starts with the words: "**Al-Uşl**".
- c. Applications of Qawā'id were ascribed.
- d. Particulars were added for each Qā'ida with specifications of various schools of thought.
- e. Differences of opinions by jurists in particulars are also given.

E.g.: A person offered prayer in the wrong direction. Prayer is valid being unaware of Qiblah direction. Although, done in the presence of a known one. Prayer is invalid by another opinion.³⁷

***Imam Al-Harmyn Z̄yā' dīn 'bdul Malik Ibn-E-Ywsuf al-Jw̄ynī Shaf'ī** conferred a sequence of Al-Qawā'id Al-Fiqhiyyah in his work entitled, "**Gheyāthī**".³⁸

1.3.4.6: Sixth Islamic century (501-600A.H/1108-1204A.D):

Numerous academic efforts were contributed in this century on the subject of Qawā'id. Few are as follows:

- i. **Al-Qawā'id** by Imam Al-Qādi 'Iyād. 39
 - ii. **Iḍāḥ Al-Qawā'id** by Imam 'law-o-din Muḥammad Ibn Aḥmad As-Samarqadi
 - iii. **Al-Muqadimāt wa Al-Mumahidāt** by Imam Abw Al-Walyd Muḥammad Ibn Aḥmad Ibn Rushed.
 - iv. **Al-Qawā'id Al-Fiqhiyyah** by Imam Fakhr-u-din Al-Farghanī Al-Ḥasan Ibn Manswr Ibn Maḥmwd. 40
- In this century new Qawā'id were formulated and the pre-existing Qawā'id were refined and cleared.

For further Study:

37: This reference involves following citations a, b & c:

a: **Al-Qawā'id Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence)** A Translated Compilation, page 15, Islamic University of North America: (Mishkâh), Islamic Studies English Program, 1434A.H/2013A.D.

b: **Im-E-Uşwl-E-Fiqh**, page 358, Volume 2.

c: Elgariani, Fawazy Shaban, **Al-Qawā'id al-Fiqhiyyah (Islamic Legal Maxims)**: Concept, Functions, History, Classification and Application to Contemporary Medical Issues, page 148-149, PhD. Dissertation, University of Exeter, United Kingdom, 1433-34A.H/2012A.D.

38: **Al-Qawā'id Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence)**, page 15.

39: Al-Bāhusyn, Y'qwb, **Al-Qawā'id Al-Fiqhiyyah**, page 319-321.

40: **Al-Qawā'id Al-Fiqhiyyah** (Legal Maxims of Islamic Jurisprudence), page 15-16.

1.3.4.7: Seventh Islamic century (601-700A.H/1205-1301A.D):

The academic activity of jurists and scholars in the field of Shari'ah Maxims during this century involves:

- i. **Al-Qawā'id Al-Fiqhiyyah fī Furū' Ash-Shafi'yyah** by Imam Mo'yn-o-din Abw Muḥammad Abw Ḥāmid Ibn Ibrahym Al-Jajarmy As-Sahlaky Ash-Shaf'ī.
- ii. **Qawā'id Al-Ahkām fī Maşālah Al-Ānām** by Imam 'zz-u-din Ibn-E-Abdus-Salām.

This book is also entitled as Qawā'id Al-Kubrā further it describes:

- The legal background nature of certain maxims
- Feasible understanding and utility of legal maxims.
- The author divided it in two volumes and give two basis

for all Shari'ah investigations:

* Gaining development

* Eliminating deterioration.

iii. **Al-Madhhb fī Ḍabṭi Qawā'id Al-Madhhb** by Imam Muḥammad Ibn 'bdullah Ibn Rāshid Al-Bakrī Al-Qafaşī.

iv. **At-Taḥryr Sharah Al-Jām' Al-Kabyr** by Imam Abw Al-Mahāmid Maḥmod Ibn Aḥmad Ibn 'bdus-Sayed Jmāl-u-din Al-Husairī

v. **Al-Majmw' Sharah Al-Madhhb** by Imam Abw Zakariyyah Moḥy-o-din Yaḥyā Ibn Sharaf Al-Namawī

vi. **Anwar-ul-Brwq fi Anwār-ul-Frwq** by Imam Shhāb-u-din Aḥmad bin Idrīs Qarāfi.⁴¹

In this book he provided:

- 274 Frwq (controller maxims).
- Each Frwq with two Qawā'id.
- So, 548 Shari'ah Maxims with particulars.⁴²

This age is rich with scholarly efforts regarding Shari'ah Maxims. The final and more refined shape up occurred. However, there is always a room to improvement. So, Shari'ah Maxims gained further maturity in the coming centuries.

The development of this discipline after its establishment is quite different from the previous when it was out of stock. Now the proficiency of this discipline in the educational and practical field was quite obvious. Experts and learners were equally familiar and interested to find out Shari'ah maxims. To make these accessible in the effective approach of practitioners further flourishing occurred.

For further Study:

41: This reference involves following citations a, b, c & d

a: 'zz-u-din bin 'bdus-salām, Sutan-ul-'lmā', **Qawā'id Al-Āḥkām fī Mṣāleh Al-Ānām**, Volume 1, First Edition, Beirut: Dār al-Kutb Al-'lmiyyah, 1412-13A.H/1992A.D.

b: **Al-Qawā'id Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence)**, page 16.

c: Elgariani, Fawazy Shaban, **Al-Qawā'id Al-Fiqhiyyah (Islamic Legal Maxims)**: , page 151,152.

d: **'Im-E-Uṣwl-E-Fiqh**, page 364, Volume 2.

42: **'Im-E-Uṣwl-E-Fiqh**, page 361, Volume 2.

