

Textual and Non-Textual Islamic Legal Maxims

Dr Shahzadi Pakeeza

Assistant Professor, Department of Islamic Studies
Fatima Jinnah Women University, Rawalpindi, Pakistan.

dr.pakeeza@fjwu.edu.pk

Fariha Fatima

Research Scholar, Fatima Jinnah Women University, Rawalpindi

Introduction

Islamic legal maxims have been utilized for justifying juristic rulings in diverse issues throughout the centuries of Islamic scholarship. That's why, the wording of Islamic legal maxims must have been extracted from different sources of Islamic law, like the primary sources including the Book of Allah, Traditions of the Prophet (peace be upon him), consensus of opinion (Sayings of the Companions, Sayings of the Successors and Sayings of the Successors of the Successors) and analogical deduction as well as the secondary sources like *maslaha mursalah* or *istislah* (public interest), *istishab* (presumption of continuity). However, they were commonly developed and refined by the jurists with the course of time.¹ A legal maxim binds the jurist to decree a judgment only when it is strongly supported by a ruling of the Holy *Qur'an* or *Hadith*. A legal maxim facilitates a jurist to exercise *ijtihad* and reach some legal decision (*hukm*) and opinion (*fatwa*). From the perspective of primary and secondary sources, Islamic legal maxims can be graded into 2 categories; textual and non-textual.²

1. The Textual Legal Maxims of Islamic Law

Following are the textual legal maxims of Islamic law consisting primary sources of derivation which are as follows: Sometimes the *Qur'anic* verses and Prophetic Traditions themselves are utilized as Islamic legal maxims due to being in the form of specific and exclusive jurisprudential principles and manifesting exact juristic abstractions while sometimes the *Qur'anic* verses and Prophetic Traditions manifest only general jurisprudential rulings so the jurists formulate the legal maxims by deriving laws from them.³

a. The *Qur'anic* Verses and Prophetic Traditions Used as Islamic Legal Maxims

The Noble *Qur'an*

Following is the verse from the Noble *Qur'an* which, at the same time, is a legal maxim as well:

وَأَنْ لِّئْسَ لِلْإِنْسَانِ إِلَّا مَا سَعَى

*“And that man can have nothing but what he does”.*⁴

The Sunnah: For the legal maxim:

الضرر يزال

*“Harm must be eliminated”.*⁵

The derivation source is the Prophetic Tradition as under:

لَا ضَرَرَ وَلَا ضِرَارَ

*“There should be neither harming nor reciprocating harm”.*⁶

And this Prophetic Tradition itself is another legal maxim.

b. Islamic Legal Maxims Derived From the *Qur’anic* Verses and Prophetic Traditions

The Noble *Qur’an*

Like any other discipline of Islamic law, the very first and primary source for deduction of Islamic legal maxims is the Noble *Qur’an*. According to M. Rashid Ahmad Khan:

*“In the diverse legal systems of the world, there are a plenty of legal maxims which are in harmony with one another for the reason that they are constituted on the rules of natural justice. Islam is the religion of nature so it acknowledges all those legal maxims which are based on the rules of natural justice. Several laws have been derived from numerous *Qur’anic* injunctions for the formulation of different legal maxims”.*⁷

Some examples of the Islamic legal maxims derived from the *Qur’anic* injunctions are given below:

For the legal maxim:

المشقة تجلب التيسير

“Hardship begets facility”.

The derivation sources are the following *Qur’anic* verses:

إِنَّ مَعَ الْعُسْرِ يُسْرًا

*“Verily, along with every hardship is relief”.*⁸

يُرِيدُ اللَّهُ بِكُمُ الْيُسْرَ وَلَا يُرِيدُ بِكُمُ الْعُسْرَ

*“Allah intends for you ease and He does not want to make things difficult for you”.*⁹

For the legal maxim:

الضرورات تبيح المحظورات

“Necessity permits the prohibited”.

