



NORMALIZATION OF EMERGENCY LEGAL MAXIMS IN DSN-MUI FATWAS: AN EMPIRICAL ANALYSIS OF INDONESIAN SHARIA ECONOMIC FIQH METHODOLOGY

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Abstract

The rapid development of the Islamic finance industry requires adaptive legal reasoning capable of responding to the increasing complexity of modern economic transactions. In Indonesia, fatwas issued by the National Sharia Council of the Indonesian Ulama Council (DSN-MUI) play a crucial role in establishing the normative framework of Islamic economic practices. This study aims to examine the use of emergency-based legal maxims (*qawā'id al-darūra*) in DSN-MUI fatwas and to analyze their methodological implications for the development of contemporary Islamic economic jurisprudence. Employing a qualitative approach with documentary analysis and content analysis methods, this research analyzes 165 DSN-MUI fatwas issued during the early phase of Islamic economic development in Indonesia. The findings reveal that 89 fatwas, representing approximately 53.9% of the total sample, explicitly employ legal maxims related to emergency, harm removal, or urgent need as the basis of legal reasoning. The most frequently applied maxims include *al-darar yuzāl*, *al-darar yudfa' bi-qadr al-imkān*, and *al-ḥājah tanzil manzilat al-darūra*. These maxims are predominantly applied within sectors characterized by high transactional complexity, particularly Islamic banking, Islamic capital markets, and modern financial industries. The findings indicate that emergency-based maxims no longer function solely as exceptional mechanisms in classical Islamic jurisprudence but have evolved into methodological tools for adapting Islamic law to the dynamics of modern economic systems. This study contributes to the theoretical discourse on Islamic legal methodology by highlighting the strategic role of *qawā'id fiqhiyyah* in the evolution of contemporary *fiqh al-mu'āmalāt*.

Keyword: Emergency Legal Maxims, DSN-MUI Fatwas, Islamic Legal Methodology, Contemporary *Fiqh al-Mu'āmalāt*, Islamic Finance.

A. Introduction

The development of the Islamic finance industry over the past has demonstrated significant expansion in institutional scope and product innovation, particularly in Indonesia. This development generates complex demands for a legal framework capable of addressing contemporary financial transactions.¹ This complexity requires an approach to *ijtihād* that is not merely normative-textual

¹ Disfa Lidian Handayani, "Hukum Ekonomi Syariah: Tantangan Dan Peluang Dalam Pengembangan Inovasi Instrumen Keuangan Syariah". *Al-Manahij: Jurnal Kajian Hukum Islam*, 9 no. 2 (2015):335-46. <https://doi.org/10.24090/mnh.v9i2.506>.

but also adaptive to the realities of modern economic systems.² Accordingly, fatwas function as a key instrument in mediating *Shari'a* principles and contemporary economic practices.³

In the Indonesian context, DSN-MUI plays a central role as the authoritative body issuing fatwas in Islamic economic and financial matters, whose rulings are widely adopted as regulatory references. These fatwas not only provide normative guidance for industry practitioners but also serve as important references for state regulators in formulating regulatory frameworks governing the Islamic economic sector.⁴ In practice, many DSN-MUI fatwas have subsequently been adopted by regulatory authorities such as Bank Indonesia, the Financial Services Authority (*Otoritas Jasa Keuangan*, OJK), and the Indonesian government in the form of statutory regulations.⁵ As a result, fatwas occupy a strategic position in the institutional development of the Islamic economic legal system in Indonesia.

However, contemporary economic practices often lack direct precedents in classical *fiqh*, creating a methodological gap in fatwa formulation. To address this, scholars frequently rely on legal maxims (*qawā'id fiqhiyyah*), particularly those related to emergency and need (*qawā'id al-ḍarūra* and *al-ḥājah*), which provide flexibility in

² Sitompul Hakim Muhammad, Asmuni Asmuni, and Tuti Anggraini. 2024. "Ijma' Dalam Lanskap Keuangan Islam Modern Di Indonesia: Studi Literatur". *Jurnal Masharif Al-Syariah: Jurnal Ekonomi Dan Perbankan Syariah*, 9 (2). 827-845. <https://doi.org/10.30651/jms.v9i2.21459>.

³ Faizi Zaini and Mohd Sollehudin Bin Shuib, "Fatwa on Sharia Products and Its Role in The Development of Islamic Finance Industry". *Islamadina : Jurnal Pemikiran Islam*, 22 no.2 (2021):189-207. <https://doi.org/10.30595/islamadina.v22i2.11859>.

⁴ Annisa Zikra, Muhammad Syukri Albani Nasution, and Rahmat Siregar. "The Strategic Role of Fatwa DSN-MUI in the Development of Islamic Banking in Indonesia: An Analysis of Banking Regulations and Products Based on the Provisions of Islamic Law." *Jurnal Akta* 11, no. 2 (2024): 263-272. <https://doi.org/10.30659/akta.v11i2.36187>

⁵ Judijanto, Lilik, Mardhiyah Ilhamiwati, Rahmad Abdullah, Indah Winarni, and Khusnul Lasmiatun. "Implementation of Fatwa DSN-MUI as a Basis for Regulation in Islamic Finance in Indonesia." *West Science Islamic Studies* 3, no. 1 (2024):12-18. <https://doi.org/10.58812/wsiss.v3i01.1611>

responding to practical constraints.⁶ Scholars analyzing contemporary Islamic legal reasoning highlight that maxim-based approaches such as *al-ḥājah* (need) have been integrated into modern *ijtihād* to bridge gaps where classical texts lack direct answers.⁷ These maxims essentially provide legal flexibility in circumstances where individuals or societies face compelling situations or significant hardship that hinder the full implementation of legal norms in their ordinary form.⁸ Within the framework of *maqāṣid al-Sharīʿa*, this concept aims to protect the five fundamental objectives of the Sharīʿa: the protection of religion, life, intellect, lineage, and property.⁹ Empirically, this study finds that out of 165 DSN-MUI fatwas issued between 2000 and 2005, 89 explicitly rely on emergency- and need-based maxims. This indicates a strong tendency to employ emergency reasoning as a dominant methodological basis in contemporary Islamic economic fatwas. These findings suggest that, in practice, the methodology underlying Islamic economic fatwas is not solely based on the literal application of classical *fiqh al-muʿāmalāt*, but also draws upon the broader framework of *qawāʿid fihiyyah*,¹⁰ which provides legal

⁶ Aidil Novia, "Kontribusi Fiqh Legal Maxim dalam Fatwa-Fatwa Ekonomi Syariah Dewan Syariah Nasional Majelis Ulama Indonesia (DSN-MUI)," *Tsaqafah* 12, no. 1 (2016), <https://doi.org/10.21111/tsaqafah.v12i1.369>.

