

The Fatwas of Indonesian Ulema Council in The Era of Covid-19 Pandemic: An Islamic Legal Maxim Perspective

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Abstract

One of the triggers for the spread of the COVID-19 virus is a crowd of people, while several Muslim religious ritual activities are carried out in the form of a crowd (congregation). To avoid crowds of people, the Indonesian Ulema Council issued religious fatwas so those ritual activities would not become a cluster for the spread of COVID-19. This study analyzes the Indonesian Ulema Council's (MUI) fatwas during the COVID-19 pandemic using the legal maxim perspective. This study uses the literature review method. Some primary and secondary literature on MUI fatwas are analyzed critically to obtain a complete, detailed, clear, and systematic picture of MUI fatwas. The study results show that the entire MUI fatwa is based on the Islamic legal maxim theoretical framework, which aims to keep Muslims away from harm, eliminate difficulties and difficulties, and endeavor to benefit as many people as possible. Besides, the entire Fatwa refers to authoritative Islamic sources, namely the Koran, the Prophet's Hadith, scholars' opinions, and experts' views. This study's results can be applied as a guideline for Muslims and Muslim medical personnel in implementing Islamic teachings in the era of the COVID-19 pandemic.

Abstrak

Salah satu pemicu penyebaran virus COVID-19 adalah kerumunan orang, sedangkan beberapa kegiatan ritual keagamaan umat Islam dilakukan dalam bentuk keramaian (berjamaah). Untuk menghindari keramaian, Majelis Ulama Indonesia mengeluarkan fatwa agar kegiatan ritual tersebut tidak menjadi kluster penyebaran COVID-19. Kajian ini menganalisis fatwa Majelis Ulama Indonesia (MUI) di masa pandemi COVID-19 dengan menggunakan perspektif *legal maxim*. Penelitian ini menggunakan metode literature review. Beberapa literatur primer dan sekunder tentang fatwa MUI dianalisis secara kritis untuk mendapatkan gambaran fatwa MUI yang lengkap, detail, jelas, dan sistematis. Hasil kajian menunjukkan bahwa seluruh fatwa MUI didasarkan pada kerangka teoritis maksim hukum Islam, yang bertujuan untuk menjauhkan umat Islam dari marabahaya, menghilangkan kesukaran dan kesulitan, serta ikhtiar untuk memberi manfaat sebanyak-banyaknya. Selain itu, seluruh Fatwa mengacu pada sumber-sumber Islam yang otoritatif, yaitu Alquran, Hadits Nabi, pendapat ulama, dan pandangan para ahli. Hasil penelitian ini dapat dijadikan pedoman bagi umat Islam dan tenaga medis muslim dalam menjalankan ajaran Islam di era pandemi COVID-19.

Keywords: Covid-19 Pandemi, Fatwa, Legal Maxim, Ulema.

Introduction

The Islamic legal maxim scientific study was academically spearheaded by Mohammad Hashim Kamali, who reviewed the legal maxim in the Islamic jurisprudence system (Kamali 2006). Legal maxim—a theoretical abstraction in the form of a short expressive epithetic statement—is the principle of Islamic jurisprudence, which contains Islamic law’s aims and objectives. In contemporary academic studies, the Islamic legal maxim often bases arguments on the birth of Islamic legal decisions and jurisprudence. The Islamic legal maxim is a fundamental principle of Islamic thought in various areas of Islamic jurisprudence,

including the medical and the medical regions;¹ economics and finance;² issues of crisis and environmental damage;³ contemporary legal codification issues;⁴ human rights issues;⁵ and others. Several experts have also conducted legal maxim studies in determining fatwas in some countries.⁶ However, there is no study

¹ Muhammad Roy Purwanto, "Maqashid Al-Syari'ah And Legal Maxims (Qawa'id Al-Fiqhiyyah) As Source Of Medical Action," in *International Conference 2016 (FK UII)*, 2016; N.A.A. Tarmidzi et al., "Islamic Legal Maxims Analysis on Orthognathic Surgery and Treatment," *International Journal of Islamic Thought* 15 (2019): 107–115; N. Yacob et al., "The Application of Maqasid Shariah and Legal Maxims in Aesthetic Dentistry Involving Malocclusion and Root Canal Treatment: Case Discussion," *Advanced Science Letters* 23, no. 5 (2017): 4550–4553.

² N. Abd Rahman et al., "Islamic Legal Maxim for Shari'ah Audit in Islamic Bank," *Journal of Islamic Accounting and Business Research* 11, no. 2 (2020): 457–471; L Zakariyah, "Legal Maxims and Islamic Financial Transactions: A Case Study of Mortgage Contracts and the Dilemma for Muslims in Britain," *Arab Law Quarterly* 26, no. 3 (2012): 255–285.