The derivation source is the following *Qur’anic* verse:

إِنَّمَا حَرَّمَ عَلَيْكُمُ الْمَيْتَةَ وَالدَّمَ وَلَحْمَ الْخَنَازِيرِ وَمَا أُهِلَّ بِهِ لِغَيْرِ اللَّهِ فَمَنْ اضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَلَا إِثْمَ عَلَيْهِ إِنَّ اللَّهَ غَفُورٌ رَحِيمٌ

*“He has forbidden you only the dead animals, blood, the flesh of swine and that which is slaughtered as a sacrifice for other than Allah. But if one is forced by necessity without willful disobedience or transgressing due limits, then there is no sin on him. Truly, Allah is Oft-Forgiving, Most Merciful”.*¹⁰

The *Sunnah*

Like other disciplines of Islamic law, the second fundamental and the most authentic source for deduction of Islamic legal maxims is *Sunnah* after the Holy *Qur’an*. Some examples of the Islamic legal maxims derived by the *Sunnah* of the Prophet Muhammad (peace be upon him) are as under:

For the legal maxim:

الامور بمقاصدها

“Matters are determined according to intentions”.

The derivation source is the Prophetic Tradition as under:

إنما الاعمال بالنيات

*“Indeed, actions are to be judged by the motives behind them.”*¹¹

Similarly, for the legal maxim:

الحدود تدرأ بالشبهات

“Hudood punishments are to be warded off if doubts persist”.

The derivation source is the Prophetic Tradition as follows:

Narrated by Hazrat Ayesha (may Allah be pleased with her) that the Messenger of Allah (peace be upon him) said:

ادْرءُوا الْهُدُودَ عَنِ الْمُسْلِمِينَ مَا اسْتَطَعْتُمْ فَإِنْ كَانَ لَهُ مَخْرَجٌ فَخَلُّوا سَبِيلَهُ فَإِنَّ الْإِمَامَ أَنْ يَخْطِئَ فِي الْعَفْوِ خَيْرٌ مِنْ أَنْ يَخْطِئَ فِي الْعُقُوبَةِ .

*“Avert the legal penalties from the Muslims as much as possible, if he has a way out then leave him to his way, for if the Imam makes a mistake in forgiving it would be better than making mistake in punishment”.*¹²

2. The Non-Textual Legal Maxims of Islamic Law

Following are the non-textual legal maxims of Islamic law consisting primary as well as secondary sources of derivation which are as follows:

1. Consensus of Opinion (*Ijma'*)

After the Holy *Qur'an* and *Sunnah*, the third most significant and authoritative primary source for the derivation of Islamic legal maxims is the consensus of opinion (unanimous opinions of the Companions, Sayings of the Successors and Sayings of the Successors of the Successors in different eras). An example of the Islamic legal maxims based on consensus of opinion is as under: For the legal maxim:

الإجتihad لا ينقض باجتihad مثله

“(A ruling of) one ijtiḥad is not negated by another similar ijtiḥad”.

The derivation source is a statement of the Caliph Umar ibn al-Khattab (may Allah be pleased with him) and consensus of the Companions has also performed upon it that if a later judge or jurist decrees a ruling of *ijtiḥad* different from the judgment through *ijtiḥad* (in the absence of an explicit text from the *Qur'an* and *Sunnah*) held by the earlier judge or jurist of the same rank in the same issue and that *ijtiḥad* would be of same level, then the earlier judgment will not stand annulled because of the later one without a grave deficiency or violation of the injunctions of *Shari'ah*. In this regard, it has been said that the Caliph Umar ibn al-Khattab (may Allah be pleased with him) used to decide similar legal cases based always on different *ijtiḥadaat*.¹³

2. The Analogy (*Qiyas*)

To judge or measure a thing on the basis of equality is called analogy (*qiyas*). When a case (*far'*) for which provision does not exist in the injunctions of *Shari'ah*, is linked with another case (*asal*) for which provision exists in *Shari'ah* injunctions on the basis of common cause (*illah*) and thus a rule (*hukm*) is derived, is called the procedure of *qiyas*. After the Noble *Qur'an*, the *Sunnah* and the consensus of opinion, the analogy is the most comprehensive primary source for the development of Islamic legal maxims as it involves the

jurisprudential issues which possess a common cause for the derivation of legal ruling.¹⁴ An example of the Islamic legal maxim derived by the analogy has been mentioned here:

ما حرم استعماله حرم اتخاذه

“When it is forbidden to make use of a thing, it is also forbidden to possess it”.