⁷ Husnul Fatarib, Muhammad Qasem, and Meirison Meirison, "Al-Hājat As The Basis Of Contemporary Ijtihād. *Al-'Adalah*, 17 no. 1 (2020), 163-186. <https://doi.org/10.24042/adalah.v17i1.6209>

⁸ Muhammad Abubakar Siddique and Abdul Rashid, "The Fatāwā in Islamic Banking and Financial Industry: Explaining the Use of Ḍarūrah (Dire Necessity) and Ḥājah (Need) Maxims," *Journal of Islamic Business and Management*, 9 no. 2 (2019):355-367. <https://doi.org/10.26501/jibm/2019.0902-008>

⁹ Dasrizal, Dasrizal, Ramzy Rusli Zarkasyi, Isnel Arfen Azizah, Maulida Hania, Junaidi Junaidi, and Nurliana Nurliana, "The Urgency of Maqashid Al-Sharia in Everyday Life". *Jurnal Elsyakhshi*, 2 no. 2 (2024):80-87. <https://doi.org/10.69637/jelsy.v2i2.432>.

¹⁰ Mohamad Atho Mudzhar, "The Use of Legal Maxims in the Fatwas of Indonesian Ulama Council," *Jurnal Indo-Islamika* 12, no. 1 (2022): 1-11, <https://doi.org/10.15408/jii.v12i1.24343>

flexibility in responding to the dynamic realities of modern economic systems.¹¹

Several contemporary studies have investigated the methodological application of *fiqh* maxims in the formulation of economic fatwas issued by the National Sharia Council of the Indonesian Ulama Council (DSN-MUI). Existing studies generally emphasize the role of *fiqh* maxims as foundational tools that enable the adaptation of Islamic law to modern economic practices, particularly in banking and capital market contexts.¹² Some studies further classify the types of *fiqh* maxims used in DSN MUI fatwas and demonstrate the dominance of emergency-based principles (*al darurah* and *al ḥājah*) in addressing new economic transactions lacking precedent in classical.¹³ Other works trace the historical evolution of these maxims, showing an increasing reliance on emergency as a normative justification in contemporary Islamic finance¹⁴. From a theoretical perspective, previous research, drawing on frameworks such as Ibn Qayyim al-Jawziyyah's concept of legal change, argues that *fiqh* maxims mediate between classical doctrine and contextual demands, ensuring both flexibility and doctrinal legitimacy.¹⁵ In addition, prior studies highlight a broader methodological shift in DSN MUI fatwas from purely normative

¹¹ Tika Mutiani and Muhamad Burhanuddin, "Kaidah Fiqh dalam Fatwa Ekonomi DSN-MUI," *Jurnal Ilmiah Ekonomi Islam* 9, no. 1 (2021): 773-779 <https://doi.org/10.29040/jiei.v9i1.7817>

¹² Mutiani, Tika, and Muhamad Burhanuddin. "Kaidah Fiqh dalam Fatwa Ekonomi DSN-MUI." *Jurnal Ilmiah Ekonomi Islam*, 9, no. 1 (2021): 15-34. <https://doi.org/10.29040/jiei.v9i1.7817>

¹³ Faizin, Nur, Abdul Basid, and Moh Rofiq. "Pembelajaran Ekonomi Syariah Melalui Klasifikasi Kaidah-Kaidah Fikih dalam Fatwa DSN-MUI." *MIYAH: Jurnal Studi Islam*, 17 no. 1 (2021): 45-68.

¹⁴ Sanusi, Sandy Rizki Febriadi, Neneng Nurhasanah, and Maman Surahman. "Pengembangan Kaidah Fikih Fatwa Ekonomi Syariah DSN-MUI." *At-Taqaddum*, 12, no. 2 (2019): 101-120. <https://doi.org/10.21580/at.v12i2.6540>

¹⁵ Nurjaman, Muhamad Izazi, and Doli Witro, "The Relevance of the Theory of Legal Change According to Ibn Qayyim Al-Jauziyyah in Legal Products by Fatwa DSN-MUI Indonesia." *El-Mashlahah*, 11 no. 2 (2020): 75-92. <https://doi.org/10.23971/elma.v11i2.3181>

authority toward a more context-responsive framework, in which emergency-based maxims increasingly function as structural elements of legal reasoning.¹⁶

However, despite these contributions, the existing literature exhibits two key limitations. First, most studies remain descriptive, focusing on the presence, classification, or historical development of *fiqh* maxims, without systematically analyzing how emergency-based maxims operate within the internal argumentative structure of fatwas. Second, the growing dominance of emergency reasoning has not been critically examined in terms of its methodological implications, particularly regarding the potential normalization of *rukhsah* (legal concession) in contemporary *ijtihad*. Accordingly, this article positions itself within this gap by offering a systematic empirical mapping of emergency-based maxims alongside a methodological analysis of their function in DSN MUI fatwas. In doing so, it moves beyond descriptive accounts to critically assess how emergency operates not only as a tool of legal adaptation but also as a defining feature of contemporary Islamic legal reasoning.