³ S.M. Muhsin, M. Amanullah, and L. Zakariyah, "Framework for Harm Elimination in Light of the Islamic Legal Maxims," *Islamic Quarterly* 63, no. 2 (2019): 233–272; Muhammad Shettima, "Effects of the Legal Maxim: 'No Harming and No Counter-Harming' on the Enforcement of Environmental Protection," *IJUM Law Journal* 19, no. 2 (2011): 291–308.

⁴ Muhammad Shettima, Hamma Adam Biu, and Muhammad Al-Amin Deribe, "The Relevance of Islamic Legal Maxims in Determining Some Contemporary Legal Issues," *IJUM Law Journal* 24, no. 2 (2016): 415–451; Maaiké Voorhoeve, "God in the Courtroom: The Transformation of Courtroom Oath and Perjury between Islamic and Franco-Egyptian Law," *Journal of the American Oriental Society* 134, no. 4 (2014).

⁵ Ahmed Al-Dawoody, "Management of the Dead from the Islamic Law and International Humanitarian Law Perspectives: Considerations for Humanitarian Forensics," *International Review of the Red Cross* 99, no. 905 (2017): 759–784; Ahmed Al-Dawoody and Vanessa Murphy, "International Humanitarian Law, Islamic Law and the Protection of Children in Armed Conflict," *International Review of the Red Cross* 101, no. 911 (2019): 551–573; Mohammad Hashim Kamali, "Maqasid Al-Shari'ah and Ijtihad as Instruments of Civilisational Renewal: A Methodological Perspective," *Islam and Civilisational Renewal* 2, no. 2 (2011): 245–271.

⁶ Mohamed El Tahir El Mesawi and Mohammad Rizhan bin Leman, "Takyif Fiqhī and Its Application to Modern Contracts: A Case Study of the Central Provident Fund Nomination in Singapore," *Intellectual Discourse* 26, no. 2 (2018): 807; Shamsiah Mohamad et al., "Criteria for Determining the Shari'ah Compliance of Shares: A Fiqhi Analysis," *ISRA International Journal*

of the Islamic legal maxim in determining fatwas to prevent the COVID-19 outbreak. These reasons, among others, are the goals and objectives of current research.

Since the end of 2019, the Novel Coronavirus (Covid-19) has become an epidemic in almost all countries in the world. Pros and cons have emerged among Muslim leaders about the origins and nature of Covid-19, its impact on humans, and worship rituals amid the virus pandemic. Several Muslim leaders view Covid-19 as a human-made virus that was deliberately created as a biological weapon. Among them are also those who say Covid-19 is a virus that is being researched and developed in microbiology laboratory centers. Because of the carelessness of their researchers, the virus is spreading out of control. Other Muslim figures see this virus as Allah's army to destroy bad people on earth. However, few Muslim leaders saw this virus as a common disease that emerged naturally.

The diversity of views and attitudes among Muslim clerics manifests their variety of world views in understanding reality. Their perspectives are formed through long journeys, intense dialogue, and significant interactions with their educational, social, cultural, economic, political, power, and religious understanding factors. The different perspectives among Islamic scholars and figures on reality have implications for responding to this virus. It happens not only among Muslims but also among adherents of other religions in various parts of the world. The response of the American people to the measles virus was studied by four researchers in 2014. The study led to the critical finding that as the United States has increased measles outbreaks, it affects more people who are not vaccinated. Some people choose to refuse vaccination for several reasons, but religious and ideological considerations are the main reason. Religion mainly stems from

of Islamic Finance 7, no. 2 (2015): 171–179; Ron Shaham, “Legal Maxims (Qawā'id Fiqhiyya) in Yūsuf Al-Qaradāwī's Jurisprudence and Fatwas,” *Journal of the American Oriental Society* 140, no. 2 (2020): 435–453; Mun'im Sirry, “Fatwas and Their Controversy: The Case of the Council of Indonesian Ulama (MUI),” *Journal of Southeast Asian Studies* 44, no. 1 (2013): 100–117; A.A. Zahir, “A Critical Analysis of Islamic Council of Europe: From a Juristical and Islamic Legal Maxim Perspective,” *Intellectual Discourse* 27, no. 2 (2019): 555–575.

human fetal tissue use in the rubella element from combined vaccine products and gelatin from animals as the raw material for vaccine production.⁷

Some scientific studies have tried to understand the relationship between religion and epidemics. For example, Marshall stated that religious actors play an essential role when society is faced with disease outbreaks.⁸ Another research by Becker suggests that the Muslim community has found ways to relate the scientific description of epidemics to the Koran and accept epidemics as God's will without giving up their responsibility to contain and prevent them.⁹ Covid-19, which has broad and severe implications for human life in various parts of the world, is also closely related to religion, both regarding aspects of faith and ethics and the practice of religious rituals. Covid-19 has forced almost all countries to implement social distancing, physical distancing, area lockdown, large-scale social restrictions (PSBB), or even a total state lockdown.

