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Note from the Editor

Research Articles

Validation of a Sejahtera Living Index Using the Rasch Model
Muhammad Faris Abdullah
Mohamad Sahari bin Nordin
Suhailah binti Hussien
Norhayati Mohd. Alwi
Noor Suzilawati binti Rabe

Investigating Ismāʾīl Rājī al-Fārūqī’s Methodology in the Study of Christianity through Selected Textual Analysis from His Christian Ethics
Fatmir Shehu

Paradoxical and Insufficient? Gender Quotas and Placement Mandates in Bosnia and Herzegovina’s 2020 Local Elections
Mirsad Karić
Šejma Aydin
Huseyin Korkut
Muhidin Mulalić

Gestalt and Semiotic Analyses of Brand Communication on Disability Inclusion: The Case of Malaysia and the US
Aida Mokhtar
Faiswal Kasirye

Understanding the Decline of Pakistan-US Alliance and the Growing Influence of China in Pakistan
Roy Anthony Rogers
Noraiz Arshad
Iftikhar Ali
Let’s Think They are Safe Online!
A Malaysian Perspective on The Classification of Children’s Cyber Risks
Sarina Yusuf
Misha Teimouri
Muhamad Shamsul Ibrahim
Nan Zakiah Megat Ibrahim
Syahida Mohd Nazri
Stephanie Ann Victor

Social Media Use for English Learning in Southeast Asia: A Systematic Review
Farah Fazlinda Mohamad
Khazaila bt Zaini
Nur Syahidatul Idany

Maqāṣid al-Sharī‘ah as Goal Framing for Sustainable Behaviours: A Conceptual Framework
Ali Mehellou
Mohamad Saifudin Mohamad Saleh
Bahiyah Omar

Faith in The Time of Coronavirus: A Corpus-assisted Discourse Analysis
Siti Aeisha Joharry

COVID-19: Analysing the Principle and Application of Iʿtibār Maʿālāt in the Selected Fatwas Issued by the Malaysian National Council for Islamic Religious Affairs (MKI)
Abdul Manan Ismail
Ahmad Syukran Baharuddin
Muhammad Hazim Ahmad

The Challenges of Civil Society Organisations: NGO-isation of Resistance in Malaysia?
Sharifah Nursyahidah Syed Annuar
Muhamad Takiyudin Ismail
The Authenticity of Theology in Scientific and Technological Thinking
*Anhar Anshory
Ahmad Faizuddin Ramli
Ramli Awang*

**Research Notes**
The Seminar on *Da‘wah* in Kuala Lumpur in 1977 and the Emergence of *Hijab* Awareness in Indonesia
*Alwi Alatas
Agus Setiawan
Achmad Sunjayadi
Yunadi Ramlan*

**Book Review**
Reviewer: *Senad Mrahorović*
## Transliteration Table: Consonants

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## Transliteration Table: Vowels and Diphthongs

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COVID-19: Analysing the Principle and Application of Iʿtibār Maʿālāt in the Selected Fatwas Issued by the Malaysian National Council for Islamic Religious Affairs (MKI)

Abdul Manan Ismail*  
Ahmad Syukran Baharuddin**  
Muhammad Hazim Ahmad***

Abstract: About 650 years ago, al-Shāṭibī advocated new reforms on Usūl al-Fiqh with the introduction of some novel legal theories. The principle iʿtibār maʿālāt was among the legal theories he proposed in his magnum opus, al-Muwāfaqāt. However, due to some complicity, his theories received little attention and remain stagnated. In fact, few classical jurists have previously paid attention to the principle of iʿtibār maʿālāt. Nonetheless, in accordance with the development of the discipline of maqāsid al-sharīʿah, the discussion on the principle of maʿālāt, which was previously stagnated, has recently begun to gather traction among researchers worldwide in general, as well as in Malaysia in particular. Interestingly, al-Shāṭibī’s theory is applicable in solving several emerging religious concerns, particularly, in the event of COVID-19 pandemic. Several fatwas have been issued at the national as well as state levels in Malaysia to curb this pandemic. In this qualitative study, several fatwas issued by the Malaysian National Council for Islamic Religious Affairs (MKI)
has been selected to analyse the principle and application of iʿtibār maʿālāt. This study explores the principle and application of iʿtibār maʿālāt which was implicitly and explicitly applied in each fatwa selected. Furthermore, this indicated that the MKI has successfully implemented the principle in issuing fatwas responding to the emerging religious issues.