This study employs a qualitative method¹⁷ with a normative, empirical orientation, focusing with a normative-, empirical orientation, focusing on the systematic analysis of DSN-MUI fatwa documents in the field of Islamic economics. This research employs a qualitative approach. The normative approach is utilized to examine emergency-based legal maxims (*qawā'id al-ḍarūra*) that serve as the legal foundations of DSN-MUI fatwas, while the empirical approach is applied to systematically map the frequency and patterns of their use in the fatwa formulation process. The object of this study consists of

¹⁶ Nur Hidayah, Haryatih Haryatih, and Ucu Solihah. "From Normative Authority to Contextual Responsiveness: Theoretical and Empirical Analysis of DSN-MUI's Transformation in Fatwa Formulation." *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 9 no. 3 (2025): 201–223. <https://doi.org/10.22373/sjhk.v9.i3.28811>

¹⁷ Kornelius Benuf and Muhamad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan*, 7 no. 1 (April 1, 2020): 20–33, <https://doi.org/10.14710/gk.2020.7504>.

165 DSN-MUI fatwas issued during the period 2000–2005, representing the early phase of the development of Islamic economic regulation in Indonesia. The selection of this period is based on historical considerations, as it represents a stage of methodological consolidation in the formation of the national Islamic economic legal framework. Primary data were obtained from official DSN-MUI fatwa documents, while secondary data were derived from classical and contemporary *fiqh al-muʿāmalāt* literature, works on *qawāʿid fiqhiyyah*, as well as academic studies on fatwa methodology and the development of Islamic finance.

Data collection was conducted through documentary analysis by systematically reviewing all fatwas and identifying segments of legal reasoning (*taʿlīl/hujjah*) that explicitly or implicitly refer to emergency-based maxims and the principle of removal of hardship (*rafʿ al-ḥaraj*). The unit of analysis in this study is the legal argument segment within each fatwa, rather than the fatwa as a whole. Accordingly, a single fatwa may contain more than one legal maxim and can be coded into multiple categories. Data analysis was carried out using a content analysis approach aimed at uncovering patterns in the use of emergency-based maxims within the argumentative structure of the fatwas. The analytical process consisted of four stages: (1) developing a coding scheme based on established classifications of *qawāʿid al-ḍarūra* and *al-ḥājah*; (2) coding each identified argument segment according to the type of maxim employed; (3) categorizing the coded data into broader groups of *fiqh* maxims; and (4) conducting methodological interpretation to examine how these maxims function within contemporary processes of *ijtihād*.

B. Result and Discussion

Result

1. Distribution of the Use of Emergency Rules in DSN-MUI Fatwas

An analysis of 165 DSN-MUI fatwas issued between 2000 and 2025 shows that 89 fatwas (53.9%) explicitly employ emergency-based legal maxims in their legal reasoning. Meanwhile, 76 fatwas (46.1%) do not explicitly invoke such maxims, although some refer

more generally to *Shari'a* principles without specific reliance on emergency-based arguments. The identified maxims appear primarily in the argumentative sections (*ta'ilil*) of the fatwas, functioning either as primary justification or as supporting reasoning. In several cases, more than one maxim is used within a single fatwa, indicating a layered structure of legal argumentation. In terms of temporal distribution, the use of emergency-based maxims is consistently present throughout the 2000–2025 period, with no significant concentration in a particular year, suggesting their recurring role in DSN-MUI fatwa formulation.

2. Frequency and Type of Emergency Rules Used

The coding process identifies **five dominant legal maxims** employed across the fatwas. Their distribution is presented in table 1.

Table 1
Distribution of Emergency-Based Legal Maxims in DSN-MUI Fatwas

No	Legal Maxim	Meaning of Maxim	Fatwa Frequency	Percentage of 89 Fatwas
1	الضَّرُّ يُزَالُ	<i>Harm must be eliminated</i>	46	51,7%
2	الضَّرُّ يُدْفَعُ بِقَدْرِ الْإِمْكَانِ	<i>Harm must be prevented as far as possible</i>	33	37,1%
3	الْحَاجَةُ تَنْزِلُ مَنْزِلَةَ الضَّرُورَةِ	<i>Need assumes the status of emergency</i>	28	31,4%
4	دَرْءُ الْمَفَاسِدِ مُقَدَّمٌ عَلَى جَلْبِ الْمَصَالِحِ	<i>Reventing harm takes precedence over securing benefit</i>	25	28,1%
5	الضَّرُورَاتُ تُبَيِّحُ الْمَحْظُورَاتِ	<i>Harm permit what is otherwise prohibited</i>	6	6,7%

3. Distribution of Fatwa Fields Using Emergency Rules

The use of emergency-based maxims varies across different sectors of Islamic economic activity. The distribution is shown in table 2.

Table 2
Distribution of Fatwa Sectors Employing Emergency-Based Maxims

No	Fatwa Field	Number of Fatwas	Percentage
1	Islamic Banking	35	39%
2	Islamic Money Market and Capital Market	22	24,7%
3	Islamic Insurance	14	15,7%
4	Islamic Fintech	10	11,2%
5	Real Sector and Others	8	9%

Total Fatwas Employing Emergency-Based Maxims: 89 Fatwas

The empirical data demonstrate that emergency-based legal maxims occupy a highly significant position in the argumentative structure of DSN-MUI fatwas. With a usage rate exceeding half of the total fatwas analyzed, emergency-based reasoning no longer functions solely as an exceptional mechanism applied under extreme circumstances, as traditionally conceptualized in classical fiqh. Instead, in contemporary Islamic economic fatwa practices, these maxims have evolved into one of the principal methodological instruments enabling Islamic law to adapt to the dynamics of modern economic systems. These findings indicate that the development of modern *fiqh al-mu‘āmalāt* is shaped not only by interpretations of classical jurisprudential texts but also by the methodological capacity of scholars to utilize *qawā‘id fiqhiyyah* as adaptive legal tools in responding to transformations within the global economic order.

Discussion

1. Transformation of Emergency Rules in Modern Fiqh Muamalah

The findings of this study indicate that emergency-based legal maxims in contemporary Islamic economic fatwas no longer function merely as temporary and situational legal tools, as traditionally understood within classical Islamic jurisprudence. In classical *uṣūl al-fiqh* literature, maxims related to emergency, such as *الضَّرُورَاتُ تُبَيِّحُ الْمَحْظُورَاتِ* (“*harm permit what is otherwise prohibited*”) were conceptualized as exceptional mechanisms that could only be invoked under extreme conditions threatening the fundamental objectives of the *sharīʿa* (*maqāṣid al-sharīʿa*), particularly the protection of religion, life, intellect, lineage, and property.¹⁸ However, the empirical evidence presented in this research suggests that emergency-related maxims have undergone a functional transformation in the context of modern Islamic economic governance. Rather than being confined to emergency situations, these maxims increasingly operate as analytical frameworks that enable jurists to interpret and regulate complex financial transactions within rapidly evolving economic systems.