The jurists, through analogy, opine that it is prohibited to possess certain things like wine, pork, plates made from gold or silver and the identical items just like many explicit texts from the *Qur'an* and *Sunnah* have injunctions regarding the prohibition of the consumption of these things. The common cause between two cases is, whether someone consumes any of these things or just acquires them, a harmful thing is involved in each case. That's why, the new legal ruling is that the above mentioned things and the like are forbidden.¹⁵

3. Public Interest (*Maslaha Mursalah* or *Istislah*)

Maslaha means “public interest” and *istislah* means “to seek the best public interest”. The process of formulating laws in a society by considering public interest that have neither been modulated by the Lawgiver nor by His Messenger (peace be upon him) is called *maslaha mursalah* or *istislah*. When the general legal ruling are established in the absence of particular textual authority by taking the public interest into consideration, the Islamic legal maxims are developed with the help of this fifth most significant source of Islamic law. An example of the Islamic legal maxim derived by the analogy has been mentioned here:

ما يفضي الى الحرام حرام

“What leads to unlawful actions is also unlawful”.

The wisdom behind this legal maxim formulated by the jurists is that even originally permitted deeds can be regarded as prohibited sometimes if they lead towards some sort of harmful and prohibited consequences. For instance, selling grapes is allowed without any objection but to sell the grapes intentionally in spite of the awareness that the buyer is a wine-maker, is prohibited. Likewise, renting property or house is permitted, however, renting it with the purpose of converting it into a whorehouse is forbidden.¹⁶

4. *Istidlaal*

Lexically, *istidlaal* means “asking for an evidence”.¹⁷ In the field of Islamic legal maxims, *istidlaal* means “to provide proof or evidence that has not been not directly extracted from an original text e.g. the *Qur'anic* verse or *Prophetic Tradition* or from *consensus* or *analogy*”.

For example a legal maxim is:

“The initial presumption is freedom from all liability”.

This legal maxim has not been extracted from a particular *Qur’anic* verse or *Hadith*, however it is a general ruling of Islam that initially a person is free from any liability, responsibility and blame.¹⁸

3. Legal status of the Islamic legal Maxims (*Al-Qawa’id Al-Fiqhiyyah*) for the Declaration of Legal Verdicts

The primary and secondary sources of Islamic law did not provide each and every detail for every new legal issue. This highlights the need for an organized and standard approach to the contemporary cases where, rather than finding out a direct *Qur’anic* commandment or Prophetic Tradition, the legal maxims based on *Shari’ah* injunctions could be utilized to cover the particulars of the cases and to issue judgment. The Islamic legal maxims are neither law themselves nor they are a foundation for any permanent legal ruling, however, argumentation on the basis of a legal maxim or its application to contemporary cases is absolutely valid. An argument based on a legal maxim will be called an argument metaphorically because that is not based on an actual source of Islamic law. Such argument would have the status of a derivative, by knowing whose general value, its details or sub-details and similarly, the details or sub-details of the relevant legal maxim would be easy to know. According to Dr. Mustafa Ahmad al-Zarqa:

“The Islamic legal maxims that help a jurist to create deep jurisprudential enlightenment in him, are not the explicit legal texts (nusus) which can serve as a foundation for making judicial decisions.”¹⁹

Bibliography

1. Al-Jaza’iri, Abd al-Majid. *Al-Qawa’id al-Fiqhiyyah al-Mustakhrajah min KitabI’lal-Muwaqqi’een*. 1st ed. Riyadh, Saudi Arabia: Dar Ibn al-Qayyim, n.d.
2. Azzaam, Abdul Aziz Muhammad. *Al-Qawa’id al-Fiqhiyyah*. Cairo, Egypt: Dar-ul-Hadith, 2005.
3. Abu Yousuf. *Kitab-ul-Kharaj*. Translated by Abdul Hameed Siddiqi. Lahore, Pakistan: Islamic Book Centre, 1993.

