

APPLICATION OF THE FIVE LEGAL MAXIMS OF THE *SHARĪ'AH* IN THE WORKS OF SHAYKH ʿUTHMĀN IBN FODIO

ABDULKADIR, Ismail

Ph.D. Researcher, Department of Islamic Studies, Al-Hikmah University, Ilorin-Nigeria

Phone Contact: +2348151600869 **Email:** ismailbnkad@gmail.com

&

Dr. O.R. Azeez

Department of Islamic Studies, Al-hikmah University, Ilorin-Nigeria

Phone Contact: +2348133613013 **Email:** orazeez1955@gmail.com

Abstract

Shaykh Uthmān bn Fodio, a reformer and eminent scholar, made remarkable contributions to the field of Islamic jurisprudence and Islamic sciences in general. However, his contributions to the science of Legal Maxims of Islamic Jurisprudence (*al-Qawāʿidu-l-Fiqhiyyah*) remain largely hidden. Legal maxims are concise yet comprehensive principles derived by Muslim scholars from the Qur'an, Sunnah, and juristic reasoning to ensure the continued relevance, flexibility, and universality of Islamic law, as they are used to address emerging issues for which explicit textual evidence is lacking. Therefore, this research aims to examine the application of the legal maxims, especially the five universal maxims, in Ibn Fodio's works. The historical method is employed to present Ibn Fodio's biographical sketch, while the analytical method is used to reveal his approach to the application of the five legal maxims in his writings. The research reveals that Ibn Fodio did not author a dedicated treatise on legal maxims. Still, his various works demonstrate a consistent and extensive application of those maxims in diverse fields such as jurisprudence, spirituality, social reform and governance. It also shows that Ibn Fodio employed these maxims both explicitly and implicitly in issuing *fatāwa* and shaping religious practices.

Keywords: Application; Legal Maxims; *al-Qawāʿidu-l-Fiqhiyyah*; ʿUthmān Ibn Fodio; Islamic jurisprudence; *Sharī'ah*; *Maqāṣidu-sh-Sharī'ah*.

Introduction

Maxims of Islamic Jurisprudence are comprehensive and concise legal principles derived or coined from detailed *fiqh* rulings, through which similar legal issues can be understood and emerging or new cases can be deduced. (Al-Marʿashālī 11). They aid in connecting branches with the roots, as they are regarded as condensed evidence formulated to facilitate the understanding of *fiqh* and to ease juristic endeavour. (Al-Kawtharī 100).

Having a deep knowledge of the legal maxims and knowing how to apply them is considered a requisite for a jurist, just as mastery of the science of *Uṣūlu-l-Fiqh* and *Maqāṣidu-sh-Sharī'ah* is, for all of them are interconnected and interrelated. The maxims of Islamic jurisprudence began to emerge as early as the first century of the *hijrah*, through the intellectual endeavours of jurists and their methods of inductive reasoning. Some of these maxims are direct expressions derived from the Sunnah, the sayings of the Companions, and the teachings of the *tābi'ūn*, while others were formulated by the jurists. These maxims are dispersed across various books of *fiqh*, and no single or deliberate work could be identified as a comprehensive book of legal maxims until after the era of the great Imams of the four Sunni schools.



It is famous in many books that the first person to write on this subject was Abū Ṭāhir ad-Dabbās, who wrote seventeen legal maxims based on the jurisprudence of Ḥanafī. (Az-Zuhailī 1:34). Then, other scholars followed suit. One of the factors that prompted the idea of the formulation of the maxim was the emergence of new issues that required an Islamic response. Consequently, scholars realised the need to highlight and codify these principles and maxims, so that when new matters arise, they could be addressed or aligned with the most appropriate legal maxims. (Al-Ḥarīrī 34). The maxims of Islamic jurisprudence are numerous and have been compiled by various scholars of different schools of Islamic jurisprudence. Some of those works include: *Ta'sīsu-n-Nazar fil Uṣūl* by Abu Zaid ad-Dabūsī, *al-Furūq* by Abu-l-Musaffar As'ad bn Muhammad al-Karābisī, *al-Ashbāh wa-n-Nazā'ir* by Ibn Nujaim, and many more. (Al-Ḥarīrī 34-36). Of the hundreds of these maxims, there are five that are regarded as the universal legal maxims (*Al-Qawā'idu-l-Fiqhiyyatu-l-Kubrā*). These five are derived from the Qur'an and the traditions of the Prophet ﷺ, and they are considered foundational rules that guide juristic reasoning and the derivation of *fatwā*.

