

Epistemological Parallels and Divergences: A Comparative Analysis of Legal Maxims and Fiqhiyyah Rules and Their Implications for Contemporary Jurisprudence

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Abstract:

This study aims to analyze the similarities and differences between legal maxims in the Western legal tradition and Islamic legal maxims from a comparative epistemological perspective. Using a qualitative literature study approach, the study explores the conceptual structure, sources, hierarchy, and theological, sociological, and juridical dimensions of both legal maxim systems. The results show that both serve as guidelines for legal reasoning and decision-making, providing a normative framework that guides consistency, fairness, and flexibility in legal practice. However, there are fundamental differences in their legitimacy and scope of application. Islamic maxims have a strong theological foundation, derived from the Qur'an, hadith, ijihad, and scholarly consensus, and are structured in a systematic hierarchy from universal principles to applicable rules. These maxims also integrate vertical (human relations with God) and horizontal (human relations among humans) dimensions, thus creating a holistic and welfare-oriented legal approach. In contrast, legal maxims develop through jurisprudential practice and precedent, are more flexible, pragmatic, and focus on legal certainty and procedural justice in social interactions. This comparative analysis not only demonstrates functional similarities and normative objectives but also highlights the potential for epistemological integration between the two legal traditions. The research findings provide an important contribution to contemporary legal development, particularly in countries with pluralistic legal systems like Indonesia, where dialogue between Islamic and Western law can enrich national legal methodology, support the formation of adaptive, contextual, and equitable regulations, and equip practitioners and academics with more comprehensive insights.

Keywords: comparative law; contemporary law; fiqhiyah principles; Islamic law; legal epistemology; legal maxims; Western law.

INTRODUCTION

Law as a system of norms that governs social life is constantly evolving along with social dynamics and human civilization. In its development, each legal tradition develops general rules that function as guidelines in reasoning and legal discovery. In the Western legal tradition, these rules are known as legal maxims or maxims of law, while in the Islamic legal tradition, similar rules are known as *fiqhiyah* rules or *al-qawa'id al-fiqhiyyah*. These two legal maxims play a crucial role in shaping the thinking of legal practitioners, including judges, advocates, and academics. Western legal maxims such as *ignorantia juris non excusat* (ignorance of the law does not justify judgment) and *audiatur et altera pars* (both parties must be heard) have become integral parts of both civil and common law systems. On the other hand, Islamic jurisprudence maxims such as *al-umuru bi maqasidiha* (a matter depends on its purpose) and *al-yaqinu la yazuulu bi al-shakk* (certainty cannot be dispelled by doubt) serve as the methodological foundation for Islamic legal *ijtihad*. The study of these two legal maxims and Islamic jurisprudence traditions has become increasingly important in the context of legal globalization and inter-civilizational dialogue. In many modern Muslim countries, and particularly in Indonesia, a country with a pluralistic legal system that combines customary law, Islamic law, and Western law, a thorough understanding of these two legal maxims is highly relevant. The results of integration or dialogue between legal traditions can enrich the development of national law that is responsive to the needs of a pluralistic society. This is further strengthened by scientific research in internationally and nationally indexed legal journals that demonstrate how *fiqh* principles have been applied in contemporary legal decision-making practices.

Epistemologically, general legal rules such as legal maxims and *fiqh* rules function as higher-level meta-rule guiding principles that assist in the process of deducing concrete norms from general norms, or in interpreting norms when legal texts are less explicit in contemporary situations. They allow flexibility in legal reasoning without always having to refer literally to specific legal texts. In the Islamic tradition, the principles of Islamic jurisprudence (*al-qawa'id al-fiqhiyyah*) are a legitimate part of the *ijtihad* method; according to recent studies, these principles continue to evolve and are applied in various modern legal contexts in Indonesia (Jalili & Syukri, 2025). Empirical research shows that the application of Islamic jurisprudence principles in sharia judicial practice in Indonesia is not merely theoretical. For example, a study of sharia economic court decisions in Indonesia found that of the 384 decisions analyzed between 2016 and 2020, several decisions involved judges using the principles of Islamic jurisprudence. Islamic jurisprudence and *al-qawa'id al-usūliyyah* as the basis for legal argumentation (Taufiki et al., 2022). This demonstrates that *fiqh* rules are not merely part of the classical tradition but are also relevant and dynamic in the contemporary legal context. Furthermore, historical studies show that *fiqh* rules have long served as tools for mujtahids or faqihs in formulating laws when faced with new cases not specifically regulated in the texts (Firmansyah & Dongoran, 2021). Their role is crucial in keeping Islamic law alive, relevant, and adaptive to societal developments.

In the Western tradition, legal maxims, unlike Islamic texts, are not tied to sacred texts and serve as general legal principles applicable across various branches of law (criminal, civil, administrative, procedural, and so on). Legal maxims aid in legal interpretation, fill legal gaps, and provide a basis for argumentation when legal codes do not provide direct guidance for a case. In the Indonesian context, where the legal system is pluralistic and combines elements of customary law, Islamic law, and Western-based postcolonial legal systems, an epistemological dialogue between legal maxims and Islamic jurisprudence (*fiqhiyah*) principles holds great potential. A thorough understanding of the characteristics, sources, logic, and reasoning methods of these two traditions enables academics, legislators, judges, and advocates to conduct contextual and inclusive legal *ijtihad*. Such comparative studies are not only academic but also practical. For example, in Islamic economic regulation, Islamic investment, microfinance, or social regulation, where Western legal norms are sometimes less sensitive to religious values, Islamic jurisprudence can provide a normative framework consistent with Islamic principles, without losing the universality of law (E. Hidayat & Ahmad, 2023). However, it is important to understand that integration or dialogue between legal traditions does not automatically equate all aspects. Both traditions have different epistemological characteristics, sources of legitimacy, and reasoning methodologies. Legal maxims in the Western tradition are generally secular and rationalistic, often built from jurisprudential consensus, precedent, or general principles of law. Meanwhile, Islamic jurisprudence relies on religious sources such as the Qur'an, the Sunnah, and the *ijtihad* of scholars and has inherent religious and ethical dimensions.