**Keywords:** Fatwa, pandemic preventive measures, iʿtibār maʿālāt, COVID-19


**Kata Kunci:** Fatwa, Langkah pencegahan wabak, iʿtibār maʿālāt, COVID-19

**Introduction**

The Prophet (p.b.u.h.), the Companions (r.a.), and the pious predecessors (*al-salaf al-ṣāliḥ*) taught us that preventing communicable disease outbreaks is the effective strategy. They have taken a number of prophylactic measures in response to the bubonic plague (*al-tāʿūn*) outbreaks (Che Mohamad, Shahar, Md Tahir, & Syed Abd. Hamid, 2020; Mutalib et al., 2020b), including movement control orders (al-Bukhārī, 2018, no. 5729; Muslim, 2016, no. 2219; Sābiq, 2004),
quarantine (Abu al-Hasan Ibnu al-Athir, 1997; al-Ṭabarî, 1989), social or physical distancing (al-Bukhārî, 2018, no. 5707 & 5771; Muslim, 2016, no. 2221), and shurā with specialists (al-Bukhārî, 2018, no. 5729; Muslim, 2016, no. 2219). These initiatives served human interests (Ibnu ‘Ashūr, 2016). Their precautions set Islamic norms and standards for the Fiqh Outbreak. This would let Islamic scholars issue contemporaneous fatwas to address Islamic concerns during an outbreak.

The recent Coronavirus disease (COVID-19) has reminded humanity of the need of health precautions (Islam, Islam, & Adam, 2020). Several issues pertaining to Islamic affairs that have occurred owing to the COVID-19 outbreak are new issues that have never been explored by prior scholars. These issues demand fatwas from the muftis that align with Shariah’s objectives (maqāṣid al-sharīʿah) and present reality. As a consequence, Shariah rulings are once again needed, particularly for Muslims in Malaysia, as a pandemic prophylactic. This may be done through issuing fatwas on Islamic religious concerns.

However, to be successful, fatwas must adhere to the greater purposes of law, be moderate, embrace a range of community groups, and the Mufti need to be thorough (Ismail, 2020). In addition, Islam includes several principles to help Muftis handle contemporary Islamic affairs via thorough fatwas (Khunain, 2018). One of these principles is analysing the fatwa’s final outcome (iʿtibār maʿālāt), whether it is compatible with the maqāṣid al-sharīʿah, or whether it is in conformity with Shariah principles. This research focuses on this idea of the compatibility between iʿtibār maʿālāt and maqāṣid al-sharīʿah.

The Evolution of Iʿtibār Al-Maʿālāt Theory: From Stagnation to Continuous Advancement.

The word “maʿālāt” or “maʿāl” is derived from the verb “a-wa-la” which literally refers to return, resort, or consequence (al-Zabīdī, 1993; Ibnu Faris, 1979; Ibnu Manzur, 1992). Meanwhile, the word “maʿāl” is actually a verbal noun with a prefixed ma (maṣdar mimi) to the verb “āla” (Umar, 2008). Classical jurists have applied iʿtibār maʿālāt to practical and hypothetical cases in their writings, but they haven’t defined it (Jadiyyah, 2010). Contemporary scholars, on the other hand, have proposed technical definitions of maʿālāt based on traditional practises (Hamitu, 2018; Jadiyyah, 2010). It can be deduced that maʿālāt technically refers to: “A universal principle that requires
it to consider the ruling to be imposed on certain conduct in proportion to its anticipated future consequences.” (Farid al-Anṣārī, 2004, p. 416). This indicates that the mujtahid modifies the fatwa to what it may often become as a result of the conduct. It is a kind of insight that aims to predict the future of conduct based on the circumstances of time and its people.