1.3.4.8: Eighth Islamic century (701-800A.H/1302-1398A.D):

The most affluent time extent to the discipline: "Shari'ah Maxims". This was contributed by extensively remarkable literary figures. As:

- Al-Ashbāh wan-Nazāi'r** work of Ṣadr-u-din bin Al Wakīl Ash-Shaf'ī
- Al-Qawā'id Al-Kubrā** work of Najm-u-din Al-Tūfi
- Al-Qawā'id Al-Nūrūniyyah Al-Fiqhiyyah & Majmw' Al-Fatāwā** works of Imam Ibn-E-Tymyah Taqī-u-din Aḥmad bin 'bd 'bdul Ḥalym Ḥanblī
- Al-Qawā'id wal-Fawā'id al-uṣwliyyah wama yat'iq bhā min al-Aḥkām As-Shr'yah** work of Ab-ul-Ḥasan 'law-o-din 'li bin 'bās bin al-lḥām
- Al-Qawā'id** work of Al-Maqqary Al-Maalikī
- Al-Majmw' Al-Mudhhib fī Qawā'id Al-Madhhab** work of Ṣalāh al-Dyn Al-'lā'ī
- Al-Ashbāh Wan-Nazāi'r** work of Imam Tāj-u-din As-Subkī Ash-Shaf'ī
- Al-Qawā'id Al-Fiqhiyyah** work of Ibn Qādī Al-Jabal Ḥanblī
- Al-Tamhyd fī Takhryj al-Frw' 'il āṣwl** work of 'lāmah Jmāl-u-din Abw Muḥammad 'bdul Raḥym bin Al-Ḥasan as-Sanwy As-Shaf'ī
- Al-Manthwr fī Al-Qawā'id** work of Badr-u-din Muḥammad Ibn Bahādir Ibn 'bdullah Az-Zarkashī Ash-Shaf'ī
- Al-Qawā'id fī Al-Fiqh & Tqryr Al-Qawā'id wa-Tḥryr Al-Fawā'id (Qawā'id Ibn-E-Rajb)** works of Zain-u-din 'bdur-Reḥmān Shahāb-u-din Aḥmad Ibn Rajb Al-Ḥanblī
- Al-Qawā'id fī Al-Frw'** work of Sharf-u-din 'li Ibn 'thmān Al-Gāzzi Damascene Ḥanfi. ⁴³

Infect this is the golden age presented the most defined and refined polished form of Shari'ah Maxims. Exposing an arrangement of maxims such as a) Alphabetical b) application wideness c) Fiqhī subjects.⁴⁴

In recent efforts it is analyzed: "*Unlike the situations in the previous centuries in which works of Qawā'id appeared sporadically (at irregular intervals) the discipline (of Qawā'id) in this era (was) developed steadily.*" ⁴⁵

For further Study:

43: This reference involves following citations a, b, c, d, e & f:

a: Ibn-E-Taymyah, Aḥmad bin 'bd 'bdul Ḥalym Imam, **Majmw' Al-Fatāwā**, Saudi Arabia.

b: Al-Subkī, Tāj-u-din, **Al-Ashbāh Wan-Nazāi'r**, Beirut: Dār al-Kutb al-'lmiyyah 1411-12A.H/1991A.D.

c: **'Im-E-Uṣwl-E-Fiqh**, page 322, Volume 2.

d: Ibn Rajb, Zain-u-din 'bdur-Reḥmān Ibn Shahāb Ibn Aḥmad Ibn Abw Aḥmad Rajb, **Al-Qawā'id fī Al-Fiqh**, Volume 1, Nazār Musattafah Al-Bāz press, Makkah: Saudi Arabia 1419-20A.H/1999A.D.

e: **Al-Qawā'id Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence)**, page 17.

f: Elgariani, Fawazy Shaban, **Al-Qawā'id Al-Fiqhiyyah (Islamic Legal Maxims)**: , page 154, 155.

44: Al-Bāḥusyn Y'qwb, **Al-Qawā'id Al-Fiqhiyyah**, page 336.

45: Al-Amiri, Rashed Saud, **Legal Maxims in Islamic Jurisprudence**, PhD. Dissertation, University of

Birmingham, UK: 1423-24A.H/2003A.D.

1.3.4.9: Ninth Islamic century (801-900A.H/1399-1495A.D):

As more and more technical skills has been developed. Till the ninth century in different sectors of Fiqhī literature. With the passage of time advancements were made in existing procedures of every field. Accordingly, in the discipline of Shari‘ah Maxims these timely innovations were made. The prominent experts and scholars of this age along with their contributions are briefly described as:

- i. **Al-Ashbāh Wan-Nazā’ir** a work of Ibn Al-Mulaqqen Serāj-u-din Abw Hafs ‘mr Ibn Abw Al-Ḥasan ‘lī Ibn Aḥmad Ibn Muḥammad Ibn ‘bdullah Ash-Shaf‘ī

In recent times 1431-32A.H/2010A.D this book was edited by Muṣṭafā Al-Azharī and was published in Riyāḍ Saudi Arabia from Dār Ibn Al-Qayyim. 46

- ii. **Asnā Al-Maqāsid fī Thryr Al-Qawā‘id** a work of Ibn Al-Khuḍārī Muḥammad Ibn Muḥammad Ibn Muḥammad Az-Zubairy Al-‘Aithary Ash-Shaf‘ī

- iii. **Al-Qawā‘id Al-Manzūmah** a work of Shahāb-u-din Aḥmad Ibn Muḥammad Ibn ‘Imād Al-Masry Ibn Hā‘im Al-Maqdesy

- iv. **Al-Qawā‘id** a work of Taqī-u-din Abw Bakr Al-Ḥiṣnī Ash-Shaf‘ī. 47

In recent times 1417-18A.H/1997A.D this book was edited by ‘bdur-Reḥmām Al-Sha‘lān and was published in Ryāḍ Saudi Arabia from Maktabat Al-Rushd.