In Indonesia's pluralistic legal reality, fundamental issues arise when the national legal system must harmonize various differing values, particularly between principles rooted in secular legal traditions that form the primary basis of positive law inherited from colonial times and the sharia values that are alive and embraced by the majority of society. This tension in values cannot be viewed as a dichotomous conflict, but rather as an epistemological dynamic that demands a deeper scientific approach. In this context, a conceptual dialogue between legal maxims is crucial. These two normative frameworks, when combined through comparative analysis, can open up space for formulating more inclusive, moderate, and adaptive national legal norms. This approach allows for the formation of laws that not only accommodate the diversity of Indonesian society but also remain aligned with universal principles such as justice, legal certainty, proportionality, and rationality in law enforcement (Wahyudi & Suntana, 2025). The dialogue between these two legal traditions ultimately contributes to strengthening the philosophical and normative foundations of the national legal system, as each has complementary epistemological advantages: legal maxims offer a secular and rational logical and methodological framework, while Islamic legal maxims provide an ethical, moral, and spiritual orientation that can enrich the legal decision-making process.

A comparative study of legal maxims and Islamic jurisprudence holds strategic value in addressing contemporary legal problems that continue to evolve with the pace of social change and technological advancement. New issues in the realms of digital finance, electronic transactions, bioethics, artificial intelligence, the environment, and even Islamic economic governance demand flexibility and depth of analysis that can no longer be addressed solely by classical textual or normative approaches. This is where a richer epistemological perspective is crucial, as both legal traditions have a long history of providing guidance for resolving complex and multidimensional cases. By utilizing both frameworks simultaneously, policymakers, judges, and legal academics can present solutions that are not only legally valid but also socially legitimate and acceptable to various groups in society (Arisman & Husti, 2023). Integrating insights between legal maxims and Islamic jurisprudence will significantly contribute to the formation of more responsive national law. This responsiveness not only means keeping pace with changing times but also ensures that the law protects citizens' rights, guarantees substantive justice, and fosters a harmonious social order. A study that explores the epistemological relationship between these two legal traditions is therefore not only important for the academic world but also has practical value for legal reform and the formation of a plural, progressive public policy in Indonesia that remains rooted in the nation's identity.

LITERATURE REVIEW

Previous research on the similarities and differences between legal maxims in the Western legal tradition and Islamic jurisprudence (*fiqh*) principles in Islamic law demonstrates a growing discourse that increasingly emphasizes the importance of a comparative approach in understanding the foundations of legal reasoning. Various studies highlight that both systems serve similar functions as general principles guiding the application of law to particular cases. However, previous research also emphasizes fundamental differences in terms of epistemology, scope of application, and the underlying normative basis. These studies have focused largely on conceptual analysis of each system but have not fully integrated epistemological and applicative comparisons in the contemporary legal context. Therefore, this study aims to address this gap by evaluating the intersections and divergences between legal maxims and Islamic jurisprudence and assessing their relevance to modern legal development.

First, research conducted by Muhaki (2023) on "Legal Research and the Epistemology of Al-Shatibi *fiqh* from a Scientific Rosedur Perspective." This research examines the epistemology of *fiqh* through the *maqasid sharia* approach as the core methodology in legal research, namely by making the main objectives of sharia, including the preservation of religion, life, reason, descendants, and property, the foundation for reading and interpreting the law. This approach does not stop at textual understanding, but explores the logic, benefits, and substantive values that underlie each legal provision. In research practice, *maqasid sharia* functions as a compass to ensure that the results of *istinbat* remain adaptive and relevant to social dynamics. Meanwhile, the rules of *fiqh* work as major premises in *fiqh* syllogisms, providing general patterns that form the basis for legal conclusions in specific cases. By making rules as universal principles, the process of legal reasoning becomes more structured and consistent. The integration of these three aspects strengthens the validity, accuracy, and objectivity of contemporary legal analysis (Muhaki, 2023).

Second, research conducted by Deden Hidayat (2019) on "The Relevance of *Ijma'* and *Qiyas* in the Structure of Islamic Law and the Structure of Positive Law in Indonesia." This research describes the concept of

Qiyās al-khafi as a form of legal analogy whose *illat* is not immediately apparent, thus requiring analytical acumen to identify its legal relationship. Because the legal reasons in this *qiyas* are subtle and hidden, the reasoning process requires in-depth study so that new cases can be connected to the original law through similarities in meaning or more subtle benefits. From the perspective of *fiqh* principles, legal substance does not only depend on the text, but also on general principles such as benefits, avoiding harm, and providing convenience. These rules serve as a solid argumentative foundation in understanding contemporary *furu'* issues. When juxtaposed with legal maxims in the modern legal system, *fiqh* principles show relevance because both serve as general guidelines in responding to new cases. Therefore, the study of *Qiyās al-khafi* and *fiqhiyyah* rules is very important in the comparative analysis of contemporary law (D. Hidayat, 2019).