An analysis of the entire corpus of DSN-MUI fatwa documents indicates that legal maxims related to the concepts of emergency and the elimination of harm play a highly significant role in the argumentative structure of Islamic economic law. Of the total 165 DSN-MUI fatwas examined in this study, 89 fatwas were found to explicitly employ emergency-based legal maxims as a basis for legal reasoning. This means that approximately 53.9 percent of the fatwas analyzed contain legal arguments grounded in the concepts of emergency, urgent need (*ḥājah*), or the principle of harm removal (*rafʿ al-darar*). These findings are consistent with previous research demonstrating that the principle *al-ḥājah qad tunazzalu manzilat al-darūrah* (need may take the status of emergency) is frequently invoked in economic

¹⁸ Muhammad Shettima, Hama Adam Biu, and Muhammad Al-Ameen Deribe, “The Relevance of Islamic Legal Maxims in Determining Contemporary Legal Issues,” *IIUM Law Journal*, 24 no. 2 (2016): 417. <https://doi.org/10.31436/iiumlj.v24i2.254>

fatwas issued by DSN-MUI, highlighting the central role of emergency-based maxims in adapting Islamic law to modern economic practices.¹⁹

A systematic examination of 165 DSN-MUI fatwas demonstrates that emergency-based reasoning is frequently employed beyond strictly defined emergency conditions. Instead, these maxims are applied in the regulation of sophisticated financial instruments and institutional arrangements that characterize modern Islamic finance. This proportion indicates that more than half of the Islamic economic fatwas issued by the DSN-MUI utilize emergency-based maxims as methodological instruments in the process of legal determination.²⁰ This proportion indicates that more than half of the Islamic economic fatwas issued by the DSN MUI utilize emergency-based maxims as methodological instruments in the process of legal determination.²¹ For instance, several fatwas concerning contemporary financial instruments, such as *sukuk*, Islamic interbank money markets, and Islamic hedging mechanisms, explicitly invoke maxims including الضَّرُّ يُزَالُ (“*harm must be eliminated*”) and الضَّرُّ يُدْفَعُ بِقَدْرِ الْإِمْكَانِ (“*harm must be prevented as far as possible*”).²² These principles are used not merely to address emergencies but to guide the normative design of financial structures aimed at minimizing systemic risks and protecting economic stakeholders. The frequent application of these maxims illustrates how the prevention and mitigation of harm

¹⁹ Imam Mustofa, “Analisis Penggunaan Kaidah *al-hājah qad tunazzalu manzilat al-darūrah* dalam Fatwa Dewan Syariah Majelis Ulama Indonesia.” *Analisis: Jurnal Studi Keislaman*, 18 no. 2 (2017):1-26. <https://doi.org/10.24042/ajsk.v18i2.3425>

²⁰ Dedi Solihin and Taufik Akbar, “DSN-MUI Fatwa as a Regulatory Pillar for the Growth of Sharia Exchange-Traded Funds in Islamic Finance,” *Jurnal Syarikah: Jurnal Ekonomi Islam*, 11 no. 1 (2025): 97–109. <https://doi.org/10.30997/jsei.v11i1.19685>

²¹ Agus Fakhri and Abdul Hamid, “Sacralizing the Market? The Role of DSN-MUI in the Legal-Economic Legitimacy of Islamic Banking in Indonesia,” *AHKAM: Jurnal Ilmu Syariah*, 25 no. 1 (2025): 45–60. <https://doi.org/10.15408/ajis.v25i1.40879>

²² Yuliana Siti Sholaika, Amin Wahyudi, and Miftah Pahlevi, “Sharia Governance in the Digital Financial Ecosystem: OJK Regulation and DSN-MUI Fatwa,” *AL-IKTISAB: Journal of Islamic Economic Law*, 9 no. 2 (2025): 185–200. <https://doi.org/10.21111/aliktisab.v9i2.15365>

have become central considerations in the formulation of contemporary Islamic economic law.²³

From the perspective of Islamic legal methodology, this pattern reflects a significant shift in the functional role of emergency-based maxims. Historically, such maxims served primarily as exceptional dispensations (*rukhas*) granted in response to extraordinary hardship. In contrast, the findings of this study suggest that these principles are increasingly integrated into the routine processes of fatwa production in the field of Islamic finance.²⁴ In this context, emergency-based maxims operate as methodological instruments that facilitate the adaptation of Islamic legal norms to the structural realities of modern economic systems. Given the high level of institutional complexity, regulatory interdependence, and global financial integration characterizing contemporary markets, jurists are compelled to employ flexible interpretive tools capable of addressing risks that did not exist in premodern economic environments.

This transformation also reflects the growing recognition that modern financial systems operate within a framework of systemic risk rather than isolated individual transactions. In classical commercial environments, most legal disputes were confined to relatively simple bilateral exchanges. By contrast, contemporary financial institutions operate within interconnected networks involving banks, capital markets, insurance systems, and digital financial platforms.²⁵ As a result, legal reasoning in Islamic finance increasingly emphasizes the prevention of systemic harm rather than merely resolving individual

²³ Muhamad Nasrudin, Ali Sodikin, Abdul Mujib, Budhi Santoso, and Muhammadun, "From Nonbinding to Binding: Legal Authority Transformation of DSN-MUI Fatwas Within the National Legal System," *Jurnal Hukum Islam*, 23 no. 2 (2025): 413–58. <https://doi.org/10.28918/jhi.v23i2.03>