- v. **Ḥwāshī Al-Qawā‘id Al-Fiqhiyyah** a work of Ibn Naṣrullah Al-Ḥanblī. 48

- vi. **Nazm Adh-Dhkhā’ir fī Al-Ashbāh wan-Nazā’ir** a work of Sharf-u-din ‘bdur Rehmān Ibn ‘lī Ibn Ishāq Al-Maqdesī Ash-Shaf‘ī

- vii. **Al-Qawā‘id wa Aḍ-Ḍawābit** a work of Yusuf Ibn Ḥasan Ibn Aḥmad

- viii. **Al-Mudhhib fī Ḍabṭi Qawā‘id Al-Madhhab** a work of ‘Azzūm Al-Maalikī. 49

The scholastic activity in the establishment of Shari‘ah Maxims involves salient features. These prescribed the peculiarity of this branch of knowledge from others. Such as:

- a. The term **Qawā‘id** is recognized specifically for Shari‘ah Maxims

Previously the term **Qawā‘id** had a general impact in relation to principles or rules of any discipline. As more and more Shari‘ah Maxims literature was going to be entitled with this term its specification become ensured.

- b. The terms **Fawā‘id** and **Frwq** were also particularly assigned.
- c. The term **Ashbāh wan-Nazā’ir** also gained its place on the subject of Shari‘ah Maxims.
- d. The trend of consultation from Shari‘ah Maxims achieved substance.

For further Study:

46: Elgariani, Fawzy Shaban, **Al-Qawā‘id Al-Fiqhiyyah (Islamic Legal Maxims)**; page 164, 165.

47: This reference involves following citations a & b:

a: Ibn Al-‘Imād, Abwl-Falāh ‘bdul-Hiy, **Shazarāt-udh-Dhahab fī Akhbār men Dhahab**, page 71, 117, 163 and 273, Volume 9, Damascus: Dār-Ibn Kathyr press, First Edition, 1406-07A.H/1986A.D.

b: Al-Bāḥusyn, Y‘qwb, **Al-Qawā‘id Al-Fiqhiyyah**, page 336-341.

48: Elgariani, **Al-Qawā‘id Al-Fiqhiyyah**, page 165.

49: This reference includes the same citations as mentioned in the reference 47.

1.3.4.10: Tenth Islamic century (901-1000A.H/1496-1592):

The development, formulation and establishment phases of Shari‘ah Maxims were progressively done. The prominent contributors of tenth century and their worth mentioning works are as follows:

- i. **Al-Ashbāh wan-Nazā’ir** a work by Imam Jlal-u-din Sywti.

He collected dispersed Qawā‘id in his book. As:

- The book becomes most popular among scholars, jurists and learners.
- It comprises of seven chapters
- 1st chapter of Leading Maxims
- 2nd consist of forty maxims with their subsidiary elements
- Imam Sywti tried to provide the origins and derivation persons
- 3rd chapter encompasses 20 maxims with conflicted position
- 4th chapter covers all the more maxims than previously given

- 5th chapter is entitled as: “**Nazâ’ir**” with arrangement of Fiqhī subjects
- Nazâ’ir: the resemblance possessing Fiqhī commands and discussions
- Shari’ah Maxims relating to these special Fiqhī subjects were integrated
- 6th chapter is on “**Frwq**”, discussing the correspondence and differences

among various individual, moral and social activities in the shari’ah outlook.

And

- Seven chapter about Distinctive correspondences (Mutfarq Nazâ’ir)
- A poem of 45 verses insisting to reject the excuse of unawareness.

As in Islamic law unawareness is somewhat accepted as an excuse.⁵⁰

- Al-Qawâ’id** (a collection of maxims from the pre-existing stock) by Imam Abw Al-Ḥasan Ar-Raqâq An-Najîby Al-Maalikî.
- Al-Ashbâh wan-Nazâ’ir** by Imam Ibn-E-Nujym
 - Describes Qawâ’id Fiqhiyah (Shari’ah Maxims), Frwq and Ashbâh wan-Nazâ’ir
 - Book comprises seven chapters named as “**Fanwn**”: Skills/Glyptic/ Legal Arts
 - Leading Maxims (with maximum elements) and then lesser maxims (with fewer elements). 51

The highly cherished discipline from its initiative till the tenth century reaches to its well thought-out phase. This accomplishment was executive as well as official.

For further Study:

50: This reference involves following citations a, b & c:

a: Al-Sywtî, Jalâl-u-din, **Al-Ashbâh wan-Nazâ’ir**, page 4-5, 101-162, 188-422, 423-515, 516-531, 532-541, First Edition, Beirut, Dâr al-Kutb Al-’Imiyyah, 1403-04A.H/1983A.D.

b: **’Im-E-Uşwl-E-Fiqh**, page 367-368, Volume 2.

51: This reference involves following citations a & b:

a: **Al-Qawâ’id Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence)**, page 18.

b: Ibn-E-Nujym, Zain-u-din, bin Ibrahim, **Al-Ashbâh Wan-Nazâ’ir**, fi Fiqh Al-Hanfi, introductory pages, Maktbah-E-Rehmaniyyah Iqra Center, Ghazni Street, Urdu Bazar, Lahore: Pakistan.

