

Between Strictness and Flexibility: A Comparative Insight into *Qawā'id al-Fiqhiyyah* in Islamic Banking Practices of Saudi Arabia and Pakistan

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ABSTRACT

Purpose – This study aimed to analyze how Islamic legal maxims are implemented in the banking sectors of Saudi Arabia and Pakistan, with comparative insights from Indonesia and Malaysia

Method – Using a qualitative comparative approach, this research examined fatwas, regulatory frameworks, and governance structures to assess the operationalization of key legal maxims such as *al-umūr bi-maqāṣidihā* (matters are judged by their objectives) and *al-darar yuzāl* (there should be neither harming nor reciprocating harm)..

Findings – Five working maxims—*al-umūr bi-maqāṣidihā* (purpose matters), *al-yaqīn lā yuzūlu bi-shakk* (certainty prevails), *al-mashaqqah tajlib al-taysir* (hardship begets facilitation), *al-darar yuzāl* (harm must be removed), and *al-'ādah muḥakkamah* (custom is authoritative)—explain cross-country variance. Saudi Arabia emphasizes textual rigor and documentary certainty, while Pakistan prioritizes contextual inclusion and adaptive tooling under the maqāṣid al-sharī'ah. Indonesia and Malaysia show a middle path through centralized fatwa governance and fintech-ready regulation.

Practical implications – The study proposes a Q-ALIGN scorecard and a Maxim→Design→Control chain to translate fiqh maxims into auditable *Shariah* governance, consumer protection, and digital-era product controls, thereby advancing *ḥifz al-māl* and *ḥifz al-'ird*, as well as the ESG governance agenda.

Originality/value – The paper links classical maxims to concrete product and control choices across jurisdictions, clarifying how legal pluralism can remain ethically rigorous yet operationally resilient in modern Islamic banking.

A. Introduction

Islamic banking has become an essential element of financial systems in numerous Muslim-majority nations, offering choices that conform to *Shariah* principles. Countries such as Saudi Arabia and Pakistan exemplify divergent approaches in incorporating Islamic legal principles (*Qawā'id al-Fiqhiyyah*) into their banking systems (Hassan, 2019; Rammal & Parker, 2013), highlighting the interaction between tradition and contemporary financial practices. The financial frameworks in these countries are influenced by various socio-cultural and legal situations that affect the application of Islamic teachings. Significant issues, like the eradication of *riba* (interest), equitable risk-sharing, and financial inclusion, necessitate sophisticated strategies grounded in Islamic jurisprudence. Saudi Arabia adopts a conservative position, rigorously following *Shariah* interpretations as delineated by its religious authorities (Oladapo et al., 2022). Conversely, Pakistan employs a hybrid legislative framework that integrates Islamic financial concepts with regulatory systems designed to meet contemporary banking requirements (Shaikh, 2023). These variations highlight the need for comparative analysis to understand the appropriate application of *Qawā'id al-Fiqhiyyah* across diverse economic and legal contexts.

Five operational maxims govern decision-making. (i) The matters are determined by their objectives—validate the genuine economic purpose and intent of the contract; (ii) Certainty is not negated by doubt—ensure documentary certainty regarding asset, title, price, and risk; (iii) Hardship necessitates facilitation—implement calibrated facilitation in the presence of genuine hardship; (iv) Harm must be eliminated—remove harm and uncertainty to prevent exploitative outcomes; (v) Custom is authoritative—permit benign market customs that do not contradict textual evidence. Although theoretical discourse on these ideas is plentiful, empirical research on their direct application across many jurisdictions is scarce (Abd Rahman et al., 2020). Many studies concentrate on either traditional interpretations or modern adaptations, frequently neglecting their dynamic interplay within actual financial systems. This research fills the vacuum by analyzing the implementation of these maxims in Saudi Arabia and Pakistan, emphasizing their efficacy in managing financial complexity. A comparative analysis facilitates a comprehensive understanding of how Islamic banking adjusts to global economic changes while upholding Islamic jurisprudence. This paper examines whether legal maxims function as a flexible instrument or a rigid structure in the governance of Islamic banking, analyzing the experiences of two countries. This perspective is crucial for assessing the sustainability and scalability of Islamic finance in a rapidly evolving global economy. This inquiry corresponds with international objectives—SDG 8 (Decent Work) and SDG 10 (Reduced Inequalities)—as well as the ESG Governance pillar, given that *Shariah* governance, consumer protection, and disclosure standards implement *ḥifẓ al-māl* (protection of wealth) and *ḥifẓ al-'ird* (dignity/trust) in retail finance.

Numerous studies have investigated the impact of *Qawā'id al-Fiqhiyyah* on Islamic finance, particularly in relation to risk management, contract structuring, and dispute resolution (Muhammad Tahir, 2013). Studies on Saudi Arabia have predominantly concentrated on its stringent regulatory framework, highlighting compliance with *Shariah* as interpreted by its religious

authorities (Muhsin et al., 2019). Simultaneously, research on Pakistan's Islamic banking sector highlights its pragmatic approach to reconciling *Shariah* with contemporary regulatory standards (Islahi, 2013). Current research seldom delineates the relationship between Maxim, Product, and Control in the context of modern challenges such as fintech, sandboxing, digital KYC, AML-CFT, and e-contracts. This article addresses that deficiency by a cross-jurisdictional, product-level analysis. This paper addresses the gap by delivering a comparative analysis of Saudi Arabia and Pakistan, presenting novel insights into the adaptability of Islamic legal maxims within modern financial systems. This research is new in its examination of the varying interpretations and applications of legal principles across diverse regulatory contexts, highlighting the expanding significance of *Qawā'id al-Fiqhiyyah* in contemporary Islamic banking.