²⁴ Noer Adhe Purnama, Lies Sulistiani, and Zainal Muttaqin. "From Fatwa to Compliance in Islamic Financial Enforcement: Designing Governance and Supervision Frameworks for Sharia Fintech in Indonesia." *Mu'amalah: Jurnal Hukum Ekonomi Syariah*, 4 no. 2 (2025): 192–215. <https://doi.org/10.32332/muamalah.jg4ese80>

²⁵ Agus Putra Panji, "Aplikasi Kaidah Lâ Dharara Wa Lâ Dhirâr Dalam Hukum Ekonomi Syariah". *Al-Kharaj : Jurnal Ekonomi, Keuangan & Bisnis Syariah*, 6 no. 2(2023):2164-79. <https://doi.org/10.47467/alkharaj.v6i2.4391>.

contractual disputes. The extensive use of maxims such as الضَّرَرُ يُزَالُ illustrates how juristic reasoning is evolving toward a regulatory orientation that prioritizes financial stability and the protection of collective economic interests.²⁶

Furthermore, the transformation of emergency-based maxims demonstrates the pragmatic orientation of modern *fiqh al-mu'āmalāt*. In contemporary Islamic financial governance, legal reasoning often seeks to balance strict normative commitments with the practical requirements of economic functionality. Maxims associated with harm prevention and emergency are therefore utilized as regulatory principles that enable scholars and policymakers to design financial instruments capable of mitigating economic risks while maintaining compliance with *sharī'a* principles. In this regard, the maxim الضَّرَرُ يُزَالُ functions not merely as a doctrinal statement but as a normative guideline shaping the architecture of modern Islamic financial regulation.

Ultimately, the findings of this research suggest that the evolution of emergency-based legal reasoning represents a broader transformation within contemporary Islamic legal thought. Rather than abandoning classical jurisprudential principles, modern Islamic economic law appears to reinterpret them within new institutional contexts. The integration of *qawā'id fiqhiyyah* into contemporary fatwa production demonstrates how Islamic legal methodology continues to evolve in response to changing economic realities. Consequently, emergency-based maxims have shifted from being narrowly defined legal exceptions to becoming central components of adaptive jurisprudence that facilitate the institutional development of Islamic finance within the global economic order.

2. Normalization of *Rukhshah* in Economic Fatwa

The findings of this study also reveal a phenomenon that can be described as the normalization of *rukhsah* in contemporary Islamic

²⁶ Upi Sopiah Ahmad, Mhd Yadi Harahap, Sukiati Sugiono, and Nurasiah, Nurasiah. (2026). Kaidah Lā Ḍarar wa Lā Ḍirār sebagai Instrumen Normatif dalam Pembatasan Pemanfaatan Sumber Daya Alam. *Irsyaduna: Jurnal Studi Kemahasiswaan*, 5 no. 3 (2026):617–632. <https://doi.org/10.54437/irsyaduna.v5i3.2826>

economic fatwas. In classical Islamic legal theory, *rukhsah* refers to a legal concession granted under specific circumstances to alleviate excessive hardship (*raf' al-haraj*). Traditionally, it is positioned as an exception to the original legal ruling (*'azimah*), and therefore its application is strictly limited to situations of genuine emergency. However, the empirical evidence from this study suggests that emergency-related legal maxims are increasingly employed in the formulation of Islamic economic fatwas. This indicates that the mechanism of *rukhsah* is no longer confined to temporary dispensations in extreme circumstances but has gradually evolved into a methodological instrument for addressing the complexities of contemporary economic transactions.

The predominance of the maxim *الْحَاجَةُ تَنْزِلُ مَنْزِلَةَ الضَّرُورَةِ* ("*necessities may take the status of emergency*") demonstrates that the concept of *hajah* (need) is frequently treated as equivalent to emergency within the framework of Islamic economic fatwas. In numerous DSN-MUI rulings, this maxim is invoked to legitimize innovative financial instruments that do not have direct precedents in classical fiqh literature, such as Islamic bonds (*sukuk*), interbank money market instruments, and various contemporary financing mechanisms. These fatwas illustrate how collective economic needs, particularly those related to financial stability are interpreted within Islamic legal reasoning as conditions that justify certain legal concessions.²⁷

In modern economic systems, the notion of need addressed by these fatwas is often systemic rather than purely individual. For example, fatwas regulating Islamic interbank markets frequently rely on maxims such as *الضَّرَرُ يُزَالُ* ("*harm must be eliminated*") and *الضَّرَرُ يُدْفَعُ بِقَدْرِ الْإِمْكَانِ* ("*harm must be prevented as far as possible*") to justify liquidity mechanisms essential for the functioning of Islamic banking

²⁷ Andi Marwah, Nasrullah bin Sapa, and Abdul Syatar, "Integrating Maqashid al-Shariah into Islamic Economic Practices: A Contemporary Analytical Framework and Its Applications," *El-kahfi: Journal of Islamic Economics*, 6 no. 01 (2025):36-44. <https://doi.org/10.58958/elkahfi.v6i01.456>

institutions.²⁸ The application of these principles reflects the recognition that maintaining financial stability and protecting public funds constitute important considerations in contemporary Islamic legal reasoning.²⁹ Consequently, legal maxims in Islamic finance serve not only as ethical guidelines but also as regulatory principles that support the sustainability of modern financial systems.³⁰

This phenomenon reflects a broader shift from classical normative *fiqh* toward a jurisprudence of modern economic emergency. In classical jurisprudence, Islamic law primarily addressed individual commercial transactions within relatively simple economic environments. In contrast, contemporary economic systems are characterized by complex institutional structures, global financial integration, and systemic risk. As a result, Islamic legal reasoning must adapt to regulate large-scale financial institutions and market mechanisms. Within this evolving context, *rukhsah* is no longer restricted to individual emergencies such as hunger or threats to survival but increasingly encompasses structural necessities within modern economic systems.³¹

Furthermore, the normalization of *rukhsah* indicates that contemporary Islamic economic jurisprudence increasingly adopts a pragmatic orientation centered on public welfare (*maṣlaḥah*). Legal maxims such as *دَرْءُ الْمَفَاسِدِ مُقَدَّمٌ عَلَى جَلْبِ الْمَصَالِحِ* (“*preventing harm takes precedence over attaining benefit*”) are frequently invoked to justify