Over decades, serious attention by many researchers and academics has been given to the works of great scholars, jurists, and influencers in Nigeria, such as the works of Ibn Fodio, the founder of the Sokoto Caliphate. A lot of dissertations and academic papers have been written on his contributions to various aspects of intellectual endeavours, his reformation approach, and his thoughts in political, economic and educational spheres. His historical account has also been extensively examined. A very little effort, however, has been recorded in the aspect of Ibn Fodio's contribution to the science of Legal maxims of Islamic Jurisprudence. Among those works that have relevance to this topic is *al-Fiqhu-l-Maqāṣidī 'inda sh-Shaykh al-'Allāmatul Muja-d-Did Uthman bn Fodio*, Qāsim al-Qādi Adam Bello. This nine-page paper touches on the Jurisprudence of *maqāṣid* (Aims of the *Sharī'ah*) in the work of Ibn Fodio. Due to serious relations between the science of *Maqāṣid* and *al-Qawā'idu-l-Fiqhiyyah*, a sub-topic on 'the reflection of a universal maxim 'Al-Mashaqqatu Tajlibu-t-Taysīr' in the work of Ibn Fodio is discussed by the author in almost two and a half pages, while the reflection of other universal maxims in his work is not touched. Another related work is *Maqāṣid Approach in Ibn Fodi's Rejoinder against the Critic of their Missionary Gathering*, by Alawiye Abdulmumin Abdur Razzaq, Ahmad Wifaq Mokhtar, and Abdul Manan Ismail. This is a 10-page paper that examines the extent of the application of Islamic legal maxims by Abdullah bin Fodio in his refutation against one of the contemporaries of Ibn Fodio, who accuses Ibn Fodio and his followers of being over-liberal about Islam, as they allowed intermingling of opposite sexes in their lectures. The rejoinder of Abdullah Ibn Fodio, based on the Shaykh's instruction, which was also approved by him, shows the application of the removal of harm in his verdict. Hence, this study did not touch on the entire five legal maxims of the Islamic Jurisprudence; it only discussed a bit of 'considering the lesser of two evils, which is a sub-maxim under 'aḍ-Ḍarar Yuzāl (harm must be removed).

It is in view of this scarcity of studies in this area of Islamic legal scholarship that this paper seeks to fill the gap by examining Ibn Fodio's views on the five legal maxims and their applications across his various works. To achieve this, this research has been segmented into seven main parts: a brief biographical account of Ibn Fodio, the definition of legal maxims of Islamic Jurisprudence, formation and development of the legal maxims, their relationship with *Maqāṣidu-sh-Sharī'ah*, applications of the five legal maxims in Ibn Fodio's work, conclusion, and recommendations.

A Biographical Account of Ibn Fodio

Shaykh Uthmān ibn Muhammad ibn Uthman ibn Salih, popularly known as Ibn Fodio (Bello 57), was born in 1754 at a place called Maratta located in the land of Galami within the Hausa city-state of Gobir. (Gokaru et al., 9:3). Shortly after his birth, his family moved to Degel, which is on the edge of the main route between Birnin Kebbi and the Gobir towns of Alkalawā, and a few miles west was another route to Birnin Konni and Adar. (Bala and AINU 3:1). It was in Degel that Ibn Fodio grew up

and received most of his education from his parents and relatives. His father, Muḥammad Fodio, died in Degel and is buried there. (Joseph 5:193). He was a [Fulani](#) scholar, [Islamic](#) religious teacher, poet, revolutionary and a philosopher who founded the [Sokoto Caliphate](#) and ruled as its first [caliph](#). (Gokaru et al., 9:127-128).

Ibn Fodio was known for his trustworthiness, respected by people of all walks of life for his vast knowledge of Islam and excellent character. He was known for timidity, empathy, and flexibility in his relations with people. (Bello 67). Ibn Fodio devoted his early life to learning. During his childhood, he focused primarily on acquiring a sound understanding of the fundamental teachings of Islam. In addition to Islamic studies, he also studied Arabic linguistics, including etymology, syntax, grammar and prosody. Consequently, Arabic became the principal medium of instruction in his scholarly activities. (Gokaru et al., 9:26-27).

Just like many other great schools throughout history, Ibn Fodio learnt various sciences from different scholars. Still, interestingly, all those scholars were local, mainly from the Fulani and Tawāriq tribes in Hausa land. He also studied with other Fulani, Hausa and Kanuri scholars, and none of them was Arabs. (Al-Alori 134; Gokaru et al., 9:27). Within a year that he spent with Shaykh Jibril Umar, who may be regarded as his great mentor and scholar. He learnt multiple sciences and was certified in various sciences and areas, such as the six hadith collections, Jurisprudence of the four *Sunnī Madhhab*, and many others. Aside from the books he studied from him, he was greatly influenced by his method of *Daʿwah*, moral behaviour, and mysticism. (al-Alori 91; Joseph 5:193-194).

According to Muhammad Ballo, in *Infāqul Maysūr*, Ibn Fodio wrote more than a hundred books, although he (Muhammad Bello) only mentioned 25 of them. (209 & 211). Some recent works have mentioned 115 books authored by Ibn Fodio, while others have reported otherwise (al-Alori 137). It should be noted that many of his works are short treatises consisting of only a few pages. They were written to address specific issues within his communities. Some of these treatises were later compiled and incorporated as chapters in some of his more extensive works. (Junaid 36).