The policy that limits human movement, and mobility, has direct implications for the ritual practice of worship of all religions, which requires the action and gathering of people in a place to perform worship. The supreme leader of Catholics, Pope Francis, for example, must lead the ritual of Good Friday, April 10, 2020, in St. Peter's Square which is almost empty and very quiet due to Covid-19.¹⁰ The recitation ceremony "Regina Coeli" on April 13, 2020, must also be streamed live.¹¹ Rituals and places of worship

⁷ E. Wombwell et al., "Religious Barriers to Measles Vaccination," *Journal of Community Health* 40 (2015): 597–604.

⁸ Katherine Marshall, "Roles of Religious Actors in the West African Ebola Response," *Development in Practice* 27, no. 5 (July 4, 2017): 622–633.

⁹ Felicitas Becker, "The Virus and the Scriptures: Muslims and AIDS in Tanzania," *Journal of Religion in Africa* 37, no. 1 (2007): 16–40.

¹⁰ Baris Seckin, "Pope Leads Empty Good Friday Ceremony Amid Covid-19," last modified 2020, accessed April 30, 2020, <https://www.aa.com.tr/en/europe/pope-leads-empty-good-friday-ceremony-amid-covid-19/1800683#>.

¹¹ Elise Ann Allen, "During Coronavirus, Vatican Employs Spiritual, Political Silence," *Cruxnow*, last modified 2020, accessed April 30, 2020, <https://cruxnow.com/covid-19/2020/04/during-coronavirus-vatican-employs-spiritual-political-silence/>.

for Muslims, Jews, Catholics, Protestants, Hindus, Buddhists, and Confucians have to be closed due to this virus pandemic.

Among these major religions, the impact of Covid-19 is most evident on Muslims because, unlike other religious communities, Muslims carry out crowd ritual processions at least five times a day. That's just the obligation to pray *fardlu*. When coupled with other worship rituals such as Friday prayers, *tarawih* prayers in the month of Ramadan, *'ed* prayer, and *thawaf* and *sa'i* during Umrah or Hajj, the Muslim worship practices mostly bear the burden of Covid-19.

So, it is the duty of religious leaders, especially scholars, to answer the challenges and problems of worship resulting from the spread of the Covid-19 outbreak. Through the fatwa institution, the ulama are obliged to answer social and religious issues to realize the world's benefits and the hereafter. This study seeks to elaborate on the Indonesian Ulema Council's fatwas during the COVID-19 pandemic by using the Islamic legal maxim theory framework's perspective.

Literature Review

Novel Coronavirus Covid-19

Novel Coronavirus Covid-19 is a disease or disease outbreak caused by a new strain of coronavirus. 'CO' stands for corona, 'VI' for the virus, and 'D' for the disease. Previously, the disease was referred to as "2019 novel coronavirus" or "2019-nCoV." The Covid-19 virus is a new virus related to the same family of viruses as severe acute respiratory syndrome (SARS) and several common cold strains.¹² This disease first spread in Wuhan, a city in Hubei Province, China. Due to high human movement and mobility, this virus then spreads to other cities and countries. There are currently at least 212 countries and territories infected with this virus, with 80.8 million confirmed cases and 1.76 million deaths.¹³

¹² (World Health Organization, 2020a)

¹³ Worldometer, "Countries Where Covid-19 Has Spread," *Worldometer*, last modified 2020, accessed April 30, 2020,

Common symptoms of people with this virus are fever, cough, and shortness of breath. In more severe cases, the infection can cause pneumonia or difficulty breathing. Indeed, based on reports from the World Health Organization, WHO, this disease is rarely fatal, where based on the figures above, the death rate from this virus is only 7%. The symptoms of contracting Covid-19 are sometimes similar to ordinary influenza, so testing is needed to confirm whether someone has Covid-19 or not.¹⁴ The epidemic of this disease is very dangerous because of the straightforward transmission rate. The transmission or spread of the virus is through direct contact with respiratory droplets from an infected person, resulting from coughing, sneezing, or even intimate conversations. Individuals can also become infected when they touch a surface contaminated with the virus and then touch the face, especially the eyes, nose, and mouth. The Covid-19 virus can survive on surfaces for several hours, although it can be killed by disinfectant sprays.¹⁵

However, according to WHO, the spread of this virus can be prevented through many individual efforts such as staying at home, covering the mouth and nose with a mask, using a hand sanitizer, washing hands frequently with soap and running water, and cleaning frequently touched surfaces and objects.¹⁶ Apart from individual endeavors, prevention of this virus can also be carried out through social health measures. So, the government policy to carry out social distancing, physical distancing, or even lockdown is an effective measure to prevent this virus's spread. WHO itself provides several suggestions to prevent the spread of this virus (1) regularly and thoroughly cleaning hands with an alcohol-based hand sanitizer or washing hands with soap and water; (2) maintain a distance of at least one meter between people; (3) avoiding going to crowded places; (4) avoid touching the eyes, nose, and mouth; (5) ensure good respiratory hygiene by covering the mouth and nose with the elbow or flexed tissue or tissue when coughing or

<https://www.worldometers.info/coronavirus/countries-where-coronavirus-has-spread/>.