²⁸ Adnan Hasan, Achmad Abubakar, and Muhammad Irham, “Integrating Maqasid al-Shariah into Islamic Sustainable Banking: A Systematic Review of Halal Industry Practices and Green Economy Alignment (2020–2024),” *BANCO: Jurnal Manajemen dan Perbankan Syariah*, 8 no. 1 (2026): 230–245. <https://doi.org/10.35905/banco.v8i1.14169>

²⁹ Masnur, Syaefulloh, Hidayat, Hamsal, and Abdul Majid, “Analisis Konsep dan Aplikasi Maqashid Syariah dalam Pengelolaan Keuangan Syariah,” *Syarikat: Jurnal Rumpun Ekonomi Syariah*, 8 no. 2 (2025): 442–453. [https://doi.org/10.25299/syarikat.2025.vol8\(2\).26757](https://doi.org/10.25299/syarikat.2025.vol8(2).26757)

³⁰ Hernawaty, Nurhayati, and Isnaini Harahap, “Hedging from the Perspective of Maqasid Shariah,” *IQTISHODUNA: Jurnal Ekonomi Islam* 14, no. 1 (2025): 287–300, <https://doi.org/10.54471/iqtishoduna.v14i1.3445>

³¹ Rahmawati, Juhriaty, and Jufrin, “Implementasi Ta’widh dan Ta’zir dalam Perbankan Syariah: Perspektif Fatwa Majelis Ulama Indonesia,” *Maqasid: Jurnal Studi Hukum Islam*, 14 no. 1 (2025): 1–13. <https://doi.org/10.30651/mqs.v14i1.25898>

regulatory policies aimed at minimizing systemic economic risks. This pattern suggests that the protection of financial stability and the safeguarding of collective economic interests have become dominant considerations in the formulation of Islamic economic fatwas. In this sense, Islamic law functions not only as a normative ethical system but also as a regulatory framework capable of governing modern financial institutions.

Nevertheless, the normalization of *rukhsah* in Islamic economic fatwas also raises important methodological questions. If emergency-based legal maxims are widely applied across diverse areas of Islamic finance, the boundary between genuine emergency and normal economic conditions may gradually become blurred. Over time, this development could reshape the methodological structure of *ijtihād* in Islamic economic law, particularly in determining the limits between legitimate legal flexibility and adherence to the foundational principles of Sharīʿa. Therefore, a more systematic methodological framework is needed to ensure that the application of *rukhsah* remains aligned with the objectives of the Sharīʿa (*maqāṣid al-Sharīʿa*) and does not evolve into an overly expansive justification for contemporary economic practices.

3. Methodological Critique of the Dominance of Emergency Legal Maxim

Although emergency-based legal maxims provide methodological flexibility in the development of Islamic economic law, their dominance also raises several methodological concerns that require critical examination.³² Within the framework of classical *uṣūl al-fiqh*, the concept of emergency (*ḍarūra*) is defined under very strict conditions and can only be invoked when there is a real threat to the fundamental interests protected by the *maqāṣid al-Sharīʿa*, including the protection of religion, life, intellect, lineage, and property. However, contemporary Islamic economic fatwas demonstrate a broader application of emergency-related principles. An examination

³² Nur Efendi, Hasan Bisri, Ayi Yunus, and Rayan Asa Luminaries, "Analysis of Qawa'id Fiqhiyyah in the Utilization of Zakat as a Solution to Illegal Online Loans," *Al-Muamalat: Jurnal Ekonomi Syariah*, 12, no. 1 (2025): 41–58, <https://doi.org/10.15575/am.v12i1.40687>

of DSN-MUI fatwas reveals that maxims such as الضَّرَرُ يُزَالُ (“*harm must be eliminated*”) and الضَّرَرُ يُدْفَعُ بِقَدْرِ الْإِمْكَانِ (“*harm must be prevented as far as possible*”) are frequently employed in regulating modern financial instruments, ranging from banking liquidity mechanisms to Islamic capital market regulations.³³

The first methodological concern relates to the expansion of the concept of emergency beyond the boundaries established in classical Islamic jurisprudence. Traditionally, emergency was understood as an extraordinary condition that temporarily permitted exceptions to otherwise prohibited acts, as reflected in the maxim الضَّرُورَاتُ تُبَيِّحُ الْمَحْظُورَاتِ (“*harm permit what is otherwise prohibited*”).³⁴ In contemporary Islamic financial fatwas, however, the scope of emergency has increasingly been extended through the concept of *hājah* (need), particularly systemic needs associated with the stability of financial institutions. As a result, circumstances that were initially regarded as practical economic needs may be treated as forms of emergency that justify certain legal adaptations. This expansion reflects the evolving methodological dynamics of modern *fiqh al-mu‘āmalāt*, which seeks to reconcile Islamic legal principles with the complexity of contemporary economic systems.

The second issue concerns the potential normalization of *rukhsah*, where legal concessions gradually become routine instruments in the formulation of legal rulings. In classical Islamic legal theory, *rukhsah* represents a temporary exemption from the original ruling (*‘azimah*) and is therefore intended to be applied only under exceptional circumstances. However, the prevalence of emergency-

³³ Ahmad Musadad, Baihaqi Nasik, A. M. Khazin, and M. Syaifudin, “The Role of The Taysir Manhaji Method in The Development of Islamic Economic Law in Indonesia Through DSN-MUI Fatwas,” *Journal of Islamic Economic Laws*, 8, no. 01 (2025): 130–154, <https://doi.org/10.23917/jisel.v8i01.7607>