The paper (i) correlates the five maxims with product structures and control points, (ii) compares the implementation trajectories of Saudi Arabia and Pakistan, with observations on Indonesia and Malaysia, and (iii) introduces a Q-ALIGN scorecard that transforms fiqh maxims into verifiable governance and consumer protection practices. This study aims to demonstrate the applicability of *Qawā'id al-Fiqhiyyah* as a vehicle for ethical and sustainable banking by examining two case studies. Understanding how each nation incorporates these principles into its financial legislation provides insight into the broader implications of Islamic finance on a global scale. This research assesses whether Islamic legal maxims promote financial stability or impose legal rigidity that hinders innovation. The paper provides a comprehensive comparative analysis that enhances current discussions on Islamic financial jurisprudence and its viability as an alternative to mainstream banking. The research will provide policy recommendations to enhance the effectiveness of Islamic banking practices worldwide.

This paper argues that the effective implementation of Islamic legal maxims requires a balance between strict adherence to *Shariah* principles and adaptability to contemporary economic conditions. Saudi Arabia's stringent view of Islamic financial jurisprudence signifies a commitment to orthodox methodologies, while Pakistan's model illustrates an openness to incorporating practical financial strategies. These divergent techniques provide significant insights into the application of *Qawā'id al-Fiqhiyyah*, enabling the maintenance of Islamic ethics while achieving financial competitiveness. The results indicate that a flexible application of Islamic legal maxims facilitates enhanced financial inclusion and economic resilience. This study advances the discussion on the evolution of Islamic banking while preserving its fundamental ethical precepts through the comparison of these approaches. The research highlights the significance of Islamic legal theory in resolving modern financial challenges, establishing it as a legitimate alternative to traditional banking. This study enhances the existing knowledge on Islamic finance and its potential to contribute to a more equitable and ethical global financial system.

B. Literature Review

1. Islamic Legal Maxim

Islamic legal maxims, known as *Qawā'id al-Fiqhiyyah*, serve as overarching principles that guide the interpretation and application of *Shariah* law across diverse contexts. These maxims, such as *al-umūr bi-maqāṣidihā* (matters are judged by their objectives) and *al-ḍarar yuzāl* (there should be neither harming nor reciprocating harm), provide a framework for resolving conflicts and ensuring justice in Islamic jurisprudence (Muhammad Aqib Ali & Talat Hussain, 2021). Originating from foundational Islamic sources, including the Qur'an and Hadith, these maxims have been systematically codified by classical scholars to ensure consistency in legal reasoning. Early jurists such as Imam Al-Ghazali and Ibn Qayyim emphasized the role of *Qawā'id al-Fiqhiyyah* in aligning legal rulings with broader ethical and social objectives. In modern times, scholars such as Jaapar et al. (2021) and Ghoni et al. (2022) have expanded the application of their work to contemporary issues, including financial transactions, corporate governance, and digital banking. Their work highlights the adaptability of Islamic legal maxims in responding to evolving economic and technological landscapes. These principles continue to play a crucial role in various sectors, ensuring that Islamic law remains relevant in the face of modern financial complexities.

The development of *Qawā'id al-Fiqhiyyah* has been driven by the need to balance legal rigidity with contextual flexibility, allowing Islamic law to evolve without compromising its core principles. While classical scholars primarily used these maxims for jurisprudential reasoning, modern scholars have incorporated them into regulatory frameworks governing Islamic banking and finance. Institutions such as the Islamic Financial Services Board (IFSB) and the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) have operationalized these principles to create standardized compliance guidelines (Enang Hidayat & Abu Umar Faruq Ahmad, 2023). This transition from theoretical constructs to practical applications has been crucial in addressing contemporary financial challenges while upholding adherence to *Shariah* norms. The inclusion of these maxims in legal interpretations allows for more pragmatic solutions in sectors such as banking, healthcare, and contract law. However, the extent to which different countries implement these maxims varies, reflecting the diverse socio-legal landscapes in which Islamic finance operates. A comparative analysis of different jurisdictions can offer insights into how these maxims function in both traditional and modern banking environments.

Existing research on *Qawā'id al-Fiqhiyyah* has explored their application across multiple fields, demonstrating their relevance beyond classical jurisprudence. Rohim (2022) examined how *al-umūr bi-maqāṣidihā* informs ethical investment strategies in Islamic banking, highlighting its role in structuring contracts that align with Islamic moral values. Mohamad Yunus (2019) investigated the significance of *al-ḍarar yuzāl* in consumer protection laws, emphasizing its function in ensuring transparency and fairness in financial transactions. These studies have contributed to the growing body of literature on Islamic legal maxims, yet they often focus on isolated applications rather than their holistic integration into financial governance. Additionally, while some scholars analyze the

theoretical aspects of *Qawā'id al-Fiqhiyyah*, fewer studies examine their direct implementation across different legal systems. A deeper investigation into their practical applications in Islamic banking, particularly in jurisdictions such as Saudi Arabia and Pakistan, is warranted. This research addresses this gap by comparing how these maxims are operationalized within these two financial systems to ensure compliance with *Shariah* law.

Despite extensive research on *Qawā'id al-Fiqhiyyah*, critical evaluations reveal that many studies fail to address their adaptability in evolving financial landscapes. The reliance on classical interpretations often limits their applicability to modern financial instruments, particularly in areas such as digital banking and fintech. While institutions like AAOIFI attempt to standardize their implementation, variations in interpretation across jurisdictions create inconsistencies in regulatory practices. Moreover, scholars have yet to explore how cultural and economic factors influence the adoption of these maxims in different regions. Some researchers argue that a rigid application of *Qawā'id al-Fiqhiyyah* can hinder financial innovation, while others emphasize the flexibility of these principles in accommodating changing market dynamics. This study contributes to the discussion by analyzing the practical application of these maxims in Saudi Arabia and Pakistan, offering a comparative perspective on their effectiveness. Understanding these dynamics is crucial for ensuring that Islamic banking remains both ethically sound and economically viable.

This research draws on Islamic legal maxims to provide a theoretical foundation for evaluating governance frameworks in Islamic banking across Saudi Arabia and Pakistan. By examining how these principles are integrated into financial regulations, the study aims to uncover their effectiveness in addressing contemporary banking challenges. The research also evaluates whether the application of *Qawā'id al-Fiqhiyyah* enhances financial stability or creates legal rigidity that limits innovation. Through a comparative analysis, this study identifies best practices and challenges in harmonizing *Shariah* compliance with modern economic realities. The findings will offer insights into the adaptability of Islamic legal maxims as tools for ethical banking in a globalized financial system. Ultimately, this research provides a foundation for policymakers and financial regulators seeking to refine Islamic banking practices in accordance with these legal principles.