¹⁴ (World Health Organization, 2020c)

¹⁵ (World Health Organization, 2020b)

¹⁶ (World Health Organization, 2020a)

sneezing, then immediately throwing away the used tissue and washing hands; (6) stay at home and self-isolate even with minor symptoms such as cough, headache, low-grade fever, until recovery; (7) If fever, cough and difficulty breathing, seek medical help, but call first if possible and follow directions from local health authorities.¹⁷

The Concept of Islamic Legal Maxim and Fatwa

In the Islamic jurisprudence system, the legal maxim concept is known as *qawa'id al-fiqhiyyah*. Etymologically, the *qawa'id al-fiqhiyyah* (Islamic legal maxim) concept means the principle, foundation, foundation, or foundation of Islamic fiqh. In language, Islamic legal maxims are the principles or foundations of Islamic fiqh (jurisprudence). According to Al-Taftazany (d. 791 H.) Islamic legal maxim is a universal law that can be applied to all parts.¹⁸ Al-Jurjani (d. 816 H) defines the Islamic legal maxim as a universal provision that corresponds to all its features.¹⁹ Ibn al-Subkiy (d. 771 AH), formulate the Islamic legal maxim as a universal matter whose parts fit it, where the laws of the features are determined from that universal rule.²⁰ Mushtafa Ahmad al-Zarqa, defines the Islamic legal maxim as general points of *fiqh* in the form of concise statutory texts, which include laws that generally apply to events under his auspices.²¹ Meanwhile, Imam Al-Hamawy (d.1098 H) defines the Islamic legal maxim as a majority law, not a universal law, which can be applied to its parts to become clear.²²

The significance of the Islamic legal maxim in the Islamic jurisprudence system can be viewed from two points of view. First, from the source point of view, the Islamic legal maxim is a medium

¹⁷ World Health Organization, *Coronavirus Disease (Covid-19) Advice for the Public*.

¹⁸ Al-Taftazany, *Al-Takwih 'Ala Al-Thadhih* (Cairo: Mathba'ah Syan al-Hurriyah, 1999).

¹⁹ Al-Jurjani, *Al-Ta'rifat* (Beirut: Dar al-Kitab alAraby, 1997).

²⁰ Tajuddin Al-Subky, *Al-Asybah Wa Al-Nazhair* (Beirut: Dar al-Kutub al-Ilmiyyah, 1991).

²¹ Ahmad bin Muhammad Al-Zarqa, *Syarh Al-Qawaid Al-Fiqhiyyah* (Damaskus: Dar al-Qalam, 1999).

²² Ahmad bin Muhammad Al-Hamawy, *'Uyun Al-Bashair Syarh Al-Asybah Wal Al-Nazhair* (Beirut: Dar al-Kutub al-Ilmiyyah, 1997).

for fiqh enthusiasts to understand and master the *maqashid al-shari'ah*. Scholars can find fundamental problems in complex problems.²³ Second, in terms of the legal stipulation, the Islamic legal maxim includes several issues that have not occurred. An Islamic legal maxim is a tool in solving problems that arise for which there is no lawful provision or certainty.²⁴

Linguistically, Fatwa is an Arabic word in the form of *isim mashdar* which means “*al-ifta*” and the plural form is “*al-fataw*”, namely “*tabayyana al-musykil min al-ahkam*”²⁵, which means explaining a problem from a legal aspect. In terms of terminology, according to Al-Qarafi, Fatwa is “*ikhbâr ‘an hukmi al-Ilâh ta’ala fi ilzâm wa ibâhat*”²⁶ or conveying Allah Ta’ala’s law regarding necessity or permissibility. According to Abd al-Qadir Muhammad al-Qaisy, the Fatwa is “*mâ yukhbiru bihî al-muftî jawâban bi al-su’âli au bayânan li hukmin min al-ahkâm wa lam yakun su’âlan khâsan.*” A mufti ruling as an answer or a problem or legal explanation even without any special request.²⁷ Meanwhile, Al-Jaburi said that the Fatwa was not obligatory and was not binding, “*al-fatwâ hiya al-hukm al-syar’iy alladzî bayyanahu al-faqîh alladzi tatawaffara fihî syurût al-ifta li al-sâ’ili ‘anhu lâ’ alâ wajh al-ilzâm.* “. Fatwas are *shari’a* laws stipulated by the faqih which qualify to issue a fatwa because someone asks for it and is not binding.²⁸

Therefore, a fatwa can be in the form of a legal answer by a *mufti* who meets the requirements to make a fatwa on a question from a person or group of people. A fatwa can also mean an explanation of sharia law ‘on a legal issue, whether requested or not. Mufti can explain the law of a case even though no individual

²³ Al-Subky, *Al-Asybah Wa Al-Nazhair*; Al-Zarqa, *Syarh Al-Qawaid Al-Fiqhiyyah*.