³⁴ Muh. Nur Ridho Chaerul Firdaus, Mohamad Abdul Hanif, Muh. Nur Fithri Dahlan, and Shofiyullah Muzammil, “Aplikasi Qawa’id Fiqhiyyah dalam Fatwa Kontemporer,” *Iqtishaduna: Jurnal Ilmiah Mahasiswa Hukum Ekonomi Syari’ah*, 6, no. 2 (2025): 1–15, <https://doi.org/10.24252/iqtishaduna.vi.54006>

based maxims in Islamic economic fatwas suggests that these concessions are increasingly used as a primary basis for legal reasoning. If this pattern continues without clear methodological safeguards, it may lead to a situation in which *rukhsah* gradually replaces *‘azimah* as the dominant foundation of legal argumentation in modern Islamic commercial jurisprudence. The predominance of emergency-based maxims in Islamic economic fatwas raises several important questions within the study of contemporary Islamic law. The extensive reliance on such maxims may also invite critical reflection regarding the extent to which the concept of emergency is applied proportionately within contemporary processes of *ijtihad*. If emergency-based maxims are employed too broadly, there is a possibility that the principle of *rukhsah*, originally intended as a legal concession for exceptional circumstances, may gradually become normalized as a routine basis for legal reasoning.³⁵

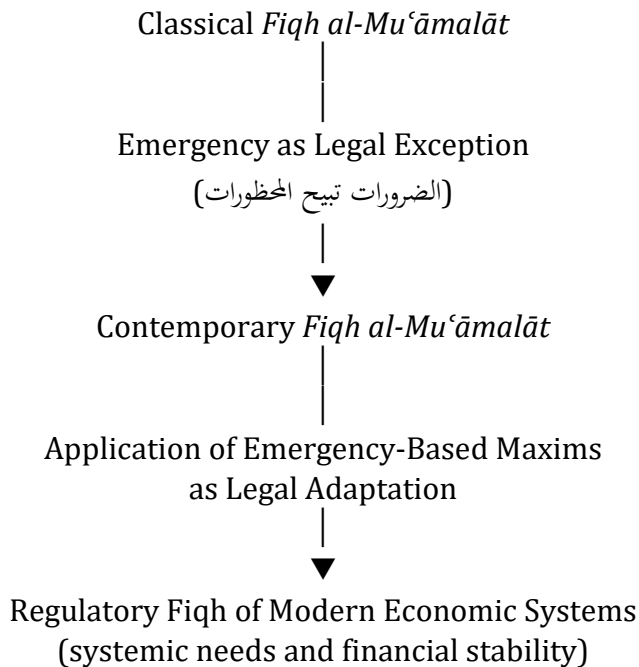
A third concern relates to the emergence of excessive legal flexibility within Islamic economic regulation. In rapidly evolving financial systems, a degree of legal flexibility is necessary to accommodate financial innovation, including new investment instruments, Islamic hedging mechanisms, and digital financial technologies. Nevertheless, such flexibility must remain within clearly defined methodological boundaries to preserve the normative character of Islamic law. Without appropriate methodological constraints, the widespread use of emergency-based reasoning could potentially shift Islamic economic law from a principled normative framework toward an overly pragmatic regulatory system.

To conceptualize this transformation, this study proposes an analytical model illustrating the evolving role of emergency-based maxims in modern *fiqh al-mu‘āmalāt*. The model demonstrates how these maxims have gradually shifted from functioning as individual

³⁵ Jalili Ismail, and Ilham Syukri, "UTILIZING QAWĀ'ID FIQHIYYAH IN LEGAL ANALYSIS: A REVIEW OF THEIR EVOLUTION AND APPLICATION IN INDONESIAN ISLAMIC JURISPRUDENCE". *Istinbath*, 24 no. 1 (2025):51-65. <https://doi.org/10.20414/ijhi.v24i1.776>.

legal exceptions toward becoming instruments of legal adaptation within complex economic systems.

Figure 1. Diagram: Analytical Model of the Transformation of Islamic Economic Jurisprudence



This model illustrates that emergency-based maxims have undergone a functional transformation, from mechanisms of individual legal exception to regulatory instruments within modern economic systems. In this evolving framework, *fiqh al-mu'āmalāt* no longer serves solely as an ethical guide for individual transactions but increasingly operates as a regulatory framework capable of governing complex and globally integrated economic structures.

4. Implications for Islamic Legal Theory

The findings of this study carry significant implications for the development of contemporary Islamic legal theory, particularly in the field of *fiqh al-mu'āmalāt*. The dominance of emergency-based legal maxims in Islamic economic fatwas indicates that modern Islamic commercial jurisprudence evolves through a pattern of adaptive

ijtihād that integrates the principles of *maqāṣid al-Sharīʿa* with *qawāʿid fiqhiyyah* as methodological tools.³⁶ This adaptive approach enables Islamic law to remain responsive to the dynamics of modern economic systems characterized by complex financial transactions, continuous financial innovation, and the integration of global financial markets. In the context of DSN-MUI fatwas, the frequent use of maxims such as *الضَّرَرُ يُزَالُ* (“*harm must be eliminated*”) and *الضَّرَرُ يُدْفَعُ بِقَدْرِ الْإِمْكَانِ* (“*harm must be prevented as far as possible*”) illustrates how the principles of harm elimination and risk mitigation have become central considerations in the formulation of Islamic economic law.³⁷ This pattern suggests that contemporary *fiqh al-muʿāmalāt* does not merely focus on the formal legality of transactions but also prioritizes the broader protection of economic welfare within society.

A second implication concerns the evolving function of legal maxims within the methodological framework of modern Islamic jurisprudence.³⁸ In classical *fiqh* literature, *qawāʿid fiqhiyyah* were generally understood as normative formulations summarizing general principles derived from various branches of Islamic law. In contemporary Islamic economic fatwas, however, these maxims increasingly function as methodological instruments guiding the process of legal reasoning. Maxims such as *الْحَاجَةُ تَنْزِلُ مَنْزِلَةَ الضَّرُورَةِ* demonstrate how economic needs can be incorporated into the legal reasoning of Islamic scholars to address the practical demands of modern economic systems. In this sense, *qawāʿid fiqhiyyah* serve as

³⁶ Nur Efendi, Hasan Bisri, Ayi Yunus, and Rayan Asa Luminaries, “Analysis of Qawaʿid Fiqhiyyah in the Utilization of Zakat as a Solution to Illegal Online Loans,” *Al-Muamalat: Jurnal Ekonomi Syariah* 12, no. 1 (2025): 41-58, <https://doi.org/10.15575/am.v12i1.40687>

³⁷ Muhammad Iqbal Hanafi Nasution, Muhammad Amar Adly, and Heri Firmansyah, “Implementasi Qawaʿid Fiqhiyyah Dalam Penyelesaian Masalah Kontemporer,” *Tabayyun: Journal of Islamic Studies*, 3 no. 2 (2025):190-121

³⁸ Mustofa, Mustofa, Muhamad Fuji Hakiki, Ahmad Suganda, and Encep Taufik Rahman. “Analisis Ekonomi Islam dalam Perspektif Fiqh Melalui Kajian Qawaidul Fiqhiyyah.” *EKALAYA : Jurnal Ekonomi Akuntansi*, 2 no. 3 (2024): 195–213. <https://doi.org/10.59966/ekalaya.v2i3.1108>

conceptual bridges linking normative *Shari‘a* principles with the practical realities of contemporary financial governance.