Third, research conducted by Nur Amelia Putri, Andriani Pratita Rizki, Irma Widya Rahmawati, Mu'izzatu Millatillah, Galena Astuty Sri Sulastri, Ma'rifatul Azizah and Taufiq Kurniawan (2025) on "Integrating Logic with the Legal Istinbath Method." This research examines the epistemology of contemporary *ijtihad* by placing the rules of *fiqh* as the main methodological tool when the text does not provide an explicit explanation. In conditions of textual emptiness or ambiguity, general rules such as benefit, avoiding harm, and the principle of convenience serve as the basis for extracting relevant and contextual laws. This approach emphasizes that modern *ijtihad* is not only based on literal texts, but also on systematic reasoning supported by universal principles of *fiqh*. This makes the rules of *fiqh* function as an epistemological bridge between the text and the ever-evolving social reality. Its relevance becomes even more apparent when compared with legal maxims in the modern legal tradition, as both provide general guidelines for resolving new cases. Thus, this research strengthens the position of *fiqh* maxims as a key instrument in contemporary *ijtihad* (Putri et al., 2025).

Fourth, research conducted by Ismail Jalili (2023) on "Ibn Nujaym's Thoughts on Legal Maxims (*Qawā'id al-Fiqhiyyah*): An Analysis of Their Application to Juridical Issues." This research examines the thoughts of Ibn Nujaym al-Hanafi in his monumental work, *al-Asbah wa al-Nazā'ir*, which is one of the most important references in the Hanafi tradition regarding the principles of Islamic jurisprudence. This work not only summarizes the universal principles that form the foundation of legal determination but also establishes methodological principles that guide the *istinbat* process in various *furu'* issues. Through an in-depth analysis of the structure of the principles developed by Ibn Nujaym, this study demonstrates how his contributions provide a foundation for legal authorities in formulating sharia fatwas that are responsive to contemporary issues. Relevance *al-Asbah wa al-Nazā'ir* is increasingly powerful because the systematization of rules it offers can be adapted to the dynamics of modern law without losing the methodological roots of the Hanafi school. Thus, Ibn Nujaym's thought plays a significant role in the development of *fiqh* epistemology and the issuance of fatwas in the present era (Jalili, 2023).

Fifth, research conducted by Kholidah (2023) on "The Urgency of *Qawa'id Fiqhiyyah* in the Development of Islamic Law." This research examines the principles of *fiqhiyyah* as alternative evidence in addressing contemporary issues that lack explicit texts. In conditions where the text does not provide direct guidance, the principles of *fiqhiyyah* serve as a methodological instrument to guide the *istinbat* process through general principles such as benefit, prevention of harm, and ease of religious practice. Its dynamic and flexible nature makes this principle highly relevant to addressing the challenges of modern law, especially in the financial sector, digital transactions, and Sharia economic practices. This research also highlights how the principles of *fiqhiyyah* have been applied in the formulation of the DSN-MUI's fatwas, which require methodological flexibility to remain in accordance with sharia principles while being adaptable to current developments. Thus, the principles of *fiqhiyyah* have proven to play an important role as a rational basis in formulating contemporary law in a comprehensive and contextual manner (Kholidah, 2023).

Overall, previous studies demonstrate that *fiqh* principles and legal maxims hold a strategic position in the development of contemporary legal methodology. Studies by Muhaki, Hidayat, Putri et al., Jalili, and Kholidah all emphasize that universal principles in *fiqh* can serve as epistemological instruments that complement the gaps in texts and bridge modern social dynamics. Through both the *maqasid* approach, *qiyās al-khafi*, logical integration, and historical analysis of classical ulama thought, all these studies consistently demonstrate that *fiqh* principles are highly relevant for responding to new issues. Furthermore, implicit comparisons with legal maxims in modern law open up space for broader methodological dialogue to strengthen contemporary legal structures. Thus, these studies provide a solid foundation for this comparative study, which assesses the similarities, differences, and epistemological contributions of legal maxims and *fiqh* principles in the contemporary legal context.

METHOD

This study employs a qualitative approach using library research methods, as this approach is considered most appropriate for examining conceptual and theoretical issues related to the similarities and differences between legal maxims and *fiqh* rules from an epistemological perspective. All data used are secondary data collected from various scientific sources (Creswell, 2016). These sources include Scopus-indexed national journals on Islamic law and common law, authoritative books on legal maxims in the Western legal tradition, and classical and contemporary literature that reviews *fiqh* rules within an Islamic legal framework. Furthermore, various official documents and relevant legal policies were used to strengthen the analysis. Data selection was carried out by assessing the accuracy, relevance, currency, and credibility of each source. Specifically for scientific journals, this study prioritizes publications from reputable national journals such as *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* (Family Law and Islamic Law Journal), along with other law journals that meet international standards. With this foundation, this research ensures that all analyses presented are valid, comprehensive, and academically accountable in the context of a comparative epistemological study between legal maxims and *fiqh* rules.

The data collection technique in this study was implemented through several complementary stages. First, the researcher conducted a documentation study by collecting various written sources directly relevant to the research theme, including books, journal articles, and other legal documents. This step enabled the researcher to obtain a comprehensive overview of key theories and concepts related to legal maxims and *fiqh* rules. Second, the researcher conducted an electronic search through various academic databases to find the most recent journals covering similar topics. This process was carried out systematically to identify and use recent publications as analytical material. Third, all collected sources were re-selected based on their level of relevance to the research focus, ensuring that only relevant, credible, and supportive literature was used (Sugiyono, 2020).

Data analysis was conducted using several approaches. Content analysis was used to identify key themes related to legal maxims and *fiqh* rules. Next, a comparative analysis was applied to examine the similarities and differences between the two legal systems. Epistemological analysis was then used to explore the methodological roots and philosophical foundations underlying them, allowing for a deeper understanding of the knowledge structure of each system (Darmalaksana, 2022). Finally, a descriptive-conceptual analysis was applied to interpret the overall findings and compile them into comprehensive conclusions. The entire analysis was conducted in a structured manner, comparing the characteristics of the two systems along specific dimensions, including legal sources, normative hierarchy, rule function, practical application, and the underlying epistemological basis. Thus, this study produces a comprehensive picture of the relationship and differences between legal maxims and *fiqh* rules from a methodological perspective.