²⁴ Al-Subky, *Al-Asybah Wa Al-Nazhair*; Al-Zarqa, *Syarh Al-Qawaid Al-Fiqhiyyah*.

²⁵ Muhyi al-Din Yahya bin Syarf Al-Nawawi, *Adab Al-Fatwa Wa Al-Mufti Wa Al-Mustafy* (Beirut: Dar al-Fikr, 1987), 53.

²⁶ Ahmad bin Idris Al-Qarafi, *Al-Dzakhirah* (Beirut: Dar al-Gharbi al-Islami, 1994).

²⁷ Abd al-Qadir Muhammad Al-Qaisy, *Al-Ijtihâd Wa Al-Taqlîd Fî Syarî’at Al-Islâmiyyah Wa ‘Inda Imâm Al-Hanafîyyah Al-Nu’Mân* (Beirut: Dar al-Kutub al-’Ilmiyyah, 2019), 56.

²⁸ Husen Óalaf Al-Jaburi, *Ahkâm Al-Rukhash Fi Al-Syarî’at Al-Islâmiyyat* (Makkah: Maktabah al-Manarah, 1988), 176.

or group has asked for an explanation. It is the meaning of the Fatwa according to Al-Nawawi: “*al-kasyf ‘an al-hukm al-syar’iy li sâ’il’ anh ayy al-mustafy waqad takûn al-fatwâ bi ghair su’âl*”. Exposes shari’ah law because some ask, namely *mustafy*, and sometimes fatwas, can also occur without a request.²⁹

Because the Fatwa concerns *sharia’* legal rules, a person must meet many requirements. According to Al-Nawawi, a mufti must be *mukallaf*, Muslim, trustworthy, safe from moral abuse, and practicing noble morals.³⁰ Abu Zahrah, a mufti, must be sincere in giving fatwas, knowledgeable, have a noble character, have a stable and robust personality, have his life’s needs fulfilled, and understand his characteristics community.³¹

Method

This study uses the literature review method. Some primary and secondary works of literature on ulama’s fatwas were analyzed critically. Through this critical analysis, researchers hope to obtain a complete, detailed, clear, and systematic picture of the fatwas of scholars in the field of Muslim worship in the Novel Coronavirus era (Covid-19) pandemic. Researchers reviewed several primary works of literature, including (1) Fatwa of the Indonesian Ulema Council number 14 of 2020 concerning the implementation of worship in a situation of the Covid-19 outbreak; (2) fatwa of the Indonesian Ulema Council number 18 of 2020 concerning guidelines for managing the bodies (*tajhîz al-janâ’iz*) of Muslims infected with Covid-19; (3) fatwa of the Indonesian Ulema Council number 17 of 2020 regarding guidelines for health workers prayer who wear personal protective equipment (PPE) when caring for and treating Covid-19 patients; (4) Administration of Muslim Law Act (Chapter 3, Section 32) Fatwa Issued by Fatwa Committee, Indonesian Ulema Council (Fatwa on precautionary measures in dealing with the Covid-19).

²⁹ Al-Nawawi, *Adab Al-Fatwa Wa Al-Mufti Wa Al-Mustafy*, 53.

³⁰ Muhyi al-Din Yahya bin Syarf Al-Nawawi, *Al-Majmu’ Syarh Al-Muhadzdzab* (Beirut: Dar al-Kutub al-’Ilmiyyah, 2011), 19.

³¹ Muhammad Abu Zahrah, *Al-Muhadharah Fî Tarîkh Al-Mâdzâhib Al-Fiqhiyyah* (Beirut: Dar al-Fikr, 1977), 401.

Results and Discussion

The Fatwas of the Indonesian Ulema Council in the Era of COVID-19 Pandemic

Based on the Fatwa of the Indonesian Ulema Council number 14 of 2020, the MUI stipulates the Fatwa for implementing Friday prayers in the era of the Covid-19 pandemic as follows. First, when Muslims face conditions where the spread of the Covid-19 outbreak is uncontrolled, it can threaten their lives' safety, then Muslims are not allowed to hold Friday prayer activities in the area. This prohibition applies until the area returns to normal. This prohibition on holding Friday prayers is accompanied by a fatwa regarding Muslims' obligation in the region to replace it with *Zuhur* prayer in their respective places. Second, Muslims who have been proven to be infected with Covid-19 can replace Friday prayers with *Zuhur* prayers because if they attend Friday prayers with many people, the potential for transmission to the crowd is very likely. Third, in conditions where the spread of Covid-19 is under control, Muslims must hold Friday prayers.