Considering the influence of the Maliki school of Jurisprudence in the West African region over the ages, the vast Majority of Muslim scholars of the region were Mālikīs; Ibn Fodio is no exception. He studied the Mālikī school of Islamic jurisprudence under his teachers and also taught it to his students. Indeed, a close reading of his works, particularly his citations and the authorities he relies upon, clearly demonstrates that he was a firmly grounded Mālikī jurist. Nevertheless, Ibn Fodio differed from many scholars who affiliated themselves strictly with a particular school in that he was not a partisan Mālikī in his juristic endeavour. He did not rely solely on the fatwas of Mālikī scholars; rather, he also drew upon the statements and opinions of scholars from other schools of jurisprudence. In addition, he condemned blind adherence to any school, especially when a particular juristic view contradicts the Qurʾān and the Sunnah. (Ibn Fodio, *Ihyāu-s-Sunnah* 1:7; al-Alori 139-140).

The reformation of Ibn Fodio was influenced by the prevailing un-Islamic practices and problems that engulfed Hausa land during his time, which are educational and socio-economic, as evident in Idolatry, syncretism, innovations, ignorance, immorality, injustices and corruption in many spheres of life. (Bunza & Karim 119-124).

Despite the disruptive effects of colonial rule on the Islamic governance system established by Ibn Fodio, the legacy of the Sokoto Caliphate remains deeply rooted in Northern Nigeria. His achievements inspired later reform movements across West Africa, including those led by Ahmad Lobbo in Massina, Al-Hajj Umar Tall in Senegambia, and Modibo Adama in Adamawa, and modern Islamic revivalists still draw upon his model of knowledge-based reform.

Ibn Fodio died at the age of 63 in Sokoto in the month of Jumādal Ākhir, 1232 A.H (20th April, 1817 C.E) (Junaid 54), after a lifetime of unweaving effort in teaching, education, and fighting in the cause of Allah. He held the Caliphate for thirteen years and died at the age of sixty-three (Sulaiman 127).

Definition of the Maxim of Islamic Jurisprudence (*al-Qawā'idul Fiqhiyyah*)

Maxim of the Islamic Jurisprudence is called *al-Qawā'idul-Fiqhiyyah*. Linguistically, *al-Qawā'id* (s. *Qā'idah*) means foundations and pillars. (Ibn Mandhūr 3:357). Technically, scholars have defined it in different phraseologies, though their meanings are the same or very similar. Al-Jurjānī defines it as: A universal principle that applies to all of its particular instances. (Al-Ḥarīrī 9). According to Mustaphā Zarqā, it is comprehensive juristic principles expressed in concise, foundational statements that contain general legal rulings applicable to cases falling under their subject matters. (12) Therefore, *al-Qawā'idul-Fiqhiyyah* are comprehensive and concise legal principles derived from detailed *fiqh* rulings, through which similar legal issues can be understood and emerging or new cases can be deduced. (Al-MarʿAshalī 11).

Formation and Development of the Maxim of Islamic Jurisprudence

The maxims of Islamic jurisprudence began to emerge as early as the first century of the Hijrah, through the intellectual endeavours of jurists and their methods of inductive reasoning. Some of these maxims are direct expressions derived from the Sunnah, the sayings of the Companions, and the teachings of the *Tābi'ūn*. Others were formulated by the jurists. Their development was not the result of a deliberate or systematic effort; hence, they were dispersed across various books of *fiqh*, and no single work could be identified as a comprehensive book of legal maxims.

Deliberate efforts towards the compilation and formulation of legal maxims began after the era of the Imams of the four Sunni schools of jurisprudence, when their students started to extract and systematise the underlying principles of their teachers. Another factor that prompted this initiative was the emergence of new issues that required an Islamic response. Consequently, scholars realised the need to highlight and codify these principles and maxims, so that when new matters arose, those lacking direct textual evidence or prior fatwas could be addressed or aligned with the most appropriate legal maxims. (Al-Ḥarīrī 34).

The maxims of Islamic jurisprudence are numerous; however, five of them are called *Al-Qawā'idul-Fiqhiyyatu-l-Kubrā* (i.e., the universal legal maxims). These five are derived from the Qur'an and the traditions of the Prophet ﷺ, and they are regarded as foundational rules that guide juristic reasoning and the derivation of fatwā and rulings.

They are as follows (Az-Zuhailī 1:32):

1. *Al-Umūr bi Maqāṣidihā* - Matters are judged by their intentions.
2. *Al-Yaqīn lā Yazūl bi-sh-Shakk* - Certainty is not overruled by doubt.
3. *Al-Mashaqqah Tajlibu-t-Taysīr* - Hardship begets ease.
4. *Aḍ-Ḍarar Yuzāl* - Harm must be eliminated.
5. *Al-ʿĀdah Muḥakkamah* - Custom is a basis of judgement.