RESULTS AND DISCUSSION

1. Epistemology of Legal Maxims: Theological, Sociological, and Juridical Aspects

Legal maxims, or maxims of law, are concise expressions that formulate general legal principles and have gained widespread acceptance in the Western legal tradition. Their historical roots can be traced back to Roman law, then developed through canon law, before becoming a crucial part of the formation of modern legal systems in both the civil law and common law traditions. Characteristically, legal maxims possess several features that confirm their place in legal practice. First, their consistency and universality make these principles applicable to almost all areas of law. Second, legal maxims have historical continuity, as many have been known and used for centuries. Third, their consistent yet flexible formulation allows their application to adapt to developments in the contemporary legal context (Yusuf, 2023). Some examples of legal maxims that are often used as references include *Ignorantia juris non excusat*, which states that ignorance of the law is not a justification; *Audiatur et altera pars*, which emphasizes the importance of hearing both parties; *Nullum crimen, nulla poena sine praevia lege poenali*, which establishes the principle that there is no crime and punishment without a prior legal basis; and *Actori incumbit probatio*, which places the burden of proof on the plaintiff. Although legal maxims are not formally binding in the hierarchy of legal sources, they still carry significant moral and authoritative weight. In practice, legal maxims serve as basic guidelines for legal reasoning and are often used by judges and other legal practitioners to strengthen arguments or interpret legal norms. Thus, legal maxims play an important role as a conceptual foundation in the Western legal tradition.

a. Historical Origins and Philosophical Foundations

The epistemology of legal maxims is inseparable from the long evolution of Western law, which has evolved through various historical phases. Its philosophical roots can be traced back to the era of Ancient Roman Law, when jurists such as Gaius and Justinian began formulating universal general principles. During this period, the practical need to regulate economic transactions and social relations led to the emergence of fundamental principles, one of which was *pacta sunt servanda*, meaning that every agreement must be kept. In the Roman context, this principle reflected the importance of trust and certainty in public life, thus becoming one of the foundations of modern civil law. This epistemological development continued into the medieval era of Canon Law, when the Catholic Church had a dominant influence on European socio-political life. During this period, various canon law maxims emerged that not only emphasized justice but also strengthened the moral dimension in the application of law. One frequently cited principle is "*Ecclesia non vivit lege Romana, sed lege evangelica*," which asserts that the Church is not subject to Roman law but to the law of the Gospel. This demonstrates that legal maxims during this period had evolved into normative instruments combining rational and spiritual aspects. The next important stage occurred in the English common law tradition, where judges, through the practice of precedent and *stare decisis*, developed jurisprudential legal maxims. Principles such as "*Fiat justitia ruat caelum*," "Let justice be done though the heavens fall," symbolized a commitment to legal integrity. Through this process, legal maxims became not only practical guidelines but also reflected a consistent, systematic, and historical-based method of legal reasoning. Thus, the epistemology of legal maxims is formed by a combination of philosophical traditions, religious morality, and judicial rationality that have developed over time.

b. Epistemology Based on Rationality and Natural Justice

In the Western legal tradition, legal maxims are built on epistemological foundations that emphasize rationality, natural justice, and systematic consistency. These principles arose from the need to create rules that are not only technically valid but also philosophically and practically justifiable. One of the main foundations is practical rationality, namely the view that legal rules must be based on observations of truly effective legal practices. In this context, legal scholars develop maxims through deductive reasoning, starting from concrete cases and then formulating them into universal principles that can be applied in a variety of similar situations. In this way, legal maxims are the result of empirical reflection and possess normative value. Furthermore, the concept of natural justice is a crucial epistemological element in the formation of legal maxims. The Western tradition assumes that there are values of justice inherent in human nature and can be recognized through reason (D. Hidayat, 2019). Therefore, a number of classical maxims, such as *nemo iudex in causa sua*, which prohibits a person from being a judge in his own case, are understood as universal principles applicable across time and cultures. Their philosophical meaning not only establishes procedural rules but also reflects a commitment to basic morality in the administration of law. Another equally important aspect is the need for systematic consistency within a legal order. A good legal system must possess certainty and predictability, enabling society to understand the consequences of every action. To meet this need, legal maxims were developed to close gaps in the law not covered by written rules. Thus, maxims function to maintain the coherence of the legal system, ensure that each part supports the other, and prevent normative vacuums in judicial practice. It is through these three epistemological dimensions that legal maxims acquire their authoritative character and relevance in modern legal systems.

c. Sociological Dimension: Response to Community Needs

Legal maxims emerged in response to various needs arising from the development of Western legal systems. One key factor was practical juridical necessity, namely the need to resolve disputes when clear precedents were not yet available. In this context, legal maxims served as a tool to standardize legal procedures, providing judges and legal practitioners with general guidelines that could be applied consistently in similar situations. Thus, legal maxims helped create legal certainty and expedite court decision-making. A second factor driving the emergence of legal maxims was the development of economics and trade, particularly the need for certainty in commercial contracts. Increasingly complex trade activities demanded reliable principles, such as good faith, which ensured that parties acted honestly and respected each other's rights. Through legal maxims, these principles were formulated concisely and easily applied, thus maintaining the stability of economic transactions and strengthening trust in trade practices (Huda, 2020). Furthermore, the evolution of social structures played a role in the formation of legal maxims. As societal dynamics changed, the

legal system had to remain relevant and adaptable. Legal maxims offer flexibility that allows the law to respond to new cases arising from social, technological, or economic transformations. This flexibility makes maxims a flexible instrument capable of adapting to societal needs while maintaining the principles of justice and legal certainty. By accommodating juridical, economic, and social needs, legal maxims have proven to be a solid foundation in Western legal practice, providing enduring normative and philosophical guidelines for consistently interpreting and applying the law.