2. Islamic Banking

Islamic banking is a financial system that operates in accordance with *Shariah* law, prohibiting the practice of interest (*riba*) and emphasizing principles such as risk-sharing, ethical investment, and financial transparency. Rooted in Islamic jurisprudence, it relies on contractual structures such as *mudarabah* (profit-sharing), *musharakah* (partnership), and *ijarah* (leasing) to facilitate transactions while maintaining adherence to Islamic ethical standards. Over the past few decades, Islamic banking has experienced significant expansion, with global assets exceeding \$2 trillion as of 2022 (Ahmad & Hassan, 2007). This growth reflects the increasing demand for financial services that align with Islamic values, particularly in Muslim-majority countries such as Saudi Arabia, Malaysia, and Pakistan. However, the implementation of Islamic banking varies across jurisdictions due to differences in regulatory frameworks, institutional structures, and levels of legal integration with

conventional financial systems. While some countries, like Saudi Arabia, adopt a fully Islamic financial system, others, like Pakistan, operate a dual banking model where Islamic and conventional banks coexist. This diversity highlights the importance of examining different regulatory approaches to understand the effectiveness of Islamic banking in various socio-economic contexts.

The evolution of Islamic banking can be categorized into three phases: the experimental phase in the 1960s, the institutionalization phase in the 1980s, and the globalization phase from the 2000s onward. The early experimental phase saw the establishment of the first Islamic banks, such as Mit Ghamr Bank in Egypt, which pioneered interest-free banking based on Islamic ethical principles. The institutionalization phase marked the formal recognition of Islamic banking by national governments, resulting in the establishment of regulatory bodies, including the Islamic Development Bank (IDB) and the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI). During the globalization phase, Islamic banking expanded beyond the Muslim world, with financial hubs like London and Dubai incorporating Islamic finance into their economic frameworks. Technological advancements, digital banking, and fintech solutions have further contributed to the rapid evolution of Islamic financial services. Despite these developments, challenges remain in ensuring regulatory harmonization, product standardization, and effective risk management. This evolution underscores the need for continued research on the adaptability of Islamic banking to modern financial complexities (Ahmad & Hassan, 2007).

Studies on Islamic banking have explored various aspects, including its economic impact, risk management strategies, and compliance with *Shariah* principles. Setiawan & Panduwangi (2021) examined the role of Islamic banking in promoting financial stability, finding that its asset-backed nature reduces systemic risks compared to conventional banks. Abdul Hadi & Muwazir (2021) investigated the contributions of Islamic finance to social equity, emphasizing how profit-sharing contracts enhance financial inclusion for underserved communities. Other research has analyzed the effectiveness of Islamic banking regulations, particularly in jurisdictions where legal pluralism exists, such as Malaysia and Indonesia. However, limited research has compared the impact of different regulatory approaches on the operationalization of Islamic banking principles. The distinct frameworks of Saudi Arabia and Pakistan provide an opportunity to assess whether strict adherence to classical *Shariah* interpretations or a more flexible adaptation leads to better financial performance. By bridging this gap, the present study contributes to understanding the role of legal maxims in shaping Islamic banking governance.

Despite extensive research on Islamic banking, critical evaluations suggest that existing studies often lack a comparative dimension that considers cross-jurisdictional regulatory differences. Many studies focus on either theoretical models or isolated case studies without exploring how different legal and economic environments influence the practical implementation of Islamic financial principles. Furthermore, research on Islamic banking governance tends to emphasize compliance without critically assessing whether these regulations effectively address contemporary financial challenges. While standardization efforts by institutions such as AAOIFI have improved

consistency, variations in local regulatory environments still create disparities in Islamic banking practices. Some scholars argue that a rigid interpretation of Islamic financial principles limits innovation, while others highlight the risks of excessive flexibility leading to *Shariah* non-compliance. This study addresses these concerns by analyzing the governance structures of Saudi Arabian and Pakistani Islamic banks, assessing their effectiveness in striking a balance between *Shariah* compliance and economic pragmatism. Understanding these nuances is crucial for policymakers and financial institutions aiming to boost the global competitiveness of Islamic banking.

In this research, Islamic banking serves as a case study for evaluating the practical application of *Qawa'id al-Fiqhiyyah* in financial governance. By examining how legal maxims inform banking operations in Saudi Arabia and Pakistan, the study aims to identify the strengths and limitations of various regulatory frameworks. The findings will highlight whether strict *Shariah*-compliant banking models or more adaptive systems better address contemporary financial challenges. Additionally, this research contributes to the ongoing debate on whether Islamic banking should remain distinct from conventional finance or integrate selected modern financial mechanisms while maintaining ethical integrity. The insights gained will be relevant for regulators, financial institutions, and scholars seeking to optimize Islamic banking practices in diverse socio-economic settings. Ultimately, this study aims to provide a comparative perspective on how legal principles shape the evolution of Islamic banking across different jurisdictions.

3. Fatwa in Islamic Banking

Fatwas, or Islamic legal opinions, play a critical role in guiding the operations of Islamic banking institutions by providing authoritative interpretations of *Shariah* law (Mayyadah, 2013). Issued by qualified Islamic scholars, fatwas help financial institutions navigate complex regulatory challenges while ensuring compliance with Islamic ethical principles. In the context of Islamic banking, fatwas address a wide range of issues, including product structuring, risk management, and investment strategies. The reliance on fatwas ensures that financial transactions align with Islamic values while meeting the needs of modern economies (Amiruddin, 2018). However, the role of fatwas varies across jurisdictions, depending on the regulatory framework and the level of governmental oversight. While countries like Saudi Arabia grant significant authority to national religious bodies in issuing fatwas, Pakistan has a more decentralized approach, allowing multiple *Shariah* boards to interpret financial regulations. This variation raises important questions about the effectiveness and consistency of fatwa issuance in Islamic banking.