Furthermore, al-Shāṭibī argues for further modifications to Uṣūl al-Fiqh. In his work, he introduces many new ideas, including iʿtibār maʿālāt. His reform, however, was diametrically opposed to the dominant intellectual current at the time, in which the bulk of intellectual endeavours were focused on the continuation of past works centred on a certain School (al-Raysūnī, 2015). Al-Shāṭibī’s theories were hard to grasp at the time because he combined numerous disciplines into one topic without properly explaining them or effectively elaborating on his rationale (al-ʿUbaidī, 1992; Ishak, 2018b). His work revising Uṣūl al-Fiqh is complex and nuanced.

Only a few classical jurists formerly considered maʿālāt, forming views or decisions on it because maʿālāt was difficult to be applied at the time (al-Qaraḍāwī, 2012). Al-Shāṭibī (2017a) recognised this painful fact. Two factors explain why academics ignored Al-Shāṭibī’s thesis of maʿālāt (al-Husin, 2009). First, Uṣūl al-Fiqh, which concentrates on Islamic legal methods, neglected features about Maqāṣid al-Sharīʿah, particularly the idea of maʿālāt. Second, although earlier jurists did not advocate maʿālāt in their religious works, they had already applied its essence via other methods without the need to integrate them.

With the growth of Maqāṣid al-Sharīʿah, the principle of maʿālāt has lately gained popularity among academics globally and in Malaysia. Recent studies on maʿālāt include theses and dissertations (al-Husin, 2009; Jadiyyah, 2010; Nur Syahirah, 2019), research articles (Asni & Sulong, 2021; Ishak, 2018a, 2018b; Nasir, Ismail, & Ishak, 2019), and books (al-Sanūsī, 2004; Hamitu, 2018; Uthmani, 2015). On June 26-30, 2012, the European Council for Fatwa and Research (ECFR) conducted its 22nd regular session in Istanbul, Turkiye, to discuss research related to the topic: “The impact of considering the final outcomes of actions in determining the rulings and its implementations.” The council found that repercussions are vital in developing and implementing Shariah rulings (European Council for Fatwa and Research, 2017). This relies
COVID-19: ANALYSING THE PRINCIPLE AND APPLICATION OF *I*’TIBĀR *MA’ĀLĀT* IN THE SELECTED *FATWAS* ISSUED BY THE MALAYSIAN NATIONAL COUNCIL FOR ISLAMIC RELIGIOUS AFFAIRS (MKI)

on preventing excuses and fulfilling goals, as most Islamic scholars agree.

In Malaysia, a study conducted by Asni and Sulong (2021) blended *murūʿāt al-khilāf* and *ma’ālāt* in *fatwa* rulings and applies it to *fatwa* coordination pertaining to conditional *hibah*. Ishak (2018a, 2018b) focused on the conceptual framework of *ma’alat*, and recommended applying it to Islamic finance, criminal law, and family law. Nasir, Ismail, and Ishak focused on the usage of *ma’ālāt* in *fatwas* on Muslim minorities (Nasir et al., 2019). To extend the context of the discussion, this study will briefly analyse al-Shāṭibī’s *iʿtibār ma’ālāt* framework. The research will next evaluate its application in various MKI *fatwas* relevant to COVID-19.