2. The Concept of Fiqhiyah Rules in Islamic Legal Tradition

The rules of Islamic jurisprudence, or *al-qawa'id al-fiqhiyyah* in Arabic, are general principles in the science of Islamic jurisprudence that serve as methodological tools in the process of *ijtihad* to establish Islamic law. These rules have a solid theological foundation because they are sourced from the Qur'an and Sunnah, and are strengthened through the interpretation and *ijtihad* efforts of scholars who meet the standards of scholarship and authenticity of the sources. Thus, the rules of Islamic jurisprudence serve not only as practical guidelines but also as an epistemological foundation that ensures the consistency of Islamic law in various contexts. Characteristically, the rules of Islamic jurisprudence have several important features. First, their theological foundation ensures that each rule is supported by revelation and credible interpretations of scholars. Second, these rules are arranged hierarchically, starting with universal rules (*kulliyah*), then specific rules (*juz'iyah*), and finally applicable rules (*amaliyah*), thus facilitating the application of the principles across various levels of cases. Third, the principles of Islamic jurisprudence (*fiqh*) have epistemological continuity with the *usul fiqh* system, thus maintaining the methodology of Islamic law. Some examples of fundamental principles include *al-umuru bi maqasidiha* (everything depends on its purpose), *al-dararu yuzal* (danger must be removed), *al-mashaqqah tajlibu al-taysir* (difficulty gives rise to ease), and *al-yaqinu la yazuulu bi al-shakk* (certainty cannot be removed by doubt). In practice, these principles form a clear hierarchy and serve as guidelines for interpreting the law in accordance with sharia's objectives. Comparative research shows that there are differences in the application of Islamic jurisprudence (*fiqh*) principles between the four main schools of thought in Islam, but all of them continue to emphasize the principles of universality, flexibility, and contextual relevance as the core of contemporary Islamic law (Al-Fiqhiyyah, 2024).

a. Theological Dimension: Revelation as the Primary Source

The epistemology of Islamic jurisprudence is firmly grounded in theological principles, with the Qur'an as the fundamental axiom and primary source of legal principles. Verses such as QS. Al-Baqarah: 185

يُرِيدُ اللَّهُ بِكُمُ الْيُسْرَ وَلَا يُرِيدُ بِكُمُ الْعُسْرَ ۗ

"Allah intends ease for you, and does not intend hardship for you." QS. Al-Baqarah: 185

Furthermore, Allah SWT says in QS. Al-Hajj: 78

هُوَ اجْتَبَأَكُمْ وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ ۗ

"And He has not placed upon you in religion any hardship." QS. Al-Hajj: 78

Allah SWT also says in, QS. An-Nisa: 58

إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا ۗ

"Indeed, Allah commands you to hand over all trusts to their rightful owners." QS. An-Nisa: 58

The Prophet's hadith plays a crucial role in explaining and developing the principles of Islamic jurisprudence, complementing the foundation laid down in the Qur'an. One of his famous sayings, "Difficulty brings ease" (Narrated by Bukhari and Muslim), emphasizes the principle of *al-mashaqqah tajlibu al-taysir*, which states that every difficulty in legal practice must be balanced with ease, so that Islamic law remains relevant and applicable in real life. This hadith not only serves as a normative guideline but also embodies the principle of *maqasid sharia*, which emphasizes the purpose of sharia, namely ensuring that every law implemented aims to safeguard the welfare of the community and prevent harm. *Maqasid al-shari'ah* serves as an epistemological framework for the principles of Islamic jurisprudence (Alamsyah, 2020). The objectives of sharia include preserving five main

aspects: religion, life, intellect, lineage, and property, which serve as benchmarks for assessing the validity and relevance of law. The principles of Islamic jurisprudence (*fiqhiyah*) themselves are the operational implementation of the *maqasid* (objectives of Islamic jurisprudence), so that every legal formulation not only follows texts and precedents but also considers broader interests and benefits. By integrating *hadith* and *maqasid sharia*, the principles of Islamic jurisprudence become a systematic, flexible, and methodological instrument oriented toward a balance between normative principles and social context, providing a solid foundation for establishing contemporary Islamic law.

b. Sociological Dimension: Response to Social Reality

The principles of Islamic jurisprudence are born from the dynamic interaction between revelation and social reality, allowing Islamic law to remain relevant and adaptive to societal needs. One important dimension is the concept of emergency and necessity (*darurah* and *hajah*), which emphasizes that in certain situations the law can adapt to prevent greater harm. The fundamental verse referred to, "Indeed, Allah has explained all things" (Quran, An-Nahl: 89), forms the basis of the principle of *al-darurat tubihu al-mahdhurat*, meaning that emergency permits the forbidden. A historical example of this can be seen in the fatwas of the Companions who permitted the consumption of carrion during severe famine, demonstrating the flexibility of the law in responding to critical situations. Furthermore, societal customs (*urf*) are also a secondary source of law recognized in Islamic jurisprudence. The principle of *al-'adatu muhakkamun* emphasizes that generally accepted social practices can serve as legal guidelines. This allows for legal adaptation to local conditions, such as differences in transaction practices between rural and urban communities, so that Islamic law remains relevant without losing its universal principles (Zulkarnain, 2022). Another significant dimension is convenience and leniency (*taysir* and *rukhsah*), which reflect the law's response to diverse societal conditions. The holistic concept (*sumulium*) in the application of law emphasizes that each provision must consider the social, physical, and psychological context of the community. An example is the exemption from worship for the sick or those traveling, which demonstrates that Islamic law combines normative principles with practical interests. Thus, the principles of Islamic jurisprudence serve as flexible, contextual instruments, oriented toward a balance between revelation and social reality, ensuring the law remains alive and applicable.