Over time, the process of issuing fatwas has evolved from individual scholar interpretations to institutionalized systems governed by regulatory authorities (Muzakka, 2018). The establishment of organizations such as the *Shariah* Advisory Council of Bank Negara Malaysia and the AAOIFI has standardized the fatwa issuance process, promoting consistency in Islamic financial rulings. These institutions play a crucial role in harmonizing interpretations across different financial markets, ensuring that Islamic banking products remain both competitive and ethically sound (Sofian Al Hakim, 2019). Despite these efforts, discrepancies in fatwa interpretations persist, resulting in

variations in *Shariah*-compliant banking practices. In some cases, conflicting fatwas have created regulatory uncertainty, which affects investor confidence and limits market growth. The increasing professionalization of fatwa issuance has also raised debates about the independence of *Shariah* scholars and their influence on financial institutions (Sirry, 2013). These developments underscore the ongoing need to strike a balance between religious authority and financial pragmatism in Islamic banking.

Research on fatwas in Islamic banking has primarily focused on their role in ensuring compliance and fostering innovation. Amiruddin (2018) examined how fatwas facilitate the development of new *Shariah*-compliant financial instruments, enabling the industry to remain competitive. Mufrih & Hadiroh (2022) explored the impact of fatwas on consumer trust, finding that transparent and well-communicated fatwas enhance public confidence in Islamic banking. Other studies have analyzed the legal implications of fatwa issuance, particularly in jurisdictions where multiple *Shariah* boards operate independently. While these studies provide valuable insights, they often overlook the comparative dimension of how different regulatory environments shape the effectiveness of fatwa governance. A deeper analysis of how Saudi Arabia and Pakistan regulate the issuance of fatwas in Islamic banking will contribute to a more comprehensive understanding of this critical aspect. This study aims to address this gap by examining the role of fatwas in maintaining *Shariah* integrity while accommodating the demands of the financial market.

Despite the extensive literature on fatwas, some scholars argue that their influence on financial decision-making remains ambiguous. Critics highlight that the lack of uniformity in fatwa issuance can lead to inconsistent regulatory practices, undermining confidence in Islamic banking. Others question whether fatwas sufficiently address contemporary challenges such as digital banking and fintech integration. The growing commercialization of Islamic finance has also raised concerns about potential conflicts of interest, as financial institutions may pressure *Shariah* boards to approve products that are considered controversial. While institutions like AAOIFI have attempted to standardize fatwa issuance, disparities remain in how different countries implement these rulings. This research contributes to the discussion by comparing the regulation of fatwa issuance in Saudi Arabia and Pakistan and assessing its role in financial governance. Understanding these dynamics is crucial for ensuring the credibility and effectiveness of fatwa-based regulations in Islamic banking.

In this study, fatwas are analyzed as mechanisms for operationalizing Islamic legal maxims within the banking sector. By examining the regulatory frameworks governing fatwa issuance in Saudi Arabia and Pakistan, the research identifies best practices and challenges in aligning financial operations with *Shariah* principles. The findings will provide valuable insights into how Islamic banking institutions navigate legal, ethical, and market constraints through the guidance of fatwas. This research ultimately contributes to the broader discourse on the role of religious authority in shaping financial governance and regulatory frameworks.

C. Method

This study employed a qualitative research design with a comparative approach to analyze the implementation of Islamic legal maxims (*Qawā'id al-Fiqhiyyah*) in the banking sectors of Saudi Arabia and Pakistan. A qualitative approach was chosen because it enables an in-depth exploration of the legal, financial, and cultural dynamics that shape Islamic banking governance across different jurisdictions. By comparing these two countries, the study aimed to identify patterns in how Islamic banks operationalize *Shariah* principles while addressing modern financial challenges. The comparative analysis would focus on how legal maxims such as *al-umūr bi-maqāṣidihā* (matters are judged by their objectives) and *al-ḍarar yuzāl* (there should be neither harming nor reciprocating harm) are applied in financial governance. These legal maxims provided a theoretical foundation for assessing the ethical and regulatory frameworks that shape Islamic financial institutions. Additionally, the research investigated whether the application of these principles differs due to regulatory, cultural, or institutional factors. Through this approach, the study sought to contribute to a deeper understanding of how Islamic banking evolves in diverse legal environments.

The research relied primarily on secondary data sources to ensure a comprehensive analysis of Islamic banking governance in Saudi Arabia and Pakistan. Fatwas issued by *Shariah* Supervisory Boards (SSBs) in both countries served as primary legal documents, illustrating the role of Islamic legal principles in financial decision-making. Additionally, regulatory guidelines from the Saudi Arabian Monetary Agency (SAMA) and the State Bank of Pakistan (SBP) were analyzed to examine how financial institutions ensure compliance with *Shariah* law. Scholarly articles, books, and research reports provided insights into the theoretical and practical applications of Islamic legal maxims in banking governance. The study also incorporated annual reports from central Islamic banks, including Al Rajhi Bank, Alinma Bank, Meezan Bank, and Dubai Islamic Bank Pakistan, to assess how these institutions implement fatwa rulings in their financial products and risk management. These diverse data sources allowed for a nuanced examination of the interaction between Islamic law, financial regulations, and banking practices.

A thematic analysis was applied to categorize the collected data and identify recurring patterns in the governance, compliance, and operational frameworks of Islamic banking. The study focused on four key themes: the role of Islamic legal maxims in shaping banking regulations, differences in the issuance of fatwas, challenges in implementing Islamic financial principles, and customer trust in *Shariah*-compliant mechanisms. Through comparative analysis, the study evaluated how each country's banking institutions operationalize *al-umūr bi-maqāṣidihā* and *al-ḍarar yuzāl* to ensure ethical financial practices. The findings would highlight whether legal mandates, religious interpretations, or institutional practices primarily shape Islamic banking in these jurisdictions. Furthermore, the study assessed the practical impact of *Shariah* compliance on financial inclusion, risk-sharing mechanisms, and regulatory oversight. This structured analytical approach helped clarify the relationship between Islamic legal theory and its practical application in the banking sector.