The third implication relates to the transformation of modern Islamic economic jurisprudence toward what may be described as systemic *fiqh*. Within this paradigm, Islamic law is no longer viewed solely as a normative system regulating individual economic behavior but increasingly as a regulatory framework capable of governing economic structures and financial institutions. This development is evident in fatwas addressing Islamic interbank markets, Islamic hedging mechanisms, and various modern financial instruments that carry systemic implications for financial stability. Consequently, contemporary *fiqh al-mu‘amalāt* is gradually shifting from a micro-level focus on individual contractual relations toward a macro-level perspective concerned with the stability and integrity of the broader economic system.

Ultimately, the findings of this study demonstrate that the development of Islamic economic law depends not only on textual interpretation of classical jurisprudential sources but also on the methodological capacity of contemporary scholars to integrate *maqāṣid al-shari‘a*, legal maxims, and empirical analysis of modern economic realities.³⁹ This transformation reflects the adaptive nature of Islamic law, which enables it to remain relevant in the face of global economic change. Accordingly, the evolution of modern *fiqh al-mu‘amalāt* can be understood as a process of methodological renewal that seeks to maintain a balance between adherence to foundational *shari‘a* principles and responsiveness to the practical demands of contemporary economic systems.⁴⁰

³⁹ Saifullah, Yassine Belhassen, and Mohamed Abdallah Al-Neelain, "Reconstruction of Maqāṣid al-Shari‘ah in Contemporary Economic Fatwas," *Al-Wadh‘iyyah: Journal of Sharia Law and Legal Studies* (2026): 144-151 <https://journal.zmsadra.or.id/index.php/jslls/article/view/277>

⁴⁰ Olvia Reza, Putri Nur Islamia, and Roya Zahir Kunduz, "The Urgency of Maqashid Syariah in the Determination of Islamic Economic Fatwa by DSN-MUI," *Al-Wadh‘iyyah: Journal of Sharia Law and Legal Studies* (2025):1-9. <https://journal.zmsadra.or.id/index.php/jslls/article/view/37>

C. Conclusion

This study demonstrates that legal maxims related to the concept of emergency occupy a highly significant position in the formulation of Islamic economic fatwas in Indonesia. An analysis of 165 fatwas issued by the National Sharia Council of the Indonesian Ulama Council (DSN-MUI) reveals that 89 fatwas employ legal maxims associated with emergency, the elimination of harm, or urgent need as the basis of legal reasoning. This proportion indicates that more than half of the Islamic economic fatwas rely on the framework of *qawā'id fiqhiyyah* oriented toward risk mitigation and the prevention of economic harm. The predominance of maxims such as *al-ḍarar yuzāl*, *al-ḍarar yudfa' bi-qadr al-imkān*, and *al-ḥājah tanzil manzilat al-ḍarūra* illustrates that considerations related to potential economic harm and systemic needs play a central role in the formulation of Islamic economic law. Consequently, legal maxims do not function merely as theoretical normative formulations but also as methodological instruments actively employed in institutional processes of *ijtihād*.

These findings also indicate a transformation in the functional role of emergency-based maxims within modern *fiqh al-mu'āmalāt*. In classical Islamic legal theory, emergency-based maxims were positioned as exceptional mechanisms applicable only under extreme circumstances to preserve the fundamental objectives of the *Sharī'a*. However, in contemporary Islamic economic fatwas, these maxims have expanded in function and increasingly serve as methodological tools for addressing the complexity of modern economic transactions. In this context, emergency is no longer narrowly understood as an individual condition threatening personal survival but also encompasses systemic needs related to maintaining the stability of Islamic financial systems. This transformation suggests that modern *fiqh al-mu'āmalāt* evolves through an adaptive approach that seeks to balance normative *Sharī'a* principles with the practical demands of contemporary economic systems.

At the same time, the predominance of emergency-based maxims in Islamic economic fatwas raises several methodological concerns that require critical examination. The expanded application of the concept of emergency may blur the boundary between exceptional circumstances and normal legal conditions within Islamic

law. Such a phenomenon may lead to the normalization of *rukhsah*, whereby legal dispensations originally intended to be temporary exceptions are increasingly employed as routine bases for legal reasoning in various economic contexts. If not accompanied by clear methodological constraints, the extensive use of emergency-based maxims may generate excessive legal flexibility and potentially weaken the normative character of Islamic law. Therefore, the application of emergency-based maxims in the development of Islamic economic law must remain grounded within the framework of *maqāṣid al-Sharīʿa* and guided by methodological prudence.

Overall, this study demonstrates that the development of modern Islamic economic jurisprudence is shaped not only by the interpretation of classical *fiqh* texts but also by the methodological capacity of contemporary scholars to utilize legal maxims and *maqāṣid al-Sharīʿa* in responding to evolving socio-economic realities. In this context, emergency-based maxims function as a bridge between the normative principles of Sharīʿa and the practical demands of modern economic systems. The development of Islamic economic law can therefore be understood as a process of adaptive *ijtihād* that integrates normative Sharīʿa values with the dynamics of contemporary economic life. These findings contribute theoretically to the study of Islamic legal methodology by demonstrating that *qawāʿid fiqhiyyah* play a strategic epistemological role in the evolution of modern *fiqh al-muʿāmalāt*.

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