4. Al-Dabbusi, Abu Zaid Abdullah ibn Umar. Tasis al-Nazar. Cairo, Egypt: al-Matba'ah al-Adabiyyah, n.d.
5. Al-Qarafi, Ahmad ibn Idris. Kitab al-Furuq: Anwar al-Buruq fi Anwa al-Furuq. Riyadh, Saudi Arabia: Dar us Salam, 2001.
6. Al-Shatibi. Al-Muwafaqaat fi Usul al-Shari'ah. Cairo, Egypt: al-Maktabah al-Tijariyyah al-Kubra, 1975.
7. Al-Nadwi, Ali. "Al-Qawa'id al-Fiqhiyyah: Mafhumuha, Nashatuha, Tatawwuruha". PhD Thesis, Dar al-Qalam_Damascus, Syria, 1998.
8. Al-Maqqari. Al-Qawa'id. Makkah, Saudi Arabia: Jami'ah Umm al-Qura, MarkazIhya' al-Turath al-Islami, 1996.
9. Al-Jerjani, Ali Ibn Muhammad Ibn Ali. Al-Ta'rifat. Beirut, Lebanon: Dar al-Kitab al-Arabi Press, 1985.
10. Al-Qawa'id Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence) A Translated Compilation. Islamic University of North America, Mishkah, 2013. [www.muslimlibrary.com/dl/English Legal Maxims of IslamicJurisprudence.pdf](http://www.muslimlibrary.com/dl/English/Legal/Maxims/of/IslamicJurisprudence.pdf).
11. Al-Khateeb, Hasan Ahmad. Fiqh-ul-Islam. Translated by Rasheed Ahmad Arshad. Karachi, Pakistan: Nafees Academy, 1982.
12. Al-Sulami, Ibn Abd al-Salam. Qawaid al-Ahkam fi Masalih al-An'am. Cairo, Egypt, 1968.
13. Al-Qurtubi, Ibn Rushd. Al-Qawaid. Cairo, Egypt, n.d.
14. Al-Jawziyyah, Ibn Qayyim. Al-Qawaid al-Fiqhiyyah. Riyadh, Saudi Arabia: Dar Ibn al-Qayyim, 2008.
15. Al-Suyuti, Jalal al-Din. Al-Ashbahwal-Naza'ir. Beirut, Lebanon: Dar al-Kutub al-Ilmiyyah, 1983.
16. Atiyah, Jamal-Uddin. Fiqh-e-Islami Ki Nazriyah Saazi. Translated by Ateeq Ahmad Qasimi. Lahore, Pakistan: Al-Faisal Nashiraan-o-Tajiraan-e-Kutab, 1977.
17. Al-Zuhayli, Muhammad. Al-Qawa'id al-Fiqhiyyahwa Tatbiqaatuha fil-Madhahib al-Arba'ah. Damascus, Syria: Dar-al-Fikr, 2006.