The next fatwas are on the *fardlu* prayer in the congregation, *Tarawih* prayer, *'Ied* prayer, and worship that involves the crowd. Fatwa regarding these issues is contained in the MUI Fatwa Number 14 of 2020, which, among other things, states that: First, when Muslims face conditions where the spread of the Covid-19 outbreak is out of control, Muslims in the region may not hold religious activities crowds, such as congregational *fardlu* prayers, *Tarawih* prayers, *'Ied* prayers, *majelis taklim* activities, recitation activities, and other activities that involve large numbers of people which can be a medium for the spread of Covid-19. Second, for Muslims who have been proven to be infected with the coronavirus, it is forbidden to carry out *sunnah* worship activities such as congregational prayer, *tarawih* prayers, and *'Ied* prayers in mosques or other public places, as well as participating in general recitation activities because those activities can result in transmitting the virus to other people. Third, in conditions where the spread of Covid-19 is under control, Muslims are "allowed" to

hold prayers that involve many people praying the *fardlu* prayer in congregation, *tarawih* prayers and 'ied prayers in mosques or other public places, as well as participating in public recitation activities or *tabligh akbar* while maintaining yourself from being exposed to Covid-19.

The next MUI fatwa in the Covid-19 pandemic era is about mosque management. The Indonesian Ulema Council did not specifically issue a fatwa on mosque management during the Covid-19 pandemic period. The official Fatwa on the management of mosques in this pandemic was stipulated by the Fatwa Committee, Indonesian Ulema Council, or the Fatwa Commission of the Indonesian Ulema Council. The Administration of Muslim Law Act Fatwa Issued fatwa document stipulates that based on text sources and religious principles, the Fatwa Committee believes that mosque administrators have a sacred obligation to request or prohibit any unhealthy people from entering the mosque area, either to pray or to do so. Other things, because their presence can cause virus transmission and endanger mosques and communities. The general welfare of the mosque congregation must be maintained (Fatwa Committee, 2020).

Furthermore, the Fatwa Committee also argues that if there is a broader spread of the Covid-19 virus and the situation becomes more critical, it will require the closure of public places, including places of worship such as mosques, or if there is a need for public access to public places. As mosques should be confined, this will be considered an emergency. Therefore, the Fatwa Committee deems it necessary to close mosques or suspend congregational and Friday prayers during this situation.

Another MUI fatwa that is very important in the era of the COVID-19 pandemic is a fatwa on prayer procedures for health workers wearing personal protective equipment. The Fatwa of the Indonesian Ulema Council number 17 of 2020 provides guidelines for health workers who wear personal protective equipment (PPE) when caring for and treating Covid-19 patients. This Fatwa emphasizes that medical personnel are obliged to perform the Fardlu prayer according to their abilities and circumstances under no circumstances. There are several possibilities for a Muslim

health worker to pray while handling or caring for Covid-19 patients using PPE, namely praying as usual, *jamak ta'khir*, *jamak taqdim*, praying in PPE, *tayammum*, praying without *wudlu* or *tayammum*, and praying with PPE that is unclean.

Muslim health workers are obliged to perform prayers as usual and without *rukshah*, when their task time is over or has not started. However, the health worker may complete the *fardlu* prayer in a *jamak ta'khir* manner if he is on duty before the time of midday prayer or *maghrib* prayer and will end while still at the time of *Asr* or *Isha* prayer'. They may pray in a *jamak taqdim* way if when they are on duty, they start at the time of the midday prayer or *maghrib* prayer and are thought to be unable to perform the *Asr* or *Isha* prayers. They may do *jamak taqdim* or *jamak ta'khir* if the conditions during their working hours are within the range of two prayers that are allowed to be plural.

This provision also regulates *tayammum*'s ability as a substitute for *wudlu*, if it is challenging to do *wudlu*. For health workers in a state of *hadass* and it is not possible to purify, both *wudlu* and *tayammum*, they will continue to pray according to existing conditions (*faqid al-thahûrain*) and are not obliged to repeat their prayers (*i'âdatu al-shalâh*). Suppose the PPE clothes are exposed to uncleanness, and it is difficult for them to remove and clean the PPE clothes. In that case, the health worker may pray in an impure condition and repeat the prayer (*i'âdatu al-shalah*) after completing his duties.

Another MUI fatwa is a fatwa regarding the management of Muslims' bodies who died due to COVID-19 infection. Through the Fatwa of the Indonesian Ulema Council number 18 of 2020 concerning guidelines for the direction of the bodies (*tajhiz al-janâ'iz*) of Muslims infected with Covid-19, MUI has made a kind of guidelines for bathing, washing, burying, and burying bodies who died due to Covid-19 infection. According to the Fatwa, two of the four obligations of a living person to a deceased person must be based on medical protocol and by the competent authorities, with due observance of the Shari'a provisions. As for the obligation to pray and bury the deceased, they are still carried out as usual while maintaining that they are not exposed to COVID-19.