Relationship Between *al-Qawā'idul Fiqhiyyah* and *Maqāṣidu-sh-Sharī'ah*

Maxims were formulated to enhance certain objectives (*Maqāṣid*) of the *Sharī'ah*, which are facilitation and its relevance at all times and ages. This is because the Qur'ānic texts and *ahādīth* are limited, whereas emerging issues are limitless. This means that the Qur'an and hadith may be silent about, or may not directly address, certain matters. For this reason, scholars formulated legal maxims based on their understanding of the general principles found in the texts to ensure that no issue in Islam is left without guidance. Thus, the formulation of *al-Qawā'id* represents an effort to



derive particular rulings or subsidiary issues (*furūʿ*) from established legal foundations (*uṣūl*), a process known as *takhrīj-u-l-Furūʿ ʿala-l-Uṣūl*. (Bafololo 6).

In addition, one of the means by which the branches of the *Sharīʿah* are safeguarded is through *ijtihād* and the formulation of legal maxims. For instance, some issues lack direct textual evidence yet require religious rulings; others are linked to local customs and must evolve with changes in time, place, and culture. If such matters were to remain static, Islam might be unjustly accused of bias towards certain cultures or of rigidity for imposing the customs of some people upon others. This is precisely what the maxim “*al-ʿĀdah Muḥakkamah*” (Custom is an authority in law) seeks to address. Furthermore, most legal maxims aim to facilitate ease, remove hardship and difficulty, and ultimately promote benefit and prevent harm. (Bafololo 10).

Umar Bafololo observes:

“The aim of the *Sharīʿah* in establishing legal maxims aligns with its overarching objectives, namely, the promotion of benefit and the prevention of harm for individuals, communities, and societies”. (13).

According to Nūru-d-Dīn al-Khādimī, who extensively discusses the relationship between these two sciences, they are essentially the same in terms of their goal and objective. He said:

Likewise, the legal maxim (*al-Qāʿid*) and the objectives (*al-maqāṣid*) share the same ultimate purpose and goal namely, to promote and preserve benefit (*maṣlaḥah*), to ensure ease and simplicity for the one who is legally responsible during application and practice, and for the *mujtahid* (jurist), mufti, judge, and scholars in general when examining rulings, understanding them, deriving them from their evidences, and formulating them from their principles, among other related matters. (113-114).

He further explains some areas where both are related, stating that among the areas of harmony and overlap between *maqāṣid* and *qawāʿid* is the fact that certain juristic maxims themselves embody recognised *Sharīʿah* objectives. For instance, the maxim “*al-ḍarar yuzāl*” (“harm must be eliminated”) has been regarded by scholars as a universal and definitive objective of Islamic law. Similarly, the maxim “*al-mashaqqah tajlib al-taysīr*” (“hardship begets ease”) is recognised as one of the firmly established legislative objectives. In the same vein, the maxim “*taṣarrufu-l-l-imām ʿala-r-Raʿiyyah manūṭun bi-l-maṣlaḥah*” (“the ruler's actions concerning his subjects are contingent upon their welfare”) is viewed by jurists as a manifestation of the *Sharīʿah's* aim to promote benefit and prevent harm, or as an expression of the broader principle that all *Sharīʿah* rulings are ultimately prescribed for the welfare of humankind, both in this world and the Hereafter.

Similar to this is the statement of Muhammad az-Zuhailī in his discussion about the benefits of legal rulings and their connection to *maqāṣid*. He said:

The universal legal maxims assist in understanding the *maqāṣidu-sh-Sharīʿah* and its general aims, for the substance of these maxims provides a clear insight into the purposes and goals of the *Sharīʿah*. Examples include: “Hardship begets ease,” “Concessions are not granted in acts of disobedience,” and “The ruler's actions regarding his subjects are bound by their welfare,” among others. (1:28)



Application of the Five Legal Maxims in Ibn Fodio's Works

Having preceded this section with this preamble, the researcher will examine the applications of the five universal maxims in the works of Ibn Fodio, but before that, it is worth noting that Ibn Fodio did not have a specific writing on the legal maxims, nor did he dedicate a session to it in any of his writings. Their applications, however, are well noted in different sections of his books as discussed below:

1. *Al-Umūr bi Maqāsidihā* - Matters are judged by their intentions.