1.3.4.11: Eleventh Islamic Century (1001-1100A.H/1593-1689A.D):

The Shari’ah Maxims were gradually developed in the past ten centuries. Still the jurists and experts include them in mix writing with Framing Principles (Uşwl), Objectives and Maxims of Islamic Fiqh. Some remarkable works of this era are as follows:

- Al-Farâ’id Al-Bahiyyah fi-l-Qawâ’id Al-Fiqhiyyah** by Abw Bakr Ibn Al-Ahdal Al-Yamânî.

It is a poetic expression of Qawâ’id. Kept in: manuscript centre Ryaḍ King S’wd University.

- Al-Bâhir fi-Ikhtşâr Al-Ashbâh wan-Nazâ’ir** by Abw Zayd Al-Fâsî Al-Mâlîkî. 52

The mainly considerable activity as regards **Shari’ah Maxims** worked in the ending of eleventh century. As form of: “**Al-Majalla Al-Ahkam Al-Adaliyyah (The Ottoman Courts Manual (Hanafi))**”.⁵³

Most prominent jurists of the epoch of **Sultân ‘bdul Azyz Khân Al-’thmânî** prepared a constitution. This charter was primed by a collection of Al-Qawâ’id Al-Fiqhiyyah. The purpose to institute this creed was to apply as law order in the courts of the Empire. This was prompted to enforce afterward. It was very first very lucid practical instigation of the **Shari’ah Maxims**. This doctrine was first deduced to illustrate these maxims to clear up their proficiency. It was to put these maxims into activity to provide evidence either to criticize or to appraise. This dogma was consisting of 16 Volumes and 1851 articles. It comprises of 99 Shari’ah Maxims to expound various transactions of life activity.

This canon became a standard in coming time for further bureaucratic and studious activity in the discipline of Shari’ah Maxims.

1.3.4.12: Twelfth Islamic century (1101-1200A.H/1690-1786A.D):

The knowledge of Shari’ah Maxims had gained maturity. The works of later times encompass more refined repetitions. Although new developments were occurred time to time to explicate newly growing issues. For Explain:

- Kashf Al-Sarâ’ir ‘lâ Al-Ashbâh wan-Nazâ’ir** by Muhammad Al-Kufayri
- Ḥāshiyah ‘lâ Al-Ashbâh wan-Nazâ’ir** by Bahâ’-u-din Al-Nâ’înî Al-Shî’î Al-Imamî
- Sharḥ Al-Ashbâh wan-Nazâ’ir** by ‘bdul-Ghanî Al-Nâblwsî
- Majāmi’ Al-Ḥaqâ’iq** by Abw S’yd Al-Khâdmî in which alphabetically set 154 Shari’ah Maxims (Qawâ’id and Ḍawābit) were presented. 54
- Sharḥ Takmyl Al-Manhġ Al-Muntkhab** by ‘bd Al-Qâdir Al-Siljamāsî.

For further Study:

52: Al-Bürnū, Muḥammad Sīdī, Al-Wajīz fī ʾIdāh Al-Qawāʾid Al-Fiqhiyyah, Fourth Edition, Beirut, Muʾassasat Al-Risālah, 1416-17A.H/1996A.D.

53: This reference involves following citations a & b:

a: Tyser, C.R. and others, Al-Majalla Al-Aḥkam Al-Adliyyah: (The Ottoman Courts Manual (Hanfi)), an English Translation as The Mejlle, Lahore: All Pakistan Legal Decisions, 1386-87A.H/1967A.D.

b: Al-Qawāʾid Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence), page 18.

54: Al-Bāḥusyn, Yʿqwb, Al-Qawāʾid Al-Fiqhiyyah, page 388.

1.3.4.13: Thirteenth Islamic century (1201-1300A.H/1787-1883A.D):

Tremendous educational activity on Shariʿah Maxims in this time interval was as annotations on the existing works. Includes:

- i. Al-Mawāhib al-Saniyyah (Al-Farāʾid al-Bahiyyah) by ʿbd Allah al-Jarhazī
- ii. Sharḥ Al-Ashbāh wan-Nazāʾir by Abw Al-Fath al-Dimashqī
- iii. Al-Taḥyīq al-Bāhir Sharḥ Al-Ashbāh wan-Nazāʾir by Hibatullah Al-Tāji
- iv. Manāfiʿ al-Daqāʾiq Sharḥ Majāmiʿ al-Ḥaqāʾiq by Muṣṭafā Al-Kūzalḥasārī
- v. Sharḥ Al-Qawāʾid al-Khams by ʿbdullah al-Dimlījī Ash-Shafʿī
- vi. Al-Mawāhib al-ʿliyyah Sharḥ al-Farāʾid al-Bahiyyah by Yusuf al-Baṭṭāḥ al-Ahdal
- vii. Nuzhat Al-Nawāzīr ʿlā Al-Ashbāh wan-Nazāʾir by Muḥammad Ibn ʿābidyn
- viii. Sharḥ Al-Khātimah by Sulymā Al-Qarahaghājī. 55
- ix. Mirʾāt Majallatul-Aḥkām Al-ʿdliyyah by Sʿwd Afandī. 56

1.3.4.14: Fourteenth Islamic century (1301-1400A.H/1884-1980A.D):

During this intermission prominent scholastic works in the field of Shariʿah Maxims include:

- i. Al-Manhaj Ilā al-Manhaj a work by Muḥammad Al-Amyn Al-Jakanī Al-Shinqyṭī. Abridged by Al-Ḥasan Ibn ʿbdur Reḥmān al-Shinqyṭī. In print form available from Dār-ul-Kitāb Al-ʿrabī Beirut Lebanon. 57
- ii. Sharḥ Al-Majallah by Salym Ruṣṭum Al-Bāz. This was an interpretation on the Majalla prepared by a Christian lawyer from Lebanon. A book on Islamic Jurisprudence by a non-Believer. His effort was happily accepted by Muslim scholars and jurists. 58
- iii. Sharḥ Al-Majallah documentation by Imam Khālid Ibn Muḥammad Ibn ʿbdus-Sattār Al-Atāsī and his son Muḥammad Ṭāhir Al-Atāsī.
- iv. Durar Al-Ḥūkkam Sharḥ Majallat Al-Aḥkām by ʿlī Hydr. A Turkish in depth commentary on the Majallah. This was converted to Arabic by a legal representative Fahmī Al-Ḥusaynī. It was a far-fetched work with daily life examples of author's times.
- v. Ḥāshiyah ʿlā Al-Ashbāh wan-Nazāʾir by Muḥammad Anwarshāh Al-Kishmyrī.
- vi. Sharḥ Al-Qawāʾid Al-Fiqhiyyah by Aḥmad Al-Zarqā. He also included examples of his time.59

For further Study:

55: This reference includes following citations a & b:

a: Al-Bāḥusyn, Yʿqwb, Al-Qawāʾid Al-Fiqhiyyah, page 389.

b: Elgariani, Fawzy Shaban, Al-Qawāʾid Al-Fiqhiyyah, page 182, 185.

56: Al-Qawāʾid Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence), page 18.

57: Elgariani, Fawzy Shaban, Al-Qawāʾid Al-Fiqhiyyah, page 188.

58: Al-Amiri, Rashed Saud, Legal Maxims in Islamic Jurisprudence, page 160.

59: This reference involves following citations a & b:

a: Al-Qawāʾid Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence), page 19.

b: Elgariani, Fawzy Shaban, Al-Qawāʾid Al-Fiqhiyyah, page 196 & 186.

1.3.5: Contemporary Endeavour:

The trend of Shariʿah Maxims becomes a public demand and recovery base with the establishment of Turkish Majalla. As Dr. Wahbah Muṣṭafā depicted:

“The Majalla was printed in Turkish in 1286/1869 and stay behind as civil code of the Ottoman Empire for a propos of half century (1293/1877-1344/1926), and remained the viable edict to most of the Arab nations. Chiefly: Syria, Kuwait, Iraq and Jordan.”60

1.3.5.1: Few examples of scholastic activity: Academic efforts from the modern times as regards to discipline of Shariʿah

Maxims involves:

- i. **Al-Ashbāh wan-Nazā'ir** (of Imam Subkī) was abridged by 'ādil 'bdulmāwjūd and 'li Mu'awwad
- ii. **Al-Manthwr fī-l-Qawā'id** (of Imam Zarkashī) was abridged by Taysyr Fā'q Aḥmad and put forward as PhD. Dissertation to Al-Azhr University in 1977. This was made available in print by the effort of Ministry of Awqāf and Islamic affairs, Kwyt.
- iii. **Īdāh Al-Masālik of Al-Wansharīsī** was twice abridged in modern times once by Aḥmad Al-Khaṭṭābī. Secondly by Al-Ŝādiq Al-Ghīryanī as a PhD. Dissertation put forward University of Exeter in 1983.
- iv. **Al-Majmū' Al-Mudhhib fī Qawā'id Al-Madhhab** abridged as PhD. Dissertation to the Islamic University of Mdynah, Saudi Arabia.
- v. **Qawā'id Al-Fiqh Al-Mālkī Min Khiāl Kitāb Al-Ishrāf lil-Qāḍī 'bd-ul-Wahhāb** a work of Al-Rūqī as a Master's thesis put forward Muhammad V University, Rabat Morocco in 1989.
- vi. **Al-Qawā'id wal-Ḍawābiṭ Al-Fiqhiyyah fī Kitāb Al-Mughnī li-ibn Qudāmah** a work of Muḥammad Al-Sa'dān as a PhD. Dissertation put forward Um-ul-Qurā University Makkah 2000.
- vii. **Mawsū'at Al-Qawā'id Al-Fiqhiyyah** a work of Muḥammad Ŝidqī Al-Būrnū 2003. 61

1.3.5.2: In recent times intellectual exertions: On the subject of Shari'ah Maxims these works involves following advancements:

- Editing, Extracting, Collecting, Rearranging and preparing Encyclopedias. 62
- In the words of Kamali: "The encyclopedias of fiqh__ marked a milestone in development. The legal maxims are likely to remain an influential area of the legacy of fiqh."63
- Studying specific Qawā'id for their application in contemporary issues.

For further Study:

60: Al-Zūhlylī, Muḥammad, **Al-Qawā'id al-Fiqhiyyah wa-Tatbyqātuhā fil-Madhāhib Al-Arba'h**, page 49, Volume 1, First Edition, Damascus: Dār al-Fikr, 1427A.H/2006A.D.

61: Elgariani, Fawzy Shaban, **Al-Qawā'id Al-Fiqhiyyah (Islamic Legal Maxims)**;, page 190, 199 & 200.

62: Ḥammād Ḥamzah, Manāhij Al-Tālyf Al-M'āshirah fī-l-Qawā'id Al-Fiqhiyyah. Available at

<http://www.feqhweb.com/vb/showthread.php?t=129&page=1>.

63: Kamali, Mohammad Hashim, "**Shari'ah Law: An Introduction**" page 170, Foundations of Islam, ONEWORLD: Oxford. 1429-30A.H/2008A.D.