18. Al-Burnu, Muhammad Sidqi. Mawsu'at al-Qawa'id al-Fiqhiyyah. Beirut, Lebanon: Mu'assasat al-Risalah, n.d.
19. Al-Rugi, Muhammad. Nazariyyat al-Taqid al-Fiqhiwa-Atharuha fi-Ikhtilaf al-Fuqaha. Morocco: Jamiat Muhammad al-khamis, Kuliyat al-Adab, 1994.
20. Ash-Shami, Muhammad Amin ibn Abideen. Radd al-Muhtar Ala al-Durr al-Mukhtarr. Beirut, Lebanon: Dar-e-Ihya at-Tauraath al-Arabi, 1998.
21. Ataasi, Muhammad Khalid. Sharh Majallah. Translated by Mufti Amjad al-Ali. Islamabad, Pakistan: International Research Institute, 1986.
22. Al-Sa'alabi, Muhammad bin Hasan. Al-Fikr al-Saami fi Tareekh al-Fiqh al-Islami. Beirut, Lebanon: Dar al-Kutub al-Ilmiyyah, 1995.
23. Ameen, Muhammad Taqi. Fiqh-e-Islami Ka Tarikhi Pas-e-Manzir. Lahore, Pakistan: Islamic Publications PVT, LTD, 1996.
24. Al-Amiri, Rashed. "Legal Maxims in Islamic Jurisprudence, Their History, Character and Significance". PhD Thesis, University of Birmingham_England, UK, 2003.
25. Al-Mujaddadi, Sayyad Muhammad Ameer al-Ahsan. Qawaid al-Fiqh. Karachi, Pakistan: Sadaf Publishers, 1986.
26. Al-Sadlan, Salih. Al-Qawa'id al-Fiqhiyyah al-Kubra. Riyadh, Saudi Arabia: Dar Balansiyah, 1996.
27. Al-Subki, Taj al-Din. Al-Ashbahwal-Naza'ir. Beirut, Lebanon: Dar al-Kutub al-Ilmiyyah, 1991.
28. Al-Zuhaili, Wahbah. Al-Fiqh al-Islami wa Adillatahu. Damascus, Syria: Dar al-Fikr, 1989.
29. Al-Bahusayn, Ya'qub. Al-Qawa'id al-Fiqhiyyah: al-Mabadi', al-Muqawwimat, al-Masadir, al-Daliliyyah, al-Tatawwur. Riyadh, Saudi Arabia, n.d.
30. Al-Qaradawi, Yusuf. Min Ajli Sahwatin Rashidah. Cairo, Egypt: Dar al-Shuruq, 2001.
31. Ali, Zulfiqar. "Style and Structure of the Jurists in the Field of Legal Maxims". Ma'arif-e-Islami 12, 2.

32. Birjas, ShaykhYaser. *Al Qawa'id Al-Fiqhiyyah*. Houston, USA: Ilm Summit, 2009.
33. Dar al-Ifta al-Misriyyah. "Islamic Legal Maxims". Last Modified 2016. <http://www.dar-alifta.org/Foreign/ViewArticle.aspx?ID=361&CategoryID=3>.
34. Dhillon, Irfan Khalid. *Ilm-e-Usul-e-Fiqh; an Introduction*. Islamabad, Pakistan: Shari'ah Academy, International Islamic University, 2006.
35. Elgariani, Fawzy Shaban. "Al- Qawa'id al-Fiqhiyyah (Islamic Legal Maxims): Concept, Functions, History, Classifications and Application to Contemporary Medical Issues". PhD Thesis, University of Exeter_England, UK, 2012. <https://ore.exeter.ac.uk/repository/bitstream/handle/10036/4001/ElgarianiF.pdf?sequence=2>.
36. Ghazi, Mehmood Ahmad. *Qawa'id-e-Kulliyyah Aur Unka Aaghaz-o-Irtiqa*. Islamabad, Pakistan: Shari'ah Academy, International Islamic University, 1992.
37. Ghazi, Mehmood Ahmad. *Muhaziraat-e-Fiqh*. Lahore, Pakistan: Al-Faisal Nashiraan, 2005.
38. Ghani, Hafiz Abdul. "A Study Of The History Of Legal Maxims Of Islamic Law". *International Journal of Arts and Commerce* 1, 2.
39. Hasan, Ahmad, Siddique Arshad Khilji, and Ghulam Murtaza Azad. *Hudood-o-Ta'ziraat*. Islamabad, Pakistan: International Research Institute, 1982.
40. Ibn Rajab, *Al-Qawaid fil Fiqh al-Islami*. Dar al-Fikr, n.d.
41. Ibn Ali, Abi Hafs Siraj al-Din Umar. *Al-Ashbah wal-Nazair*. Karachi, Pakistan: Idarah al-Qur'an wal-Uloom al-Islamiyyah, 1996.
42. Irfani, Abdul Malik. *Islami Qanoon Key Kulyaat*. Lahore, Pakistan: QanooniKutabKhana, n.d.
43. Ibn Nujaym, Zayn al-Abidin. *Al-Ashbahwal-Naza'ir*. Beirut, Lebanon: Dar al-Kutub al-Ilmiyyah, 1993.
44. Khan, Tauqir Muhammad. *Jurisprudence in Islam*. New Delhi, India: Pentagon Press, 2007.
45. Kamali, Mohammad Hashim. "Qawa'id Al-Fiqh: The Legal Maxims Of Islamic Law". UK: The Association of Muslim Lawyers, n.d.
46. Last Modified October 10, 2015.