The meaning of this maxim is that actions are evaluated according to the purpose or intention behind them. The validity and moral value of any act are dependent on the intention of the doer. In other words, the ruling on any statement or action varies according to what the person intends. (Wanī 1:64). The main source of this legal maxim is the famous tradition of the Prophet ﷺ that: “Actions are only by intentions, and every person shall have what he intended.” (al-Bukhārī, no.1). This maxim has a lot of applications in Ibn Fodio's books, especially his famous work *Iḥyāu-s-Sunnah wa Ikh'mādu-l-Bid'ah*. In many cases, He would give different rulings on a single issue because of differences in the intention of the doers. Below are a few examples:

- i. In his work, *Iḥyāhu-s-Sunnah*, he asserts that 'the use of water extravagantly or excessively while taking a bath is considered a prohibited innovation by consensus of scholars. However, this is the case of a person who believes that doing so is a rewarding act of religion. But in the case of a person who does not have that belief, it will be a discouraged innovation (*bid'atun Makrūha*). Similar to this is the use of excessive water for ablution. (1:76).
- ii. He said that among the innovations is the construction of the grave. It is a discouraged innovation if pride and show are not the motive; otherwise, it will be considered a prohibited innovation by agreement of the scholars. This is different from the placement of a stone as a sign on the head of the deceased, which is a recommended act (*sunnah*). (Ibn Fodio, *Iḥyāhu-s-Sunnah* 1:186)
- iii. Another one is the ruling on raising one's voice in the mosque, even in teaching. It is said to be a discouraged innovation except if it is for repeating the voice of the Imam in prayer (*Tablīgh*). (1:94).
- iv. Another application of this is the prohibition of raising the minaret of a mosque if it is done for pride. This is a condemnable innovation by consensus of Muslim scholars. If, however, it's not for that purpose, it is a disliked innovation. (1:124).
- v. Placing any form of marker, such as a stone or paint, on a grave is generally discouraged according to the opinion of Imām Mālik. However, placing a stone at the head of the grave, for the purpose of distinguishing or identifying the burial site, is considered commendable. (1:127).

2. *Al-Yaqīn lā Yuzālu Bi-sh-Shak* - Certainty is not overruled by doubt.

This maxim simply means that what is established with certainty cannot be overridden by doubt. This is because it is illogical for something definite and strong to be dismissed by something weaker and uncertain. The main source of this maxim is the statement of the Prophet ﷺ regarding a person who doubts his prayer and is unsure of the number of *rak'ah* (i.e., a unit of Islamic ritual prayer) he has performed: “If one of you doubts in his prayer and does not know how many *rak'ah* he has prayed, whether three or four, then let him cast aside doubt and build upon what he is certain of.” (Muslim, no. 831). Another source of this maxim is the Prophet tradition that says: “When one of you finds something in his stomach and is uncertain whether something has come out of him or not, he should not leave (the prayer) until he hears a sound or perceives a smell”. (Muslim, no. 362). (az-Zuhailī 9-10).



The following examples illustrate how Ibn Fodio applies this legal maxim in his legal reasoning:

- i. In, *AJwibatun Muha-r-Rarah ʿAn As'ilatun Muqa-r-Rarah*, he permits taking possession of the property of inhabitants of a land in which disbelief prevails without inquiry. If, however, it is verified that what has been brought from there had belonged to a Muslim before being taken into possession, it will not be permissible. (Ibn Fodio, *AJwibatun Muha-r-Rarah* 2:162).
- ii. In *Tarwīhu-l-Ummah Bi Bayāni Taysīril Millah*, he also established, based on this maxim, that whoever pronounces or affirms the two testimonies will remain Muslim until he nullifies his faith with any act of disbelief. (Ibn Fodio, *Tarwīhu-l-Ummah* 1:17).

3. *Ad-Ḍarar Yuzāl* - Harm must be eliminated.

This means that any form of harm that occurs must be removed, as it constitutes injustice. It is also understood that while the removal of harm is obligatory, preventing it from occurring in the first place is an even greater obligation. Many rulings related to compensation, the prohibition of harmful acts, legal punishments, and public welfare are designed to ensure the practical application of this legal maxim. Its basis is found in the ḥadīth of the Prophet ﷺ: “*There should be neither harming nor reciprocating harm*” (ad-Dāruqutnī, no. 288). (Az-Zuhaili 1199-200).

Places where this maxim is applied in Ibn Fodio's works are many; below are some of them:

- i. In *'Bayānu-l-Bidaʿi-sh-Shaitāniyya-l-latī Ahdatha-n-Nāsu fī Abwābi-l-Millati-l-Muhammadiyyah*, Ibn Fodio regards applying pressure to the private part to expel any remaining urine after urination as a prohibited innovation because of the harm it can cause. He said:

ومن ذلك سلت الذكر بقوة، وهو بدعة محرمة إجماعاً؛ لأنه إضرار بالنفس...

Among such acts is the forceful extraction of urine (*sallu-dh-Dhakar*), which is an innovation unanimously deemed forbidden, for it causes harm to oneself. (Ibn Fodio, *Bayānu-l-Bidaʿi-sh-Shaitāniyya* 2:181).