**Methodology**

This study used qualitative document analysis, in which documents are analysed and translated to get insight into topics (Bowen, 2009; Baharuddin, 2021). Like interview transcripts, document analysis involves topical categorisation that can be supplementary or stand-alone research (Merriam, 2009, Bowen, 2009; Chinedu & Mohamed, 2017). In this study, we evaluated several primary documents: Islamic legal scriptures from the Quran and Hadiths, prominent Islamic jurisprudence from five authentic Schools (Hanafi, Maliki, Shafi’i, Hanbali, and Zahiri), and finally *al-Muwāfaqāt fī Uṣūl al-Sharīʿah* by al-Shāṭibī regarding the principle of *iʿtibār ma’ālāt* discourses, as well as a few selected *fatwas* issued by the Malaysian National Council for Islamic Religious Affairs (MKI) during the COVID-19 pandemic.

The examinations of these primary documents were further supported by secondary documents in order to substantiate the outcome of the research. Secondary data were acquired from the indexed journals. Bowen’s document analysis approach was used to analyse the documents involving skimming, reading and interpretation that incorporated aspects of content and thematic analysis (Bowen, 2009). Following the extraction of persuasive and significant interpretations through content analysis, the collected data were thematically analysed to produce several themes such as the concept of *ma’ālāt*, determining *ma’ālāt* in dealing with contemporary issues, parameters to be used in considering *ma’ālāt*, and appraising *ma’ālāt* consideration in Malaysian *fatwas*. There has been a more concentrated re-reading and examination
of the data conducted by the researchers, as well as the assignment of pertinent coding to the data.

Findings and Discussion

1. The Iʿtibār Maʿālāt Conceptual Framework Developed by Al-Shāṭībī

Al-Shāṭībī championed iʿtibār maʿālāt as he reformed the Uṣūl al-Fiqh of his era (Asni & Sulong, 2021; Ishak, 2018a; Suleiman, 2022). He expounded his idea on this principle in his magnum opus, al-Muwāfaqāt, that it is vital for the mufti to assess the results of his rulings and fatwas (al-Shāṭībī, 2017a, pp. 218-219). The mufti must assess the final outcomes of each human action he mandates or omits before making a decision (al-Raysūnī, 2015; Kamali, 2012; Ismail & Baharuddin, 2022, 2021). The criterion is whether the conduct will achieve maqāṣid al-sharīʿah or not (al-Shāṭībī, 2017a; Ishak, 2018b). The declared objectives were to improve mankind by avoiding damages or corruptions (al-Āmidī, 2003; al-Ghazālī, 2015b; al-ʿIzz Ibni Abdissalam, 2020; Baharuddin, 2017; Mutašlib et al., 2020c).

When permissible behaviour causes injury or corruption, it is illegal (Khunain, 2003). This approach is similar to the principle of blocking the means, in which the Shariah blocks the means (sadd al-dhāraʾī) when the potential for negative effects outweighs the initial benefit (al-Jizānī, 2009). Similarly, the idea of comfort (tawṣīʿah) and alleviate hardship (rafʿu al-ḥaraj) permits the legalisation of previously illegal conducts that provide benefits (al-Jizānī, 2009).

Al-Shāṭībī has not explained how a judgement’s outcomes might contradict its objective, but al-Sanūsī has offered three variables: wrongful intention to attain an unlawful objective through lawful conduct; abuse and exploitation of rights; and misapplication of the ruling into the wrong context (al-Sanūsī, 2004).

Moreover, this iʿtibār maʿālāt concept is related to one of al-Shāṭībī’s maqāṣidic cause-and-effect theories (al-Mariniyyi, 2002; al-Shāṭībī, 2017a, p. 457). Designing causes demonstrates the Lawgiver’s intention of bringing about outcomes. Causes, consequences, and objectives are tied to divine and human purposes, but more to human purposes. After all, it would be nonsensical for the Lawgiver to construct causes without meaning their effects (al-Raysūnī, 2015).
The three ideas above complement one another. If they are merged into cause and effect [second principle], the higher Shariah purposes [third principle] become the cause, and the final outcomes [first principle] are the effect. Considering the ultimate results requires analysing it in the context of the flow of causes.