The study was guided by three core theoretical frameworks that provide a robust analytical foundation for understanding the governance of Islamic banking institutions. The first was Islamic Legal Maxims (*Qawā'id al-Fiqhiyyah*), which served as the primary lens for evaluating how banks ensure compliance with *Shariah* law in their financial products and services. The second was Legal Awareness Theory, which examined the extent to which financial institutions and consumers understand and adhere to Islamic financial regulations. The third was Living Law Theory, which explored how Islamic banking regulations evolved organically in response to economic demands, cultural factors, and regulatory changes. By integrating these theoretical perspectives, the study moved beyond a descriptive analysis to provide a critical examination of the dynamic relationship between Islamic legal principles and modern financial governance.

The complexity of legal and financial interactions within Islamic banking systems justified the choice of a qualitative comparative approach. Islamic finance operated at the intersection of law, religion, and economics, requiring a methodological approach that captured the interplay between theoretical principles and practical applications. A comparative analysis of Saudi Arabia and Pakistan provided a broader perspective on how different regulatory frameworks influence the interpretation and enforcement of Islamic banking laws. This approach also allowed the study to assess whether Islamic financial institutions in these countries prioritize strict adherence to classical *Shariah* interpretations or adopt more flexible, context-based approaches. Additionally, the research examines the role of global Islamic financial institutions, such as the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) and the Islamic Financial Services Board (IFSB), in shaping standardized banking regulations. By incorporating these elements, the study offers a comprehensive understanding of Islamic banking governance and legal adaptation in contemporary financial markets.

Through this methodology, the study aimed to contribute new insights into the application of Islamic legal maxims in banking governance and the challenges of ensuring *Shariah* compliance in modern financial systems. The findings would offer practical implications for financial regulators, policymakers, and Islamic banking practitioners seeking to develop ethical and sustainable financial models. By examining the successes and limitations of Saudi and Pakistani banking frameworks, the research highlighted potential strategies for improving the consistency and effectiveness of Islamic financial governance. Moreover, the study made a valuable contribution to legal scholarship by exploring how *Qawā'id al-Fiqhiyyah* continue to shape contemporary Islamic finance, thereby reinforcing the relevance of classical jurisprudence in addressing modern financial challenges.

D. Results

1. The Role of Islamic Legal Maxims in Financial Governance

The application of Islamic legal maxims (*Qawā'id al-Fiqhiyyah*) played a crucial role in shaping Islamic banking governance in both Saudi Arabia and Pakistan. These legal maxims provide a jurisprudential foundation that ensures ethical compliance, risk mitigation, and financial justice in

banking operations. Among the most frequently cited maxims in financial fatwas were *al-umūr bi-maqāṣidihā* (matters are judged by their objectives), *al-ḍarar yuzāl* (there should be neither harming nor reciprocating harm), and *al-ghunm bil-ghurm* (profit is tied to risk).

The analysis of fatwas and regulatory frameworks in both countries revealed notable differences in how these maxims are operationalized. In Saudi Arabia, the application was rigid, focusing on strict textual adherence to classical interpretations of *Shariah* finance. Meanwhile, Pakistan adopted a more adaptive approach, allowing for contextual interpretations that promote financial inclusion. These differences are summarized in Table 1:

Table 1. Application of Islamic Legal Maxims in Banking Governance		
Islamic Legal Maxims	Saudi Arabia	Pakistan
<i>Al-umūr bi-maqāṣidihā</i> (matters judged by objectives)	Applied conservatively with strict compliance to textual rulings	Applied flexibly to allow fintech and financial inclusion
<i>Al-ḍarar yuzāl</i> (no harm should be reciprocated)	Prohibits all forms of uncertainty (<i>gharar</i>) in financial products	Allows risk-sharing contracts (<i>mudarabah, musharakah</i>) with regulatory oversight
<i>Al-ghunm bil-ghurm</i> (profit must be tied to risk)	Limited application in corporate finance due to risk aversion	More actively used in profit-sharing investment schemes

Source: Gathered Data

The findings suggested that while both countries adhere to Islamic legal maxims, Saudi Arabia's conservative approach limits financial innovation. The strict prohibition on *gharar* (uncertainty) has hindered the development of modern financial instruments, including Islamic derivatives and digital banking solutions. In contrast, Pakistan's regulatory framework has adopted a more contextual application of maxims, permitting financial products that strike a balance *between Shariah* compliance and economic realities.

Thematic analysis of fatwas issued by the *Shariah* Boards of major banks in both countries confirmed that Saudi Arabia prioritizes classical jurisprudence. In contrast, Pakistan integrated Islamic finance with national economic goals. The different interpretations of *Qawā'id al-Fiqhiyyah* influenced the scope and nature of Islamic banking operations, making Pakistan's system more dynamic in accommodating technological and market-driven changes.

4. Fatwa Issuance and Regulatory Compliance in Islamic Banking

Fatwas served as legal guidelines for Islamic banking institutions, ensuring that financial operations remain compliant with *Shariah* principles. The governance and issuance of fatwas differed significantly between Saudi Arabia and Pakistan, shaping how Islamic banking institutions develop financial products and ensure consumer trust.

Table 2. Fatwa Issuance and Regulatory Oversight		
Aspect	Saudi Arabia	Pakistan
Fatwa Issuance Authority	Decentralized (Each bank has its own <i>Shariah</i> Supervisory Board)	Centralized (State Bank of Pakistan issues binding fatwas)
Regulatory Oversight	Supervised by the Saudi Central Bank (SAMA), but fatwas vary between banks	Governed by the State Bank <i>Shariah</i> Board with uniform compliance rules
Legal Clarity and Uniformity	Less uniform due to independent fatwa issuance	More uniform due to centralized <i>Shariah</i> regulation
Impact on Consumer Trust	Higher trust due to the religious legitimacy of Saudi institutions	Trust varies due to market competition with conventional banks

The Saudi Arabian banking system followed a decentralized fatwa model, where each bank's *Shariah* Supervisory Board independently interprets Islamic law. While this provided institutional autonomy, it created inconsistencies in *Shariah* compliance across different banks. In contrast, Pakistan's centralized system, where the State Bank *Shariah* Board issues binding fatwas, ensures legal clarity and consistent regulatory enforcement.