Islamic Legal Maxim as the Basis for Determining MUI Fatwas

All of the Indonesian Ulema Council's fatwas refer to the holy text of the Al-Qur'an and the Prophet's Hadith as their primary sources. However, the Indonesian Ulema Council also uses several Islamic legal maxim principles in determining its fatwas. As for the Islamic legal maxim principles which are the basis for the determination of these fatwas are the rules of *lâ dharâra wa lâ dhirâra* (do not endanger yourself and do not harm others); *dar'u al-mafâsid muqaddam' alâ jalb al-mashâlih* (rejecting the danger is more important than seeking benefit), *al-masyaqqat tajlib al-taisîr* (difficulty causing the emergence of ease), *al-dharâru yuzâlu* (danger must be rejected), *al-dhararu yadfa'u bi qadr al-imbân* (obedience must be prevented in possible limits), *al-dharûratu tuqaddaru bi qadriha* (fatality is limited according to the degree), *tasharruf al-imam 'ala al-râ'iyat manûth bi al-mashlahati* (the Imam's policy towards the people must follow the benefit).³²

All of the Islamic legal maxim principles that form the basis for establishing MUI fatwas in the era of the COVID-19 pandemic are essentially avoidance, avoidance, deterrence, and prevention of harm, hardship, and disasters as efforts to realize the benefit of humanity. The principles of *lâ dharâra wa lâ dhirâra*, *dar'u al-mafâsid muqaddam' alâ jalb al-mashâlih*, *al-masyaqqat tajlib al-taisîr*, *al-dharâru yuzâlu*, *al-dhararu yadfa'u bi qadr al-imbân* *dharûratu tuqaddaru bi qadriha*, *tasharruf al-imâm 'ala al-râ'iyat manûth bi al-mashlahati* are the basic principles of Islamic jurisprudence to prevent obedience (*dharar*) and difficulties (*masyaqqat*), as well as to realize benefit (*mashlahah*) and convenience (*al-taisîr*).³³

The rule of Islamic legal maxim *lâ dharâra wa lâ dhirâra* means "not to endanger yourself and not to harm others." This rule has the same spirit as other principles. Etymologically,

³² Agus Riyadi, "Tathwiru Ta'lim Qawaid" (Bandung: UPI, Prosiding International Conference on Arabic Language, 2016); Sobhi Mahmassani, *Qawaid Al-Ahkâm Fî Mashâlih Al-Anâm* (Cairo: Dar al-Ma'arif, 1981); Izzuddin Ibn Abdi As-Salam, *Qawa'id Al-Ahkam* (Beirut: Dar al-Fikr, 1996); Ali Ahmad Al-Nadwi, *Al-Qawaid Al-Fiqhiyyah* (Damaskus: Dar al-Qalam, 1994).

³³ Riyadi, "Tathwiru Ta'lim Qawaid"; Mahmassani, *Qawaid Al-Ahkâm Fî Mashâlih Al-Anâm*; As-Salam, *Qawa'id Al-Ahkam*; Al-Nadwi, *Al-Qawaid Al-Fiqhiyyah*.

madharat is derived from the phrase “*al-dharar*” which means something that comes down without holding it. *Al-dharar* is endangering others absolutely, while *al-dharrar* is illegally endangering others. In the Koran, the verses that contain the word rooted in dha-ra-ra all order goodness and prohibit harmful actions (Surat al-Baqarah: 228, 231; al-Nisa: 12; al-Baqarah: 233; al-An’am: 6). In terminology, *dharar* is a person’s fear of danger that threatens his life or parts of his body or protects himself from death or extreme distress (Mahmashany 2003). According to some Maliki School scholars, *dharar* is worrying about one’s own death based on belief or just conjecture. According to Abu Zahrah, *dharar* is a person’s position on a limit, and if he does not consume something that is *haram*, he will perish or almost perish (Zahrah 1967). Meanwhile, according to al-Nadwi, *dharrar* is an act that benefits oneself but harms others, while *dharar* is an act that harms others but does not benefit oneself (Al-Nadwi 1994). Thus, *dharar* is a very determining difficulty in human existence because it can threaten religion, life, descent, property, and human honor.

The ability to do or leave something because of *dharar* is to fulfill the rejection of danger, not something other than that. In this regard, Wahbah al-Zuhaily (Al-Zuhaylî 1987) divides human interest into something with five classifications: (1) *Dharar*, namely humans’ interests cause the use of something prohibited. It is because urgency occupies the peak of human interest if ignoring it can cause damage. This kind of condition permits everything that is *haram* and forbidden. (2) *Hajat*, namely the human interest in something that can cause difficulties or approach damage if not fulfilled. This kind of condition does not justify what is *haram*. (3) Benefits, namely human interests, to create a decent life. So the law is applied according to what it is because the law brings benefits. (4) *Zienah*, namely human interests related to aesthetic values. (5) *Fudhul*, namely human interest, is only for exaggeration, which may bring disobedience or prohibition. This condition is the law of *sadd al-dzariah*, which is to close the road or all possibilities that cause damage.