- ii. Also in the same book, pouring water into the ear canals is considered a prohibited innovation by all scholars because it causes harm to oneself and may also lead to deafness. (2:182).
- iii. He also said: Among the innovations they introduced concerning *tayammum* (dry ablution) is abandoning it out of excessive insistence on performing *wuḍūʾ* (ablution) despite the presence of a legitimate necessity such as fear of death, illness, or thirst. This is an innovation unanimously regarded as forbidden, for it causes self-harm. (2:182).
- iv. In *Sirājul Ikhwān*, in his discussion on fighting the enemies of Islam under the flag of oppressive and wicked Muslim rulers, he emphasised the need to remove harm as he also refers to the principle of consideration of the lesser of two evils, which is an important principle under the maxim '*Aḍ-Ḍarar Yuzāl*'. (2:223).
- v. Also, in *Iḥyahu-s-Sunna wa Ikḥmādu-l-Bidaʿah*, one of the justifications for denunciation of an act when it involves or leads to harm, but that denunciation will certainly cause or lead to greater harm, it should be avoided. He said:

Everything known to cause harm may be freely denounced; however, if its denunciation would lead to a greater evil, then such denunciation is prohibited not in itself, but because of what it leads to. This is an age of trials and tribulations, and it is therefore not permissible to confront public affairs with coercion or severity, for such action would result in destruction and ruin. (1:223).



- vi. Of the applications of *Ad-darar Yuzāl* is the permissibility of collapsing a second mosque that resulted in the loss of congregation in the first one. He quoted Sahnūn saying:

“There is no harm in building a second mosque in a village if its inhabitants are many and both mosques are well attended. However, if the population is small and it is feared that the first mosque will be abandoned, then building the second is forbidden, for that would be a clear harm.” Ibn Rushd commented: “If the second mosque causes the congregation of the first to disperse, and it is proven that the one who built it intended harm, then it should be demolished and left as a rubbish heap. But if such intent is not proven, it should remain unused unless the population increases and there is a need for it”. (Ibn Fodio, *Ihyahu-s-Sunna* 1:93).

The comment of Ibn Rushd here not only reflects the maxim '*ad-Darar Yuzāl*' but also reflects '*al-Umūr Bi Maqāsidihā*' (Matters are judged by their intentions).

4. *Al-'Ādah Muḥakkamah* - Custom is an authority (in law).

Custom (*'urf*) is recognised and relied upon as a basis for legal rulings, provided that it does not contradict the Qur'ān or the Sunnah. It is also referred to in matters for which the law has not given specific rulings. When Imām an-Nawawī commented on the ḥadīth of Hind, a female Companion who complained to the Prophet ﷺ that her husband was miserly and did not provide her with sufficient maintenance, the Prophet ﷺ instructed her: “Take from his property what will customarily suffice you and your child.” Imām an-Nawawī stated that one of the lessons derived from this ḥadīth is the reliance on custom in matters that are not specifically defined by the *Sharī'ah*. For instance, the *Sharī'ah* commands modest dressing, mutual consent in sales, and good treatment of wives, but it does not specify the particular forms these should take. Questions such as what type of dress is considered modest, how consent in a transaction should be expressed, or what quantity of food and clothing a husband must provide for his wife are determined according to prevailing custom. The Qur'ānic verse, “Hold to forgiveness; enjoin what is customary...” (Qur'ān 7:199), and “And live with them in kindness” (Qur'ān 4:19), together with the ḥadīth of Hind mentioned above, and other related texts, constitute the foundational sources of this legal maxim. (Az-Zuhailī 1:298-300; Wanis 16-18).

Some positions he held reflect the application of this maxim. Below are some of them:

- i. His view is that calling a scholar or an elder by his name is permissible, provided the person does not show dislike to it, and it does not conflict with the prevailing custom.

Ibn Fodio said, quoting al-Imām Shihābu-d-Dīn Ahmad bn Hajar al-Haitamī in his commentary on the ḥadīth of Jibril who called the prophet ﷺ with his name “Muhammad” said:

“This indicates the permissibility of addressing a scholar or a person of high status by name, even by a student, provided that the person does not dislike it. Otherwise, doing so would amount to diminishing his esteem and contravening the customary manner of addressing such individuals with honourable titles”. (Ibn Fodio, *Ihyahu-s-Sunna* 1:167).

- ii. Similar to the aforementioned example are certain practices of some Muslim rulers today that differ from those of the Prophet ﷺ and his rightly guided caliphs in aspects such as their attire, modes of transport, and the use of security personnel. These differences arise due to changing circumstances, environments, and customs. The purpose behind adopting such



new forms and styles is to maintain the respect and dignity appropriate to their positions, which ultimately contributes to upholding the Law of Allah within their territories. It is reported that Umar observed similar practices in Syria (then known as *Shām*) under his governor Muʿāwiyah and approved of them. It is on this that Ibn Fodio relates the comment of al-Manjūrī in *Sharhu-l-Manhāj al-Muntakhab* as thus:

This indicates, from the practice of Umar and others, that the conditions of rulers and those in authority vary across regions, eras, centuries, and circumstances. Therefore, they may require the introduction of new forms of adornment and policies that did not exist previously, and such measures may even become obligatory in certain situations. Ibn Fodio then said: within the context, the statement of Abū Ḥanīfah “*Make your turbans grand and widen your sleeves as a means of honouring the religion*” should be understood. (Ibn Fodio, *Iḥyāhu-s-Sunna* 1:199).