c. Legal Dimension: Systematic Ijtihadi Process

The legal epistemology of Islamic jurisprudence (*fiqh*) rules is implemented through a systematic and structured process, combining observation of reality, references to sacred texts, and methodological reasoning to produce applicable laws. The first stage is observation of reality (*musahabah al-waqi'*), in which scholars identify legal issues not explicitly regulated in texts. This process involves collecting empirical data on societal conditions, social practices, and challenges faced by the community, so that the established laws are relevant to the real situation and societal needs. The second stage is identification of relevant texts, namely the search for Quranic verses and *hadith* related to the issue at hand. The analysis is conducted by considering the historical and linguistic context, including the *asbab al-nuzul* and *asbab al-wurud*, to ensure a precise interpretation consistent with *sharia* principles. The generalization and formulation stages are carried out through the *istinbat* process using the *usul fiqh* method (Asror et al., 2021). In this stage, specific cases are analyzed to develop universal rules. Validation is carried out by referring to the consensus of scholars (*ijma*) and legal analogy (*qiyas*), so that the resulting rules have strong scientific and methodological legitimacy. The final stage is testing and implementation, where the formulated rules are tested in community practice. The results of the implementation are evaluated to ensure the effectiveness, relevance, and justice of the law, and revisions or improvements are made based on practical feedback. Thus, the legal epistemology of *fiqhiyah* rules is not only normative but also adaptive and responsive to social dynamics, enabling Islamic law to address contemporary needs without abandoning its theological and methodological foundations.

3. Comparative Analysis: Conceptual Similarities

A comparative analysis reveals a number of significant conceptual similarities between legal maxims and Islamic jurisprudence. First, both serve as guidelines for legal reasoning, providing a systematic framework for legal practitioners to analyze problems and formulate solutions. For example, the legal maxim *audiatur et altera pars*, which emphasizes that both parties must be heard, shares a similar function with the Islamic jurisprudence maxim of *al-bayyinatu 'ala al-mudda'i*, which places the burden of proof on the plaintiff. Both emphasize the principle of procedural justice, ensuring fairness, balance, and consistency in legal processes,

and enabling the rational application of legal principles in both Western and Islamic legal traditions. Second, both legal instruments are universal and abstract, allowing them to be applied to a variety of specific situations and contexts. This characteristic allows the law to adapt to social dynamics without altering the fundamental principles that serve as its primary foundation. Third, legal maxims and Islamic jurisprudence play a crucial role in developing a cohesive and consistent legal system. Their function resembles the "glue" that integrates various legal elements, from basic principles to specific rules, into a logical and structured whole (Anshori, 2019). Thus, both not only provide normative guidance but also ensure that all components of the legal system are interconnected and mutually supportive, maintaining order, consistency, and fairness in legal practice. Fourth, both enjoy high acceptability within the legal communities of their respective traditions. Their authority stems not only from legal formality but also from the recognition, consensus, and widespread acceptance of practitioners and academics. This makes legal maxims and fiqh rules respected, relevant, and reliable guidelines in contemporary legal practice.

Despite these similarities, the analysis also reveals fundamental differences between the two legal systems:

a. Different Epistemological Sources

The most fundamental difference lies in the epistemological sources:

Table 1. Fundamental Differences Between Legal Maxims and Fiqhiyyah Rules

Dimensions	Legal Maxims	Fiqhiyyah Rules
Primary Sources	Precedent, jurisprudential practice	Al-Qur'an dan Sunnah
Legitimacy	Consensus of the legal community	Revelation and ijihad of scholars
Methodology	Inductive from concrete cases	Deductive from universal texts
Authority	Judges and legal academics	Mujtahids and scholars of usul

Table 1 shows that several concepts in Islamic law have deep theological roots, distinguishing it from Western legal traditions. These principles are not only normative but also tied to revelation and the interpretations of scholars, thus providing a moral and spiritual basis for the application of law. Unlike Western legal maxims, which develop more through juridical practice and human rationality, Islamic legal principles integrate sharia values, *maqasid* (objectives), and moral objectives, making them unique and distinguishing Islamic law from secular or Western legal systems. (Riady, 2024).

b. Epistemological Hierarchy and Structure

Fiqh rules have a structured and systematic epistemological hierarchy, distinguishing them from Western legal maxims. The first level is *al-qawa'id al-kulliyah*, or universal rules, derived from fundamental verses of the Qur'an. For example, *al-umuru bi maqasidiha*, which asserts that everything depends on its purpose, applies across all fields of fiqh and serves as a fundamental principle in establishing law. The next level is *al-qawa'id al-juz'iyah*, or specific rules, derived from the Prophet's hadith and the ijihad of his companions. For example, *al-kharaju bi al-daman*, which applies to specific areas such as muamalah or worship, is therefore more limited in scope but retains strong epistemological legitimacy. The final level is *al-dawabit*, or applicable rules, derived through the ijihad of scholars of various schools of thought to address specific situations. For example, *al-wakilu khalifun fi ma wakkila fihi*, which stipulates the responsibilities of the deputy in accordance with the authority granted, applies only in specific contexts. Legal maxims in the Western legal tradition generally lack a strict formal hierarchy. However, these maxims differ in their level of generalization and influence on legal practice. Some legal maxims are very general and apply across legal fields, while others are more specific, tailored to the context of a particular case. Thus, while both systems provide normative and practical guidance, *fiqhiyyah* maxims offer a clear hierarchical structure, progressing from universal principles to applicable rules, while legal maxims tend to be more flexible and pragmatic in their application. This hierarchy makes *fiqhiyyah* maxims more systematic in integrating theological sources, ijihad, and legal practice, while legal maxims emphasize adaptation to juridical and social needs (Rizky et al., 2025).