Conclusion

The life gestures of pious people, who gained peak prestige and positions from, THE ALL PRAISEWORTHY, are the Prophets. They come to demonstrate HIS fear and forgiveness to the Mankind. Their way is so glowing and well-appointed to be influenced. Such path which remains in persistent practice followed by the supervisory stars and embraced by the common ones. This marvelous path leading the balanced development is termed as **Shari'ah**.

The proclamation of Islam is fully experienced from its derivation. The scholars and rational brain bearing persons are learning its secrets. The rational, systematic, and analytical distinction of Muslim world is eternal. Their state of affairs and significant approach to envisage the way out from catastrophe is exceptional. Where others discourage their everlasting divine source makes advancing graciously possible. In this graceful manner, to hold the essential and decisive situations becomes possible. The axioms, **Shari'ah Maxims** encircled in this way as short units' announcements activating the admirers and inspiring the veiled and challengers. So, these intensive proficiency enhancing apparatuses of Islamic jurisprudence are vibrant for professionals and others. The effectiveness of these devices is to initiate for extensive assortment of life happenings. The diverged doctrines of each maxim are also supervising with huge contemporary links. For illustration, these maxims are device in worship, personal and family relationships, commercial transactions, educational sensitivities, curative perceptions, and judiciary as well.

Acknowledgment

Alhamdolillah, Thanks and Gratitude to Allah Subhanahu wa ta'ala WHO gifted the strength to complete this task.

References

[1] 1: This reference involve following citations a & b:

[2] a: Tirmidhī, Abw 'ysā Muḥammad bin 'ysā, Imam, **Jam' at-Tirmidhī**, volume 3, Book 13 "Judgement", Hdyth 1327, b: Abw Dāwud, Sulyman bin al-Ash'th as-