5. *Al-Mashaqqah Tajlibu-t-Taysīr* - Hardship begets ease.

When following the *Sharīʿah* becomes difficult, it allows for ease through concessions (*rukhaṣ*). In other words, when unbearable difficulty is experienced in the cause of carrying out a religious or moral responsibility by a person, that difficulty becomes a justification or reason for facility, for Allah does not want difficulty and hardship for His servant. One of the sources of this maxim is Qurʾān 2:185: “*Allah intends ease for you and does not intend hardship for you.*”. Quran 2:285 and Qurʾān 22:78 also support this maxim. Likewise, several ḥadīth, such as “*Make things easy and do not make them difficult; give glad tidings and do not drive people away*” (al-Bukhārī, no. 69; Muslim, no. 1732). (Zuhailī1:257; Wanis 9-13).

- i. In *Uṣūlu-l-ʿAdl Li wulāti -l-Umūr wa Ahli-l-Faḍl*, Ibn Fodio emphasises the need for gentleness and avoidance of hardship for the rulers towards those whom they govern, for ease is one of the important aims of the *Sharīʿah*. He said:

Whenever possible, O ruler, you should manage affairs with gentleness and kindness, not with harshness or violence. The Messenger of Allah (pbuh) said: “*Whoever is not gentle with his subjects, Allah will not be gentle with him on the Day of Resurrection.*” The Messenger of Allah (pbuh) also said: “*Whoever is put in charge of any matter concerning my Ummah and makes things difficult for them, Allah will make things difficult for him; and whoever is put in charge of any matter concerning my Ummah and treats them kindly, O Allah, treat him kindly.*” (2:206).

- ii. One of the elements of ease is his affirmation in *Iḥyāhu-s-Sunnah* that the general populace (*ʿammatu-n-Nās*) is not required to have a full or detailed understanding of the foundations of belief. What is required of them instead is to believe in them in general. The reason for sparing them from the obligation of seeking the detailed knowledge of the foundations of belief is the hardship and difficulty. (1:66).

On this, he refers ʿIzzu-d-Dīn in *Iṣlāhu-l-Anām* that:

Belief in all these fundamental principles, for the common people, stands in the place of knowledge for the learned, because it is difficult for them to comprehend the proofs. Due to this hardship, Allah has pardoned them. For this reason, the Messenger of Allah (pbuh) would not oblige anyone who embraced Islam to inquire into such matters; rather, he would approve of them remaining upon what he knew they could not be detached from. (1:66).



- iii. Another similar work is the book titled *Tawfīqu-l-Muslimīn ‘alā Ḥukmi Madhāhib al-Mujtahidīn alladhīna kānū min Ahli-s-Sunnah al-Muwaffaqīn*. This book highlights the ease and flexibility of the *Sharī‘ah* by discussing matters such as the ruling on adhering to or adopting a *madh'hab*, the permissibility of *talfīq* (combining rulings from different schools), the stance on not affiliating with a specific *madh'hab*, the issue of following multiple *madhāhib*, etc. (30-37).

Conclusion

This paper demonstrates that legal maxims constitute an important aspect of Islamic jurisprudence, highlighting the flexibility and enduring relevance of Islamic law across different times, cultures, and regions. It further shows that although Ibn Fodio did not author a specific work dedicated solely to the maxims of Islamic jurisprudence, the application of the five universal maxims is clearly evident throughout his writings, reflecting his versatility and depth of knowledge in the Islamic sciences. The paper also establishes a strong connection between the science of *Maqāṣidu-sh-Sharī‘ah* and *al-Qawā‘idu-l-Fiqhiyyah*, as both facilitate a proper understanding and sound application of the *Sharī‘ah*. Despite numerous efforts to highlight Ibn Fodio's scholarly contributions, the study reveals that very little research has been carried out on his role in the development and application of legal maxims within Islamic jurisprudence.

Recommendations

This paper, therefore, recommends the following:

- a. Scholars of Islamic Studies should give adequate attention to the study of legal maxims (*al-Qawā‘id al-Fiqhiyyah*) because of their important role in understanding Islamic jurisprudence and facilitating legal reasoning (*ijtihād*).
- b. Contemporary Muslim scholars should draw upon Ibn Fodio's application of the legal maxims as a framework for addressing contemporary issues and challenges confronting Muslim societies.
- c. Scholars and researchers should dedicate time to further studying the legal thought of Ibn Fodio, particularly concerning his application of legal maxims in works that were beyond the scope of this study.