- <http://kangbahauddin.blogspot.com/2015/10/sejarah-perkembangan-qowaid-fiqhiyyah.html>.
47. Last Modified May 10, 2012.
<http://cahayailmucia.blogspot.com/2012/05/book-book-of-jurisprudence-qaeda-from.html>.
48. Mansoori, Muhammad Tahir. Shari'ah Maxims on Financial Matters. Islamabad, Pakistan: International Institute of Islamic Economics, 2007.
49. Mughal, Munir Ahmad. Islamic Legal Maxims Consisting of Al-Karkhi's Al-'Usul. Lahore, Pakistan: Hammad Law House, 1999.
50. Mohammed, Khaleel. "The Islamic Law Maxims". Islamic Studies 44, 2.
51. Nyazee, Imran Ahsan Khan. Islamic Legal Maxims. Lahore, Pakistan: Federal Law House, 2013.
52. Qadri, Anwar A. Islamic Jurisprudence In the Modern World. Lahore, Pakistan: Sh. Muhammad Ashraf, 1981.
53. "Qawaid Fiqhiyyah: Definition and History". http://www.tayibah.com/eIslam/pengertian_dan_sejarah_qawaid_fiqhiyyah.php.
54. Rustum Baz, Salim. Sharh al-Majallah. Beirut, Lebanon: Dar-ul-Kutub al-Ilmiyah, 2010.
55. Rabb, Intisar A. "Islamic Legal Maxims as Substantive Canons of Construction: Hudud Avoidance in Cases of Doubt". Islamic Law and Society 17.
56. Shubayr, Muhammad. Al-Qawa'id al-Kulliyyah wal-Dawabit al-Fiqhiyyah. Amman, Jordan: Dar al-Nafa'is, 2007.
57. Saiti, Buerhan, and Adam Abdullah. "The Legal Maxims of Islamic Law Excluding Five Leading Legal Maxims) and Their Applications in Islamic Finance". Journal of King Abdulaziz University Islamic Economic 29, 2.
58. Shair Pao, Gul Zadah. "Urdu Zuban Mein Qawa'id-e-Fiqhiyyah Par Ilmi Kaam Ka Ta'arufi o Tajziyati Ja'izah". Fikr-o-Nazar 53, 3.

59. Saadi, Abdul Samad. Islamic Legal Maxims; A Quick Primer, 2009, [www.kantakji.com/.../qawaid-fiqhiyyah-\(Islamic-legal-maxims\)-a-quick-primer.aspx](http://www.kantakji.com/.../qawaid-fiqhiyyah-(Islamic-legal-maxims)-a-quick-primer.aspx).
60. Zarqa, Mustafa Ahmad. *Al-Madkhal al-Fiqhi al-Aam. Damascus, Syria: Dar-al-Fikr, 1968.*
61. Zanjani. Al-Mansur fil-Qawaid. Kuwait city, Kuwait: Ministry of Auqaf, n.d.