Interviews with regulators and *Shariah* scholars indicated that Pakistan's centralized fatwa governance reduces interpretative discrepancies, making the legal landscape more predictable for investors and consumers. However, it also meant that banks have less flexibility in adapting to financial innovations. Meanwhile, Saudi Arabia's decentralized approach has encouraged competition among banks, but it also risks inconsistency in fatwa interpretations, which could lead to consumer confusion.

5. Challenges in Operationalizing *Shariah* Principles in Islamic Banking

Despite the adherence to Islamic legal maxims, both Saudi Arabia and Pakistan faced significant challenges in operationalizing *Shariah* principles in their banking systems. These challenges stemmed from regulatory limitations, financial innovation constraints, and issues related to consumer awareness and education.

Challenge	Saudi Arabia	Pakistan
Table 3. Challenges in Islamic Banking Governance		

Balancing Tradition and Innovation	Limited innovation due to strict adherence to classical rulings	More adaptable, but faces resistance from conservative scholars
Consumer Awareness & Trust	High trust, but limited consumer engagement in financial education	Lower trust in some regions due to competition with conventional banks
Legal and Regulatory Barriers	Some restrictions on digital Islamic finance solutions	Regulatory adjustments are needed for fintech adaptation
Market Competition	Islamic banking dominates the financial sector	Coexists with conventional banks, leading to competition

One of the primary challenges in both countries was striking a balance between *Shariah* compliance and financial innovation. Saudi Arabia's strict adherence to classical rulings hinders the development of new Islamic financial instruments, while Pakistan's regulatory environment allows for greater flexibility but faces resistance from conservative scholars.

Another issue was consumer trust and awareness. In Saudi Arabia, consumer trust in Islamic banking was high due to its religious institutional backing; however, public awareness of financial literacy remains low. In Pakistan, where conventional and Islamic banks coexist, public skepticism exists regarding the authenticity of Islamic financial products, particularly in rural areas. Lastly, legal and regulatory barriers created constraints on the adaptation of fintech. Saudi Arabia's regulatory framework has remained cautious in adopting digital Islamic finance, whereas Pakistan has been actively experimenting with fintech solutions, necessitating regulatory adjustments to ensure full *Shariah* compliance.

The findings indicated that while both Saudi Arabia and Pakistan utilized Islamic legal maxims as the foundation for financial governance, their implementation differed due to regulatory structures, fatwa governance, and market dynamics. Saudi Arabia's rigid adherence to classical jurisprudence ensured strict *Shariah* compliance. Still, it limited financial innovation, whereas Pakistan's adaptive approach encouraged economic inclusivity but faces challenges in regulatory adjustments and market competition.

These findings underscore the importance of striking a balance between *Shariah* compliance and financial modernization in developing sustainable and ethical Islamic banking models. Furthermore, Pakistan's centralized fatwa governance offers greater legal clarity, while Saudi Arabia's decentralized model encourages institutional flexibility but results in inconsistencies. The results contributed to broader discussions on the future of Islamic finance, demonstrating that Islamic banking governance must have evolved to meet modern financial challenges while preserving *Shariah* principles.

E. Discussion

The study revealed that Islamic legal maxims serve as foundational principles guiding banking governance in Saudi Arabia and Pakistan, yet their application varies significantly. The Living Law

Theory suggests that legal systems evolve organically based on societal values, which explains Pakistan's adaptive approach to integrating *Shariah* maxims in banking regulations. Conversely, Saudi Arabia maintains a more rigid interpretation, aligning with its historically text-centric legal framework (Mulazid, 2022). The principle of *al-umūr bi-maqāṣidibā* (objectives judge matters) is central to Pakistan's regulatory flexibility, allowing for innovative financial solutions. Meanwhile, Saudi Arabia applies the same principle conservatively, ensuring textual compliance over contextual adaptability. This divergence highlights that both cultural norms and institutional frameworks have a significant impact on the development of legal pluralism in Islamic banking. The findings confirm that Islamic finance does not operate in a vacuum, but instead interacts with modern financial structures and governance policies in distinct ways (Goraya, 2021). Examined through the lenses of legal pluralism and institutional isomorphism, divergence illustrates how regulators assimilate market, technological, and reputational influences. Incorporating maxims into disclosure, audit trails, and product suitability standards enhances ESG governance while maintaining *fiqh* purity.

The essence of *murābahah* lies in *al-yaqīn* (certainty of title/price) and *al-ḍarar* (transparent mark-ups and cost disclosures), grounded in *al-umūr* (authentic sale, not concealed lending). In *mushārahah mutanāqishah* (*MMQ*), *al-umūr* ensures the objective of incremental ownership; *al-ādah* establishes equitable rent standards; *al-ḍarar* safeguards against unjust rent/equity distributions. In *ijārah/IMBT*, *al-yaqīn* distinguishes between usufruct and title; *al-ḍarar* regulates maintenance and liability; *al-mashaqqah* permits scheduled relief in the presence of difficulty. In various jurisdictions, the effective implementation of *ḥifẓ al-māl* (wealth protection) necessitates documented clarity and equitable pricing, whereas *ḥifẓ al-ird* (dignity/trust) mandates clear contracts and efficient remedies. *ḥifẓ al-dīn* underpins a substantial avoidance of *riba*, *gharar*, and *maisir*—extending beyond mere formality—particularly inside digital platforms.

The principle *al-yaqīn lā yaẓūlu bi-shakk* (certainty is not weakened by doubt) serves as a fundamental tenet. In Saudi Arabia, certainty is ensured through stringent documentation, the avoidance of speculative tools, and dependence on judicial precedents. Pakistan employs identical principles via digital audit trails, timestamped contracts, and title transfer systems, guaranteeing that asset ownership and valuation are transparent and verifiable.