- Sijstani, Imam, Sunan Abw Dāwud, volume 4, Book 25 “The office of the Judge”, Hdyth 3585.
- [3] 2: Ibn-Qaiyim, Muhammad Ibn Abi Bakr, al-Gauziya, At-Turuq al-hikmiya fi-s-siyasa as-sar'iya: au al-firasa al-marfiya fi ahkam as-siyasa as-sar'iya, page 13, Volume 1, Chapter: Fil-ml fil-Saltnah Bisyasiyah al-Shari'ah, Dār al-Hadīth, 1422-23A.H./2002.
- [4] 3: This reference involves following citations a & b.
- [5] a: Bukhari, Abw Abdullah Muhammad ibn Ismā'yl, Imam al-Muhadathin, Al-Jam' Al-Sahyḥ Al-Musnad Al-Mukhtsr min Umwr Raswl Allah wa Ayāmihi, Book 60 “Prophets”, Chapter 50 in which “Israi'īl is mentioned.
- [6] b: Fawad 'bdul Baqi, Al-Lwḥ wal-Marjān fymā Itafq Alyh al-Sheikhān, Kitab-ul Amārah, Bab-ul Amr Bil-Wafa Biby'til-khulafa Al-awal Fal-awal. Hdyth: 1208.
- [7] 4: **Khiraj**: The tax on agriculture land, taken from non-Muslim owners of these lands. Who gained protection under Islamic State.
- [8] 5: **Jizyah**: The per head tax imposed on the dhimis (non-believers in the Muslim States) for their protection and independent stay.
- [9] 6: Abu Yousuf, Y'qwb bin Ibrahim, Imam, Kitāb Al-Kharāj, Dar-ul-m'rifah, Beirut: Lebanon, 1399A.H./1979A.D.
- [10] 7: Al-Khan, Muṣṭafā, S'yd, Dr., Athr al-Ikhtlaf fi Al-Qawā'id al-Uṣwliyah fi Ikhtlafil Fuqḥaa, page 121, Third Edition, Beirut, Lebanon 1983A.D.
- [11] 8: **عت**: The time extent for which a Muslim women have to wait to remarry while she is a widow or divorced. During this time span she lives preferably in seclusion.
- [12] 9: At-Talaq 65, Verse 4.
- [13] 10: Itani, Talal, QURAN English Translation, Clear, Pure, Easy to read Modern English, Translated from Arabic, page 217, ClearQuran, Dallas, Beirut.
- [14] 11: Al-Khan, Athr al-Ikhtlaf fi Al-Qawā'id al-Uṣwliyah fi Ikhtlafil Fuqḥaa, page 122.
- [15] 12: 'Im-E-Uṣul-E-Fiqh, An Introduction, page 351, Volume 2, Shari'ah Academy International Islamic University, Islamabad, Pakistan.
- [16] 13: 'Im-E-Uṣul-E-Fiqh, page 353.
- [17] 14: This reference is quoted in
- [18] As-Sywti & Ibn-Nujaym, Al-Ashbah wal-Nazāir.
- [19] 15: 'Im-E-Uṣul-E-Fiqh, page 357-369.
- [20] 16: As-Sabunī, 'bdur Rahman, Al-Madkhal al-Fiqhī wa Tarikh at-Tashri' Al-Islamī, page 398, Maktabah Wahbah, Cairo 1402-03A.H./1982A.D.
- [21] 17: Al-Baqarah 2, Verse 286.
- [22] 18: Surah Al-Baqarah [2:286]-Al-Qur'an al-Kareem القرآن الكريم quran.com (<https://quran.com/2/286>).
- [23] 19: Itani, Talal, QURAN English Translation, page 17.
- [24] 20: Al-Rūgī, Muhammad, Nazariyyat al-Taḳ'id al-Fiqhī wa-Atharuhā fi Ikhtilāf al-Fuqḥah, page 88. Damascus: Syria, Dār al-Qalam, 1418-19A.H./1998A.D.
- [25] 21: Az-Zalzalah 99, verses 7 & 8.
- [26] 22: Surah Az-Zalzalah [99:7-8]-Al-Qur'an al-Kareem القرآن الكريم quran.com (<https://quran.com/99/7-8>).
- [27] 23: Al-Bāhusayn, Ya'qūb, Al-Qawā'id Al-Fiqhiyyah: Al-Mabādī', Al-Muqawwimāt, Al-Maṣādir, Al-Daliliyyah, Al-Tatawwur, page 290,291, Riyadh, Maktabat al-Rushad, 1426-27A.H./2006A.D.
- [28] 24: Al-Bāhusayn, Ya'qūb, Al-Qawā'id Al-Fiqhiyyah: Al-Mabādī', Al-Muqawwimāt, Al-Maṣādir, Al-Daliliyyah, Al-Tatawwur, page 115.
- [29] 25: Ibid. page 298.
- [30] 26: Abu Yousuf, Y'qwb bin Ibrahim, Imam, Kitāb Al-Kherāj, page 65-66.
- [31] 27: Al-Nadwī, Ab-ul Ḥasan 'li, Al-Qawā'id al-Fiqhiyyah: Mafhūmuhā, Nash'atuhā, Tatawwuruhā, page 95, fourth Edition, Damascus: Dār al-Qalam, 1418-19A.H./1998A.D.
- [32] 28: Al-Bāhusayn, Al-Qawā'id Al-Fiqhiyyah, page 300.
- [33] 29: Al-Zarqā, Aḥmad, Sharḥ Al-Qawā'id al-Fiqhiyyah, page 431, Second Edition, Damascus: Dār al-Qalam, 1409-10A.H./1989A.D.
- [34] 30: Al-Shāf'ī, Muḥammad Ibn Idrīs, Al-Om, Second Edition, Beirut: Dār-ul-Ma'arifah 1393A.H./1973A.D.
- [35] 31: Al-Nadwī, Ab-ul-Ḥasan 'li, Al-Qawā'id al-Fiqhiyyah, page 100.
- [36] 32: Islamic Legal Thought A Compendium of Muslim Jurists, page 118, Brill, Leiden. Boston: United States, 1434-35A.H./ 2013A.D.
- [37] 33: A. Rabb, Intisar, Doubt in Islamic Law: A History of Legal Maxims, Interpretation, and Islamic Criminal Law, page 82, Cambridge Studies in Islamic Civilization, Cambridge University Press, New York, USA, 1436-37A.H./2015A.D.
- [38] 34: Ash-Shirāzi, Abw Is-hāq Ibrahim Ibn-E-'li, Tabqāt Al-Fuqḥā', page 142, First Edition, Beirut, Lebanon: Dār ar-Rā'id, Al-'rabi press, 1389-90A.H./1970A.D.
- [39] 35: This reference involves following citations a, b & c.
- [40] a: Al-Bāhusayn, Y'qwb, Al-Qawā'id Al-Fiqhiyyah, page 316.
- [41] b: Al-Nadwī, Ab-ul Ḥasan 'li, Al-Qawā'id Al-Fiqhiyyah, page 136.
- [42] c: Al-Zarqā, Muṣṭafā, Al-Madkhal Al-Fiqhī al-'Ām, page 971, Volume 2, First Edition, Damascus, Dār al-Qalam, 1418-19A.H./1998A.D.
- [43] 36: 'Im-E-Uṣul-E-Fiqh, page 361, Volume 2, Shari'ah Academy International Islamic University Islamabad.
- [44] 37: This reference involves following citations a, b & c:
- [45] a: Al-Qawā'id Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence) A Translated Compilation, page 15, Islamic University of North America: (Mishkâh), Islamic Studies English Program, 1434A.H./2013A.D.
- [46] b: 'Im-E-Uṣul-E-Fiqh, page 358, Volume 2.
- [47] c: Elgariani, Fawazy Shaban, Al-Qawā'id al-Fiqhiyyah (Islamic Legal Maxims): Concept, Functions, History, Classification and Application to Contemporary Medical Issues, page 148-149, PhD. Dissertation, University of Exeter, United Kingdom, 1433-34A.H./2012A.D.
- [48] 38: Al-Qawā'id Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence), page 15.
- [49] 39: Al-Bāhusayn, Y'qwb, Al-Qawā'id Al-Fiqhiyyah, page 319-321.
- [50] 40: Al-Qawā'id Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence), page 15-16.
- [51] 41: This reference involves following citations a, b, c & d
- [52] a: 'zz-u-din bin 'bdus-salām, Sutan-ul-Imā', Qawā'id Al-Ahkām fi Mṣāleḥ Al-Ānām, Volume 1, First Edition, Beirut: Dār al-Kutb Al-Imiyah, 1412-13A.H./1992A.D.
- [53] b: Al-Qawā'id Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence), page 16.