Several Quranic verses and Prophetic traditions justify applying iʿtibār maʿālāt. A careful inductive examination of Shariah law literature may provide evidence for this. In Surah Al-Aʿraf verse 108, despite the benefits, Allah forbade His prophets and followers from cursing polytheists’ gods. This is because they will blaspheme the God of the believers, even though Allah is the Rabb who has no other God (Ibnu Kathir, 1999).

Much of the Quran’s evidence is general, stressing the significance of contemplating consequences (al-Shāṭibī, 2017a). In prophetic traditions, the Prophet prioritised the final outcomes of his rulings above other factors. These traditions include:

1. Though he knew who they are and those are worthy to die, the Prophet Muhammad (p.b.u.h.) refrained from putting the hypocrites to death, and saying “Leave him, lest the people say that Muhammad kills his companions” (al-Bukhārī, 2018, no. 4905; Muslim, 2016, no. 2584).

2. The Prophet Muhammad (p.b.u.h.) avoided relocating the Ka’bah from its original foundations, which was built by Prophet Ibrahim (al-Bukhārī, 2018, no. 1585; Muslim, 2016, no. 1333).

Thematically, these traditions demonstrate how Prophet Muhammad clearly did not pursue what would be considered the normal courses due to the prejudicial consequences that were feared as a result of doing so, and such final outcomes posed greater harm than benefit of performing the normal courses (al-Shāṭibī, 2017a; Kamali, 2012).

The essence of iʿtibār maʿālāt has actually been used in different principles in Islamic law, and it can be classified into three categories: (1) preserving the holiness of the Lawgiver’s intention by blocking the means and stratagem (Ḥiyāl), (2) preserving the human’s interests by juristic preference (Istiḥsān) and consideration for opposing points of view (Murūʿāt al-Khilāf), and (3) originally legitimate rules are not
alleviated by external contingents (al-Qawā’id al-Mashrū’ah bil-‘Aṣali la Tarfa’ahah al-‘Awāriḍ al-Khārijiyyah).

It is submitted that if a person learns the rules that are built on the consequences of actions, as well as their importance in jurisprudence principles, he will recognise the significance of this principle as one of the principles in ijtihad (al-Qaraḍāwī, 2012).

2. Determine I’tibār Ma’ālāt in Dealing with Contemporary Religious Issues

In general, the mufti will give a fatwa after going through four stages: taṣwīr (problem description), takyīf (adaptation), hukm (legal explanation), and iftā’ (fatwa determination) (Hassan & Khairuldin, 2020; Khairuldin, Embong, Hassan, Yasin, & Anas, 2019). The fourth step, fatwa determination, applies i’tibār ma’ālāt. Once the study is complete and the law is decided based on Islamic law and ijtihad, the mufti must undertake final research on the fatwa, which will be given to the mustāfī or local community. Such research should address many issues. The mufti must also evaluate the fatwa’s outcome.

Determining the final outcomes and consequences of an issued ruling that result in either benefit or harm is a tough undertaking that few individuals are able to complete (Ishak, 2018b). It necessitates careful observation, as well as a plethora of knowledge and experience. That is why al-Shāṭibī expressly states that only mujtahids are qualified to do so (al-Shāṭibī, 2017a):

There are several conditions required in the actual practice of i’tibār ma’ālāt that make it difficult to put into practise (al-Shāṭibī, 2017a), including: (1) knowledge of conditions pertaining to times, places, events, conducts, and individuals; (2) expertise in the field of human psychology; (3) the ability to read people’s souls with their subtleties and peculiarities; and (4) knowledge about social realities and influences. These criteria are actually what al-Shāṭibī refers to as Taḥqīq al-Manāţ al-Khāṣ (al-Raysūnī, 2015; Kamali, 2012). The terminology of Taḥqīq al-Manāţ has been elucidated by numerous classical and contemporary scholars, such as al-Ghazālī (2015a), al-Āmidī (2003), Ibn Amīr Ḥāj (1983), Ibn Quḍāmah (2002), Taqīyuddin al-Subkī and Tājuddin al-Subkī (2004), Wahbah al-Zuḥaylī (2013), Zaydān (2013),
and Kamali (2013). Thematically, their definitions can be summarised and understood as the process of verifying, ascertaining, or establishing the anchor point of the established legal rule in any new cases or situations. Accordingly, it deals with authenticating the presence of ʿillah in individual cases.