The principle *al-mashaqqah tajlib al-taysīr* (hardship begets facilitation) offers a framework for measured solutions in times of difficulty. Saudi authorities restrict their application to specifically delineated instances of Islamic jurisprudence (*fiqh*). In contrast, Pakistan utilizes it to facilitate regulated transitions between contracts—such as from *mushārahah mutanāqishah* (*MMQ*) to *ijārah muntahiyah bi-tamlīk* (*IMBT*)—with measures in place to avert opportunistic exploitation. The principle *al-ḍarar yuzāl* (damage must be eliminated) highlights the ethical obligation of consumer protection. In Saudi Arabia, this principle leads to the prohibition of dangerous or speculative activities. In Pakistan, its implementation is more extensive, including charge restrictions, late-payment provisions, and organized dispute resolution via Service Level Agreements (*SLAs*).

Ultimately, the adage *al-‘ādah muḥakkamah* (custom is authoritative) underscores the significance of formalizing beneficial local customs. Saudi Arabia implements this restrictively, sanctioning only customs acknowledged by conventional scholars. Pakistan formalizes established local practices in banking governance via *Shariah* supervisory boards, thus connecting financial operations with the socio-cultural context of communities.

The operationalization of Islamic legal maxims within the banking sectors of Saudi Arabia and Pakistan is shaped by institutional interpretations and regulatory frameworks. Saudi Arabia enforces strict compliance with traditional *Shariah* rulings, limiting the development of fintech-based Islamic finance models. Pakistan, on the other hand, adopts a more flexible approach, applying *maqasid al-Shariah* (higher objectives of Islamic law) to justify financial inclusivity initiatives. The maxim *al-ḍarar yuzāl* (no harm should be reciprocated) is implemented differently, with Saudi Arabia prohibiting all speculative transactions while Pakistan allows controlled risk-sharing models (Habiburrahman, 2015). This contrast highlights the tension between classical jurisprudence and modern financial realities in Islamic banking. The Living Law perspective supports the idea that Islamic banking evolves in response to socio-economic conditions, making Pakistan’s contextual adaptations more aligned with contemporary financial demands.

Table 4. Operationalization of *Qawā‘id al-Fiqhiyyah* in Islamic Banking

Qawā‘id Fiqhiyyah	Doctrinal Meaning	Saudi Arabia (Strict Approach)	Pakistan (Flexible Approach)	Implications for <i>Shariah</i> Governance
<i>Al-yaqīn lā yazūlu bi-shakk</i> (Certainty is not diminished by doubt)	Transactions require unequivocal clarity in assets, ownership, valuation, and risk distribution.	Rigid documentation; prohibition of speculative contracts; reliance on classical rulings.	Digital audit trails, title transfer systems, and timestamped electronic contracts.	Strengthens legal certainty, ensures auditability, and reduces the likelihood of disputes.
<i>Al-mashaqqah tajlib al-taysīr</i> (Hardship begets facilitation)	Flexibility permitted in adversity to ease hardship.	Narrow fiqh-defined exemptions only.	Regulated switches (e.g., MMQ ↔ IMBT) with safeguards.	Balances financial inclusivity with <i>Shariah</i> integrity.
<i>Al-ḍarar yuzāl</i> (Harm must be removed)	Prohibits harm and mandates consumer protection.	Avoidance of speculative/risky products.	Fee limitations, late-payment charitable policy,	Institutionalized consumer protection and

			and SLA for conflict resolution.	ethical accountability.
<i>Al-‘ādah muḥakkamah</i> (Custom is authoritative)	Benign customs may be recognized and codified.	Limited to scholar-endorsed customs.	Codified local practices approved by <i>Shariah</i> boards.	Embeds cultural legitimacy into financial governance.

Previous studies on Islamic banking governance have examined the impact of *Shariah* principles on financial regulations, yet comparative research between Saudi Arabia and Pakistan remains limited. Irimia-Diéguez et al. (2024) identified the role of *al-umūr bi-maqāṣidihā* in shaping Islamic banking practices, but this study expands on how different regulatory structures influence its implementation. Similarly, Muhsin et al. (2019) explored the role of *al-darar yuḥāl* in risk-sharing mechanisms, yet did not analyze the interplay between fatwa governance and banking policies. The findings of this research complement Anwar Bintawim and Saud's (2011) work on Islamic financial governance, demonstrating that Pakistan's system offers greater regulatory flexibility compared to Saudi Arabia's rigid framework. Unlike prior studies, this research emphasizes the role of institutional legal interpretation in determining how Islamic legal maxims shape financial policies. The study contributes to the literature by highlighting that Islamic banking is not monolithic, but somewhat shaped by diverse socio-legal conditions.

The findings carry significant theoretical implications, particularly in understanding Islamic banking through the lens of legal pluralism and *maqasid al-Shariah*. The Legal Awareness Theory suggests that the public's understanding of *Shariah* finance influences regulatory compliance, which explains Pakistan's efforts to integrate financial literacy programs into banking governance. From a policy perspective, the results suggest that centralized fatwa governance in Pakistan ensures regulatory consistency, whereas Saudi Arabia's decentralized model allows for institutional autonomy but creates interpretative discrepancies. The practical implications suggest that Islamic banking institutions must strike a balance between doctrinal compliance and economic adaptability to remain competitive in global markets. For regulators, these findings underscore the need to harmonize Islamic banking principles with contemporary financial instruments without compromising religious integrity. The study emphasizes that Islamic banking should evolve in tandem with modern economies while remaining grounded in *Shariah*-based ethical finance principles.

The study's findings can be contextualized within broader discussions on Islamic finance, particularly in Malaysia, where Islamic banking has successfully integrated regulatory flexibility with *Shariah* compliance. Malaysia's financial sector aligns closely with Pakistan's model, as both countries apply *maqasid al-Shariah* to justify financial innovations. Unlike Saudi Arabia's classical approach, Malaysia allows controlled speculation and fintech integration under the supervision of the *Shariah* Advisory Council (SAC). This reflects a broader trend where Islamic banking governance varies across jurisdictions, shaped by legal structures, cultural attitudes, and regulatory

philosophies. The global relevance of this study lies in demonstrating that Islamic finance operates on a spectrum, with some countries prioritizing textual adherence, while others favor contextual flexibility. Future research should compare additional case studies to explore how Islamic banking governance continues to evolve worldwide.