c. Different Development Methodologies

Aspect	Legal Maxims	Fiqhiyah Rules
Process	Organic evolution, accumulation of precedents	Systematic through <i>usul fiqh</i>
Validation	Jurisprudence and academics	Sanad and scientific methodology
Adaptation	Flexible, case-by-case	Structured within the <i>maqasid</i> framework
Innovation	Judge-made law	Ijtihad within the limits of shar'i law

d. Epistemological Scope

The principles of Islamic jurisprudence (fiqhiyah) are comprehensive and holistic in scope, encompassing both the vertical and horizontal dimensions of human life. The vertical dimension, or *hablu min Allah* (the principle of human relations with God), emphasizes the relationship between humans and God and encompasses aspects of worship and spirituality. In this context, the principles of Islamic jurisprudence serve to ensure that legal practices not only meet social or material requirements but also align with the transcendental goals of Islamic law, namely achieving God's pleasure and realizing a balance between this world and the hereafter. Examples of its application can be found in principles that emphasize intention (*al-umuru bi maqashidiha*) and obedience to God's commands as the basis for legal decision-making (Subagyo, 2019). On the other hand, the horizontal dimension, or *hablu min al-nas* (the principle of human relations with God), highlights the relationships between humans in society. The principles of Islamic jurisprudence in this context encompass aspects of *muamalah* (social, economic, and social relations), with the aim of upholding justice, welfare, and social harmony. These principles provide guidelines for social interaction and legal practice, including dispute resolution, distribution of rights, and social responsibility, so that Islamic law can be applied fairly and relevantly in various contexts of social life. Meanwhile, legal maxims in the Western legal tradition generally focus more on the horizontal dimension, emphasizing relationships between individuals and legal certainty in society. Principles such as *audiatur et altera pars* or *actor incumbit probatio* emphasize procedural justice and individual responsibility, without incorporating transcendental or spiritual dimensions. Thus, fiqhiyah principles offer a more holistic scope because they integrate vertical and horizontal dimensions, while legal maxims emphasize solely the juridical and social aspects. Comparing these two systems reveals fundamental differences in the philosophical scope and objectives of law.

e. Flexibility and Dynamics

Legal maxims tend to be more flexible in their interpretation, allowing for greater adaptation to social change. In contrast, fiqh rules have stricter interpretative limitations due to their connection to fundamental theological principles.

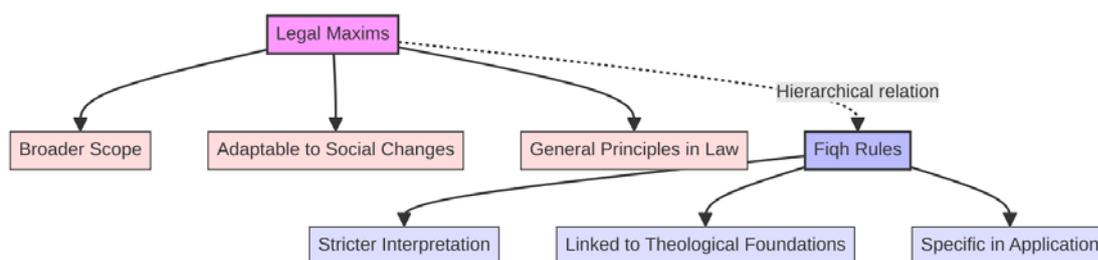


Figure 1. Comparison Diagram of the Hierarchy Between Legal Maxims and Fiqh Rules

4. A Case Study: Practical Epistemological Comparison

a. Principle of Procedural Justice

Legal Maxim	Fiqhiyah Rules	Epistemology
Let the other side be heard.	<i>Al-bayyinatu 'ala al-mudda'i</i>	West: Natural justice; Islam: Justice in Islam
(both parties must be heard)	(the proof lies with the plaintiff)	West: Court practice; Islam: Hadith of the Prophet

b. Hand Hygiene Principles

Legal Maxim	Fiqhiyah Rules	Epistemology
An action does not arise from a base cause.	La tashtari al-haram	West: Legal morality; Islam: Halal-haram
(from bad deeds no rights arise)	(don't buy illegal goods)	West: Business ethics; Islam: Ayat Al-Ma'idah

c. Principle of Legal Certainty

Legal Maxim	Fiqhiyah Rules	Epistemology
There is no crime without law.	Al-Yaqin is the Zulu of al-Shaykk	West: Legal positivism; Islam: Sharia beliefs
(there is no crime without law)	(faith does not dispel doubt)	West: Legal certainty; Islam: Islamic legal certainty

5. Theoretical Relevance in Comparative Law Studies

The results of a comparative analysis between legal maxims and fiqh rules from an epistemological perspective contribute significantly to the development of comparative legal studies. The research findings indicate that although these two legal instruments originate from different traditions—legal maxims from the Western legal tradition and fiqh rules from Islamic law—both systems share similarities in their methodological functions. Both serve as guidelines in legal reasoning, assisting practitioners and academics in analyzing cases, formulating arguments, and upholding justice. This similarity emphasizes that universal legal principles can be found across various traditions, albeit formulated and articulated through different epistemological frameworks. Furthermore, these findings are relevant to contemporary trends in legal studies that emphasize the importance of dialogue between legal traditions. Understanding the epistemological similarities and differences between legal maxims and fiqh rules allows for a more constructive exchange of ideas and methods, as well as opening up opportunities for the integration of applicable legal principles across systems. Thus, this comparative study not only enriches legal theory and methodology but also provides a basis for a more inclusive, adaptive, and contextual application of law in addressing the complexity of modern legal issues (Al-Fiqhiyyah, 2024). Understanding these epistemological similarities and differences enriches theoretical discourse in comparative law by demonstrating that the universality of legal principles can be found even within different epistemological frameworks. This opens up space for the development of legal theory that is more inclusive and responsive to the diversity of global legal traditions.