Works Cited

- Al-Alori, Adam Abdullah. *Al-Islām fī Nijīriyā wa al-Shaykh ‘Uthmān ibn Fodio al-Fulānī*. Foreword by Oladosu Abdulhafiz, Maktabat al-Iskandariyyah, 2013.
- Al-Ḥarīrī, Ibrāhīm Muḥammad Maḥmūd. *Al-Qawā‘id al-Fiqhiyyah al-Kulliyyah: Ta’rīfuhā, Nash’atuhā, Taṭawwuruhā, Shar‘iyyatuhā, Taṣnīfuhā, wa Qawā‘id Uṣūliyyah Lahā Ṣilatun Bihā*. Dār ‘Ammār, 1998.
- Al-Khādimī, Nūr al-Dīn. *Al-Maqāṣid al-Shar‘iyyah wa Ṣilatuhā bi al-Adillah al-Shar‘iyyah wa al-Muṣṭalahāt al-Uṣūliyyah*. Dār Ishbīliyyā, 1423 AH.
- Al-Kawtharī, Muḥammad Zāhid. *Maqālāt al-Kawtharī*. Al-Maktabah al-Tawfīqiyyah, n.d.
- Al-Mar‘ashalī, Muḥammad A. *Taṭawwur al-Qawā‘id al-Fiqhiyyah min Zāhirah ilā ‘Ilm wa Athar Dhālika fī al-Fiqh al-Islāmī*. n.p., n.d.



Bafololo, Umar. *ʿAlāqat al-Qawāʿid al-Fiqhiyyah bi al-Maṣāliḥ wa al-Maqāṣid al-Sharʿiyyah wa Ahamiyyatuhā*. n.p., 2019.

Bala, A. A., and H. A. AINU. "The Role of Shaykh Uthman Bn Fodiyo in Teaching and Daʿwah Activities towards Spreading the Sunnah and Combating Bidʿah in Bilād al-Sūdān." *International Journal of Arts, Humanities and Social Sciences*, vol. 3, no. 8, 2018.

Bello, Muhammad. *Infāq al-Maysūr fī Tārīkh Bilād al-Tukrūr*. n.p., n.d.

Bello, Qāsim al-Qāḍī Adam. "Al-Fiqh al-Maqāṣidī ʿinda al-Shaykh al-ʿAllāmah al-Mujaddid ʿUthmān ibn Fodio." Unpublished article.

Bunza, M. U., and L. Abdul Karim. "An Islamic Statecraft in Sub-Saharan Africa: A Study of the Structure and Operations of Governance in the Sokoto Caliphate, Nigeria (1804–1903)." *Journal of Islamic Research*, vol. 32, no. 1, 2021.

Gokaru, S. U., et al. "The Role of Uthman bin Foduye in Establishing Centres of Islamic Learning in Hausaland, Northern Nigeria: A Comparative Study of the Pondok System in Kelantan, Malaysia." *Tawarikh: International Journal for Historical Studies*, vol. 9, no. 2, 2018.

Ibn Fodio, Abdullah. *Mukhtārāt min Muʿallafāt al-Shaykh Abdullah ibn Fodio: Tazyīn al-Waraqāt*. Dār Iqrāʾ, n.d.

Ibn Fodio, ʿUthmān. *Mukhtārāt min Muʿallafāt al-Shaykh ʿUthmān ibn Fodio*. Dār Iqrāʾ, n.d.

Jamu, U. M., editor. *Al-Jāmiʿ al-Hāwī li Fatāwā al-Shaykh ʿUthmān ibn Fodio*. Edited by Muhammad al-Mansur Ibrahim, n.p., n.d.

Joseph, A. I. "A Comparative Study of Shehu Usman Dan Fodio of Sokoto and Shehu Al-Amin El-Kanemi of Borno." *Jos Journal of Religion and Philosophy*, vol. 5, no. 1, 2024.

Junaid, Muhammad. *As-Shaykh ʿUthmān ibn Fodio al-Fulānī wa ʿAqīdatuhu ʿAlā Ḍawʿ al-Kitāb wa al-Sunnah*. Master's dissertation, Umm al-Qurā University, 1982.

Manẓūr, Ibn. *Lisān al-ʿArab*. Dār Ṣādir, n.d.

Wanis, Ahmad. *Talkhīṣ al-Qawāʿid al-Fiqhiyyah li al-Mubtadiʾin*. n.p., n.d.

al-Zuḥaylī, Muḥammad Muṣṭafā. *Al-Qawāʿid al-Fiqhiyyah wa Taṭbīqātuhā fī al-Madhāhib al-Arbaʿah*. 1st ed., Dār al-Fikr, 2006.