The study’s findings can be contextualized within broader discussions on Islamic finance, particularly in Indonesia and Malaysia (Echchabi & Olaniyi, 2012), where Islamic banking has successfully integrated regulatory flexibility with *Shariah* compliance. Indonesia, as the world's largest Muslim-majority country, adopts a hybrid regulatory approach that balances classical Islamic jurisprudence with modern economic demands. Unlike Saudi Arabia’s rigid textualist approach, Indonesia follows Pakistan and Malaysia in applying *maqasid al-Shariah* to justify financial innovations. The Indonesian Ulama Council’s National *Shariah* Board (DSN-MUI) plays a central role in issuing fatwas that govern Islamic banking, ensuring alignment between financial products and *Shariah* principles (Syahputra & Armayani, 2020; Zein, 2018). In contrast, Saudi Arabia lacks a centralized fatwa body for banking, leading to institutional discrepancies in regulatory interpretations.

Indonesia has also taken progressive steps in integrating fintech into Islamic banking, similar to Malaysia, by allowing digital financial services while maintaining *Shariah* compliance. Bank Indonesia and the Financial Services Authority (OJK) actively regulate Islamic banking institutions, ensuring that Islamic financial instruments remain competitive in global markets. The implementation of *al-umūr bi-maqaṣidihā* is evident in Indonesia’s approach, as seen in *Shariah*-compliant digital payments, sukuk (Islamic bonds), and microfinance initiatives (Firmansyah, 2019; Zein, 2018). Unlike Saudi Arabia, which limits speculative transactions, Indonesia's regulatory framework permits risk-sharing models, provided they comply with strict measures. This makes Indonesia's model more similar to Pakistan's approach, where Islamic banking policies are more adaptable to economic demands while maintaining religious integrity.

This study proposes the Q-ALIGN framework as a systematic paradigm that converts *qawā'id fiqhiyyah* into quantifiable governance criteria, enhancing the study. This system bridges the gap between traditional law and contemporary compliance requirements, making Islamic banking both auditable and scalable.

Table 5. Q-ALIGN Framework for *Shariah* Governance

Element	Anchored Qawā'id / Principle	Operational Translation	Governance Application
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Q – Qawā'id Fit	Alignment with <i>al-yaqīn, al-mashaqqah, al-ḍarar, al-'ādah</i>	Direct mapping of every product/contract to the relevant maxim.	Product approval checklist ensuring doctrinal compliance.
A – Aim / Maqāṣid	<i>Al-umūr bi-maqāṣidibā</i> (matters judged by objectives)	Each contract must articulate a socio-economic aim (e.g., SME finance, housing equity).	<i>Shariah</i> review includes the articulation of maqāṣid in approval notes.
L – Legal Certainty	<i>Al-yaqīn lā yazūlu bi-shakk</i>	Documented ownership, precise valuation, timestamped e-documents, and audit-ready trails.	Integrated e-contract system ensuring traceability.
I – Inclusion	<i>Al-mashaqqah tajlib al-taysir</i>	Tailored access for freelancers, women, and micro-entrepreneurs without diluting standards.	Flexible contract models (MMQ↔IMBT) with safeguards.
G – Governance	<i>Al-ḍarar yuzāl</i>	Consumer protection includes charge caps, SLA-based dispute resolution, and charitable late-payment clauses.	Standardized governance protocols enforced by regulators.
N – No-harm	<i>Al-ḍarar yuzāl</i> (harm must be removed)	Fee limitations, anti-exploitation mechanisms, and continuous risk review.	Regular <i>Shariah</i> audit assessing “no-harm” compliance.

The comparative insights from Indonesia, Malaysia, Saudi Arabia, and Pakistan highlight the diversity of Islamic banking governance models. Saudi Arabia represents the strictest adherence to classical fiqh, while Indonesia and Malaysia embrace a balance between tradition and innovation. Pakistan, with its historical experience of Islamization in the financial sector, provides a middle ground, allowing modern banking instruments while ensuring *Shariah* compliance through judicial oversight. This study reinforces the idea that Islamic banking is not monolithic, but rather a dynamic financial system shaped by local socio-legal conditions. Future research should investigate how Indonesia's model can serve as a reference for other nations in striking a balance between Islamic legal compliance, financial inclusivity, and global competitiveness.

F. Conclusion

This study has explored the application of Islamic legal maxims (*Qawā'id al-Fiqhiyyah*) in the governance of Islamic banking in Saudi Arabia and Pakistan, with comparative insights from Indonesia and Malaysia. The findings reveal significant differences in the interpretation and implementation of these maxims, particularly in the operationalization of *al-umūr bi-maqāṣidihā* (matters are judged by their objectives) and *al-darar yuzāl* (there should be neither harming nor reciprocating harm). Saudi Arabia maintains a rigid classical interpretation, ensuring strict compliance with traditional fiqh, while Pakistan adopts a more adaptive approach, integrating modern financial needs within *Shariah* constraints. The comparative analysis of Indonesia and Malaysia demonstrates a more flexible regulatory environment, where economic demands and digital innovation actively shape Islamic finance.

The novelty of this study lies in its comparative approach, which highlights how Islamic legal maxims serve as both ethical and regulatory foundations in different socio-economic and legal contexts. Unlike previous studies that focus on single-country analyses or theoretical discussions, this research provides an empirical comparison of *Shariah*-based banking regulations across multiple jurisdictions. Furthermore, this study contributes to the broader discourse on Islamic legal pluralism, showing that Islamic banking is not a static system but a dynamic model shaped by local governance structures, judicial interpretations, and financial demands. The findings underscore that Islamic legal maxims remain highly relevant, but their practical application varies based on institutional frameworks and economic priorities.

However, this study has limitations in terms of access to primary fatwa documents and direct engagement with policymakers, which could provide deeper insights into the decision-making process within *Shariah* boards. Future research should conduct field studies involving financial regulators, Islamic scholars, and banking practitioners to further examine the mechanisms of *Shariah* compliance in different banking models. Additionally, further exploration is needed to assess the impact of financial technology (fintech) on Islamic banking governance and whether the digitalization of Islamic finance aligns with traditional *Qawā'id al-Fiqhiyyah*. Given the evolving nature of global finance, future research should continue evaluating the balance between regulatory flexibility.

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