The rule of *al-masyaqqat tajlib al-taisîr* is one of the Islamic legal maxim rules, which is the basis for determining fatwas by the MUI. The meaning of this rule is that difficulty causes ease to arise.

Etymologically, *al-masyaqqah* is fatigue, exhaustion, difficulty, and difficulty. As found in the Quran Surah An-Nahl verse 7: “And he carries your burdens to a country where you do not reach that place except with difficulty,” while *al-taysir* etymologically means convenience. According to this rule, the establishment of shari’ah laws aims to create comfort, relief, and eliminate difficulties. In their application, laws create difficulties and difficulties for legal subjects, and then they must be lightened so that *mukallaf* can carry out these laws without difficulty and difficulty. The point is leniency or legal relief due to difficulties except for the rule of law.

The Islamic legal system recognizes the existence of *azimah* law and *rukhsah* law. The *azimah* law is “the law that Allah first established in the form of general laws.” *Azimah* law is a law that generally applies to all legal subjects without any difficulties. The *rukhsah* law is “applicable law based on an argument that violates the existing argument because of aging.” The law of *rukhsah* is the law of relief due to difficulties.

Several factors cause *rukhsah*: (1) *Dharurat* (compulsion), such as a starving person if he does not eat, he will die, while what is in front of him is only haram food, so he may eat that haram food to protect himself. (2) *Desire* (need) can eliminate *masyaqqah* (difficulty). *Al-Masyaqqah* itself is individual. That is, for someone, it may be *masyaqqah*, but for others, it does not feel *masyaqqah*, but there is a general standard which is actually not *masyaqqah* and therefore does not cause relief in performing worship, such as feeling heavy ablution in winter, or feeling solemn fasting in summer, or also feel heavy for the convict in carrying out the sentence.

The rule of *al-masyaqqat tajlib al-taisir* can be applied to all legal provisions in at least seven conditions: (1) Being on the way (*al-safar*), for example, may recite prayers, breakfast, and leave Friday prayers. (2) For example, in a state of illness, it is permissible to perform *tayammum* when it is difficult to use water, pray *fardhu* while sitting, break the fast in the month of Ramadan with the obligation of *qadha* after being healthy, a menstruating woman. (3) In a forced situation that endangers one’s survival. (4) Forgetting (*al-nisyan*), for example, someone forgets to eat and

drink during fasting, fails to pay debts, and does not receive sanctions as long as they do not pretend to forget. (5) Because they do not know (*al-jahl*), for example, a person who has just converted to Islam because he does not know, then eats unlawful food, he will not be penalized. (6) General difficulties (in general *al-balwa*), for example, the ability of *bay al-salam* (the money before, the goods did not yet exist). The ability of doctors to look at the *mahram* is not for the sake of treating disease. (7) Inability to act in law (*al-naqsh*), such as small children, crazy people, and people in a drunken state.

The scholars divide *masyaqqah* into three levels: (1) *Al-masyaqqah al-'azhimmah* (very severe difficulties), such as worrying about loss of soul and/or damage to limbs. The loss of soul and/or limbs causes us to be unable to perform worship correctly. This kind of *masyaqqah* brings relief. (2) *Al-masyaqqah al-mutarasithah* (intermediate difficulties, neither very heavy nor very light). *Masyaqqah* like this must be considered if it is closer to a very heavy *masyaqqah*, then there is convenience there. If you are closer to a light *masyaqqah*, there is no convenience there. (3) *Al-masyaqqah al-khafifah* (mild difficulties), such as feeling hungry when fasting, feeling tired during *tawaf* and *sa'i*, feeling dizzy when bowing and prostration, and so on.

When examined more deeply, in essence, the whole Fatwa aims to keep Muslims away from harm, eliminate difficulties and difficulties, and endeavor to achieve benefit as many people as possible. The entire Fatwa refers to authoritative Islamic sources, starting from the Koran, the Prophet's Hadith, Islamic legal maxim, scholars' opinions, and experts' views.

Conclusion

Even in the emergency of the COVID-19 pandemic, the Indonesian Ulema Council remains careful in issuing fatwas. This religious institution is right to make the Koran, the Prophet's Hadith, and the opinions of classical Muslim scholars as to the primary reference in establishing fatwas in the religious sector. Islamic legal maxim is the fourth reference after the three sources of Islamic law. In essence, the use of the Islamic legal maxim

principle is to choose an alternative that is considered more beneficial than using the basic legal provisions (*‘azimah*). The entire Fatwa of the Indonesian Ulema Council is aimed at keeping Muslims away from danger, eliminating difficulties and difficulties, as well as endeavors to achieve the benefit of as many people as possible.

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