The epistemological analysis of legal maxims and Islamic jurisprudence has several significant implications for the development of contemporary law, particularly in Indonesia. First, from the perspective of developing legal methodology, a deeper understanding of these two legal systems could enrich the national legal framework. The integration of the Islamic jurisprudence approach with legal maxims allows for the creation of a more comprehensive methodology, combining the strength of theologically based Islamic legal values and the maqashid sharia with the technical precision and consistency of Western legal principles. This approach not only improves the quality of legal reasoning but also facilitates adaptation to the complexity of contemporary cases, thus supporting a legal system that is inclusive, contextual, and responsive to social dynamics. Second, in the context of legal education, these findings emphasize the importance of including the study of these two legal systems in the legal education curriculum in Indonesia. This integration of material will equip students with broader insights and critical thinking skills that can examine legal issues from various perspectives of legal traditions, both Islamic and Western. Third, in the process of lawmaking, a comprehensive understanding of legal maxims and Islamic jurisprudence can serve as a reference for legislators. This allows for the formulation of more adaptive legal norms, responsive to local values, while meeting international standards (Fauzi & Lestari, 2022). Thus, this epistemological study not only enriches legal theory but also makes a practical contribution to the development of modern, contextual, and effective national law.

6. The Potential for Epistemological Integration in the Indonesian Legal System

Indonesia, as a country with a pluralistic legal system, has a significant opportunity to develop epistemological integration between legal maxims and Islamic jurisprudence (*fiqh*) principles in various legal fields. In Islamic economic law, combining Islamic jurisprudence principles such as *al-ghurm bi al-ghunm* (risk follows profit) with legal maxims emphasizing contractual certainty can create a more robust, clear, and innovative legal framework. This approach not only enhances legal certainty in Islamic economic transactions but also encourages fair and ethical business practices. In family law, integrating Islamic jurisprudence principles emphasizing the purpose of marriage, such as *al-nikahu li al-istimna'* (the principle of marriage), with the principle of gender equality from the legal maxims allows for the development of balanced family regulations. This approach affirms Islamic values while remaining responsive to social change, resulting in family law that is relevant to the needs of modern society. In criminal law, the principle of legal certainty from the legal maxims can dialogue with Islamic jurisprudence principles concerning the purpose of punishment (*al-jarimah wa al-uqubah*). This integration allows for the creation of a just, humane, and rehabilitation- and prevention-oriented penal system, rather than merely retributive (Jalili, 2023). Thus, the epistemological combination of these two legal systems opens up opportunities for Indonesia to develop holistic, adaptive legal regulations capable of effectively and justly addressing the complexity of contemporary legal issues.

Although the epistemological integration of legal maxims and Islamic jurisprudence (*fiqhiyah*) principles offers significant potential for enriching Indonesia's legal system, its implementation faces a number of complex challenges. First, there are fundamental epistemological differences between the two legal systems. Legal maxims developed from the Western legal tradition, based on practical rationality, systematic consistency, and juridical precedent, while Islamic jurisprudence (*fiqhiyah*) principles are deeply rooted in theological sources such as the Qur'an, Hadith, and the principles of Islamic law (*maqasid sharia*). These differences require a careful integrative approach to ensure that the integration process does not undermine the integrity of each tradition and still produces a coherent legal methodology. Second, the political and social context also influence integration. The dynamics of the relationship between religion and state, legislation, and social sensitivities in Indonesia determine the extent to which the two legal traditions can synergize. Political imbalances or resistance can limit the scope for integration, so implementation strategies must take into account national socio-cultural and legal conditions. Third, human resource capacity is a significant obstacle. Effective integration requires legal experts who not only understand the principles of legal maxims and *fiqh* rules but also apply them analytically and critically in contemporary contexts (Rifa'i et al., 2023). Currently, the number of practitioners and academics with cross-traditional legal competence is still limited, making capacity building efforts through education, training, and research a crucial strategic step. By addressing these challenges, epistemological integration can be optimally realized and beneficial for the Indonesian legal system.

CONCLUSION

This study has analyzed the similarities and differences between legal maxims in the Western legal tradition and Islamic jurisprudence maxims in the Islamic legal tradition from a comprehensive epistemological perspective. The results show that despite similarities in their function as guidelines for legal reasoning, there are fundamental differences in terms of the source of legitimacy, hierarchy, development methodology, and scope of application. The conceptual similarities between these two legal maxim systems lie in their methodological function as guidelines for legal reasoning, their universal and abstract nature, their role in developing a cohesive legal system, and their acceptability within the legal communities of each tradition. Meanwhile, the fundamental differences mainly lie in their epistemological sources, with Islamic jurisprudence maxims having a strong theological foundation while legal maxims developed more through jurisprudence and academic practice. This comparative epistemological analysis is highly relevant to the development of contemporary law in Indonesia. As a country with a pluralistic legal system, Indonesia has great potential to develop integration between these two legal traditions in various fields such as Islamic economic law, family law, and criminal law. However, this integration also faces challenges in terms of fundamental epistemological differences, political and social contexts, and human resource capacities.

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