- [54] c: Elgariani, Fawazy Shaban, **Al-Qawā'id Al-Fiqhiyyah (Islamic Legal Maxims)**, page 151,152.
- [55] d: **Im-E-Uşwl-E-Fiqh**, page 364, Volume 2.
- [56] 42: **Im-E-Uşwl-E-Fiqh**, page 361, Volume 2.
- [57] 43: This reference involves following citations a, b, c, d, e & f:
- [58] a: Ibn-E-Taymyah, Ahmad bin 'bd 'bdul Halyam Imam, **Majmw' Al-Fatāwā**, Saudi Arabia.
- [59] b: Al-Subkī, Tāj-u-din, **Al-Ashbāh Wan-Nazā'ir**, Beirut: Dār al-Kutb al- 'Imiyyah 1411-12A.H/1991A.D.
- [60] c: **Im-E-Uşwl-E-Fiqh**, page 322, Volume 2.
- [61] d: Ibn Rajb, Zain-u-din 'bdur-Rehman Ibn Shahāb Ibn Ahmad Ibn Abw Ahmad Rajb, **Al-Qawā'id fi Al-Fiqh**, Volume 1, Nazār Musattafah Al-Bāz press, Makkah: Saudi Arabia 1419-20A.H/1999A.D.
- [62] e: **Al-Qawā'id Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence)**, page 17.
- [63] f: Elgariani, Fawazy Shaban, **Al-Qawā'id Al-Fiqhiyyah (Islamic Legal Maxims)**, page 154, 155.
- [64] 44: Al-Bāhusyn Y'qwb, **Al-Qawā'id Al-Fiqhiyyah**, page 336.
- [65] 45: Al-Amiri, Rashed Saud, **Legal Maxims in Islamic Jurisprudence**, PhD. Dissertation, University of Barmingham, UK: 1423-24A.H/2003A.D.
- [66] Ali, **Al-Qawā'id al-Fiqhiyyah: Mafhūmuhā, Nash'atuhā, Taṭawwuruhā**, Fourth Edition,
- [67] 46: Elgariani, Fawzy Shaban, **Al-Qawā'id Al-Fiqhiyyah (Islamic Legal Maxims)**, page 164, 165.
- [68] 47: This reference involves following citations a & b:
- [69] a: Ibn Al-'Imād, Abwl-Falāh 'bdul-Hiy, **Shazarāt-udh-Dhahab fi Akhbār men Dhahab**, page 71, 117, 163 and 273, Volume 9, Damascus: Dār-Ibn Kathyr press, First Edition, 1406-07A.H/1986A.D.
- [70] b: Al-Bāhusyn, Y'qwb, **Al-Qawā'id Al-Fiqhiyyah**, page 336-341.
- [71] 48: Elgariani, **Al-Qawā'id Al-Fiqhiyyah**, page 165.
- [72] 49: This reference includes the same citations as mentioned in the reference 47.
- [73] 50: This reference involves following citations a, b & c:
- [74] a: Al-Sywtī, Jalāl-u-din, **Al-Ashbāh wan-Nazā'ir**, page 4-5, 101-162, 188-422, 423-515, 516-531, 532-541, First Edition, Beirut, Dār al-Kutb Al-'Imiyyah, 1403-04A.H/1983A.D.
- [75] b: **Im-E-Uşwl-E-Fiqh**, page 367-368, Volume 2.
- [76] 51: This reference involves following citations a & b:
- [77] a: **Al-Qawā'id Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence)**, page 18.
- [78] b: Ibn-E-Nujym, Zain-u-din, bin Ibrahim, **Al-Ashbāh Wan-Nazā'ir**, fi Fiqh Al-Hanfi, introductory pages, Maktbah-E-Rehmaniyyah Iqra Center, Ghazni Street, Urdu Bazar, Lahore: Pakistan.
- [79] 52: Al-Bürnū, Muḥammad Sidi, **Al-Wajiz fi Idāh Al-Qawā'id Al-Fiqhiyyah**, Fourth Edition, Beirut, Mu'assasat Al-Risalah, 1416-17A.H/1996A.D.
- [80] 53: This reference involves following citations a & b:
- [81] a: Tyser, C.R. and others, **Al-Majalla Al-Ahkam Al-Adliyyah: (The Ottoman Courts Manual (Hanfi))**, an English Translation as **The Mejlle**, Lahore: All Pakistan Legal Decisions, 1386-87A.H/1967A.D.
- [82] b: **Al-Qawā'id Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence)**, page 18.
- [83] 54: Al-Bāhusyn, Y'qwb, **Al-Qawā'id Al-Fiqhiyyah**, page 388.
- [84] 55: This reference includes following citations a & b:
- [85] a: Al-Bāhusyn, Y'qwb, **Al-Qawā'id Al-Fiqhiyyah**, page 389.
- [86] b: Elgariani, Fawzy Shaban, **Al-Qawā'id Al-Fiqhiyyah**, page 182, 185.
- [87] 56: **Al-Qawā'id Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence)**, page 18.
- [88] 57: Elgariani, Fawzy Shaban, **Al-Qawā'id Al-Fiqhiyyah**, page 188.
- [89] 58: Al-Amiri, Rashed Saud, **Legal Maxims in Islamic Jurisprudence**, page 160.
- [90] 59: This reference involves following citations a & b:
- [91] a: **Al-Qawā'id Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence)**, page 19.
- [92] b: Elgariani, Fawzy Shaban, **Al-Qawā'id Al-Fiqhiyyah**, page 196 & 186.
- [93] 60: Al-Zūhlylī, Muḥammad, **Al-Qawā'id al-Fiqhiyyah wa-Taṭbyqātuhā fil-Madhāhib Al-Arba'h**, page 49, Volume 1, First Edition, Damascus: Dār al-Fikr, 1427A.H/2006A.D.
- [94] 61: Elgariani, Fawzy Shaban, **Al-Qawā'id Al-Fiqhiyyah (Islamic Legal Maxims)**, page 190, 199 & 200.
- [95] 62: Ḥammād Ḥamzah, Manāhij Al-Tālyf Al-M'āshrah fi-l-Qawā'id Al-Fiqhiyyah. Available at <http://www.feqhweb.com/vb/showthread.php?t=129&page=1>.
- [96] 63: Kamali, Mohammad Hashim, "**Shari'ah Law: An Introduction**" page 170, Foundations of Islam, ONEWORLD: Oxford. 1429-30A.H/2008A.D.