At this point we can understand why implementing ʿītibār maʿālāt is not simple. This is owing to the fact that, in order to execute this principle, a person must have another particular qualification known as taḥqīq al-manāṭ al-khāṣ as stipulated above, in addition to being a legal specialist with competence in dealing with legal texts and their complexities. Technically, Taḥqīq al-Manāṭ al-Khāṣ is one of the divisions of Taḥqīq al-Manāṭ made by al-Shāṭibī, whereby he divided it into two large divisions, namely Taḥqīq al-Manāṭ al-ʿĀm and Taḥqīq al-Manāṭ al-Khāṣ (al-Shāṭibī, 2017a).

In fact, al-Shāṭibī admits that ʿītibār maʿālāt is difficult to execute due to the expertise required, but if successful, it will be beneficial. It also affects a person’s ability to master multiple fields and disciplines. Therefore, a pragmatic strategy is needed to use ʿītibār maʿālāt and overcome its implementation issues.

The remedy is to shift ijtihad from an individual to a group of recognised scholars via shūrā. Even if a muftī is very intelligent, a fatwa via collective ijtihad will be closer to the truth (al-Mulāḥ, 2011). Meetings and conversations amongst muftīs, specialists, and academics will result in more mature discussions and understanding (al-Zarqā, 2014; Ishak, 2018b). New issues need not only fiqh and usūl fiqh knowledge, but also scientific and contemporary knowledge (al-Qaraḍāwī, 1998). By exchanging facts throughout the debate, this collective ijtihad may help comprehend the time, place, and persons involved with the fatwa (al-Raysūnī, 2015).

By convening collective ijtihad via fiqh academies like National and State Fatwa Committees, specialists from numerous domains and disciplines are called upon for Shariah rulings. The academy should record their contributions, experiences, and views, and then issue a legal ruling based on the experts’ scientific facts, by ijmāʿ or majority opinion (al-Zarqā, 2014). Thus, ʿītibār maʿālāt will be realised, and fatwas will be more flexible, effective, moderate, and adaptive (Bin Bayyah, n.d.).
3. Appraising the Application of Iʿtibār Maʿālāt Consideration in Syariah Rulings Related to the COVID-19 Issues in Malaysia

Since the COVID-19 pandemic struck Malaysia, the Minister in the Prime Minister’s Department (Religious Affairs), the Aṣḥābus Samāḥah Muftis, the State Islamic Religious Council, and the State Islamic Religious Department have met several times with the Ministry of Health Malaysia (MOH) and the National Security Council (MKN) to discuss issuing directives, fatwas, or public policies to preserve Muslims’ religious affairs (Mutalib et al., 2020a; Ruzki, 2020). A series of national Fatwa Committee Meetings were held to discuss possible directives or fatwas in light of Malaysia’s current situation (Mahaiyadin, Bhari, & Sirajuddin, 2021; Ruzki, 2020; Wan Ismail, et al., 2021). All related fatwas were issued as collective ijtihad, and some will be addressed here.

i) The ruling of physical distancing during congregational prayers in mosques and suraus

Since the COVID-19 outbreak, Malaysian mosques and suraus physically separate attendees by one metre during congregational prayers which has prompted intense debate (Qotadah, 2020). This rule appears odd because there is a general ruling for shortening the distance between worshippers during collective prayer, which completes and beautifies prayer (Minister’s Office in the Prime Minister’s Department (Religious Affairs), 2020a, p. 35).