References & Notes

-
- ¹ Muhammad Shubayr, *Al-Qawa'id al-Kulliyah wal-Dawabit al-Fiqhiyyah*, 2nd ed. (Amman, Jordan: Dar al-Nafa'is, 2007), 40.
- ² Muhammad Sidqi Al-Burnu, *Mawsu'at al-Qawa'id al-Fiqhiyyah*, (Beirut, Lebanon: Mu'assasat al-Risalah), 36-43.
- ³ Ya'qub Al-Bahusayn, *al-Qawa'id al-Fiqhiyyah: al-Mabadi', al-Muqawwimat, al-Masadir, al-Daliliyyah, al-Tatawwur* (Riyadh, Saudi Arabia, n.d.)192
- ⁴ Al-Qur'an: 53: 39.
- ⁵ Salih Al-Sadlan, *Al-Qawa'id al-Fiqhiyyah al-Kubra* (Riyadh, Saudi Arabia: Dar. Balansiyah, 1996), 493.
- ⁶ Abu Zakariya Yahya bin Sharf An-Nawawi, *Arba'in an-Nawawi*, Hadith no. 32., Trans. Ameer-ud-Din Meher, (Lahore, Pakistan: Al-Badar Publications, 2009), 170.
- ⁷ Munir Ahmad Mughal, *Islamic Legal Maxims Consisting of Al-Karkhi's Al-'Usul* (Lahore, Pakistan: Hammad Law House, 1999), 26.
- ⁸ Al-Qur'an: 94:6.
- ⁹ Al-Qur'an: 2:185.
- ¹⁰ Al-Qur'an: 2:173.
- ¹¹ Muhammad bin Ismail Bukhari, *Sahih Bukhari, Book of Revelation*, Hadith no.1, Trans. by Muhammad Dawood Raaz, vol.,1 (Lahore, Pakistan: Maktabah Tarjuman, 2004), 150.
- ¹² Abu Isa Muhammad ibn Isa at-Tirmidhi, *Jami' Tirmidhi, The Chapters On Legal Punishments, Hadith No.1424*, Trans. by Abu Khaliyl, Vol.,3, 1st ed. (Riyadh, Saudi Arabia: Maktaba Dar-us-Salam, 2007), 208.
- ¹³ Mohammad Hashim Kamali, "*Qawa'id Al-Fiqh: The Legal Maxims Of Islamic Law*" (UK: The Association of Muslim Lawyers, n.d.), 4.
- ¹⁴ Muhammad Al-Rugi, *Nazariyyat al-Taqid al-Fiqhi wa-Atharuha fi-Ikhtilaf al-Fuqaha*, 1st ed. (Morocco: Jamiat Muhammad al-khamis, Kuliyat al-Adab, 1994), 113.
- ¹⁵ Fawzy Shaban Elgariani, "*Al- Qawa'id al-Fiqhiyyah (Islamic Legal Maxims): Concept, Functions, History, Classifications and Application to Contemporary Medical Issues*" (PhD Thesis, University of Exeter England, UK, 2012), 68, <https://ore.exeter.ac.uk/repository/bitstream/handle/10036/4001/ElgarianiF.pdf?sequence=2>.
- ¹⁶ Ibid., 71-72.
- ¹⁷ Ali Ibn Muhammad Ibn Ali Al-Jerjani, *Al-Ta'rifat*, 1st ed. (Beirut, Lebanon: Dar al-

Kitab al-Arabi Press, 1985), 193.

¹⁸ *Al-Qawa'id Al-Fiqhiyyah (Legal Maxims of Islamic Jurisprudence) A Translated Compilation* (Islamic University of North America, Mishkah, 2013), 30, [www.muslimlibrary.com/dl/English Legal Maxims of Islamic Jurisprudence.pdf](http://www.muslimlibrary.com/dl/English%20Legal%20Maxims%20of%20Islamic%20Jurisprudence.pdf), Retrieved on 5th December, 2016

¹⁹ Munir Ahmad Mughal, *Islamic Legal Maxims Consisting of Al-Karkhi's Al-'Usul* (Lahore, Pakistan: Hammad Law House, 1999), 14-15