Modern scholars’ views on the subject are based on the ruling of closing the rows during congregational prayers. Minority of scholars, inter alia, al-Bukhārī (al-Bukhārī, 2018; Ibnu Hajar al-ʿAsqalānī, 2013a), Ibn Taimiyyah (Jādallah, 2013; Syamsuddin Ibn Muflīḥ, 2003), Ibnu Ḥazm (2003), Ibnu Hajar al-ʿAsqalānī (2013a), al-Ṣanʿānī (1997), and Ibn ʿUthaimīn (1992, 2002, 2005, 2006), are of the view that closing the rows is obligatory. They have substantiated their view on several evidences from the Prophetic traditions (al-Bukhārī, 2018, no. 719; Abu Dāud, 2013, no. 667; al-Bukhārī, 2018, no. 723; Muslim, 2016, no. 124). The injunction in these hadiths indicates that it is obligatory (Fajar Rachmadhani, Mualimin Mochammad Sahid, and Mokhtar, A. W., 2022; al-Ṣanʿānī, 1997; al-Shawkānī, 2000; Ibn ʿUthaimīn, 2002). Meanwhile, the majority of scholars, especially the Shafiʿiyah School, held that closing the row is strongly recommended (not amounting to
obligatory) and that deviating from it is *makruh* (al-Khaṭīb al-Shirbinī, 1994a; al-Suyūṭī, 1987; Ibnu Haj al-Haitami, 2006). They support their view of it being strongly recommended by relying on the same evidences, but with different perspectives and interpretations.

They argued on the verbatim of “*tamāmi aš-ṣalāh*” in the *hadiths* clearly referred to Sunnah and are not included in the pillars or valid conditions of prayer (Ibn Baṭṭāl, 2003; Ibnu Dāqīq al-ʿId, 1987). Nonetheless, a legal maxim indicates that “the ruling of *makruh* is discarded if there is a need” (Kafi, 2004; Tantawi, 2013). In resolving the issue of physical distancing during congregational prayer, the MKI has applied the view of majority scholars (MOPMD (Religious Affairs), 2020a). The researchers concur with the MKI’s determination. Although it is one of the *makruh* concerns, if done for the purpose of necessity, let alone an emergency, that *makruh* is lifted.

The *fatwa* to maintain physical distance during congregational prayers was issued after consulting experts and authorities, particularly from Malaysia’s Ministry of Health. This religious ruling was made after calculating the risk of viral infection from COVID-19 patients with or without symptoms, who may infect others at the same rate (MOPMD (Religious Affairs), 2020a). This *fatwa* may preserve religion and human life, two *maqāṣid al-sharīʿah*. Allowing Muslims in Malaysia to worship in mosques or suraus, even if it means separating from other congregations, preserves religion. Muslims who pray in mosques and suraus must maintain a safe distance. This protects them against COVID-19, which may be deadly affect human.

**ii) The ruling on the postponement of pilgrimage to Mecca for the year 1441H**

The Minister in the Prime Minister’s Department (Religious Affairs) announced the postponement of the pilgrimage in 1441H on Thursday, 11 June 2020. This decision was negotiated with the country’s authorities to benefit Malaysians, especially future pilgrims in 1441H (MOPMD, 2020b, pp. 39-40). Muslim history has long seen pilgrimages to Mecca postponed - 40 times throughout the history of Islam; The first time it happened was in 930 AD, when the Shiites of Qaramithah stole the Black Stone (al-Ḥajaru al-Aswad). The last time the postponement happened was in 1987, when there was a Meningitis outbreak. Meanwhile, former Egyptian Mufti Sheikh Dr. Ali Jum‘ah claims that
the pilgrimage to Mecca had been postponed 22 times in complete and partial postponement (MOPMD (Religious Affairs), 2020b, p. 20).

In addition to being physically and financially able to make the journey, pilgrims must also be safe, or terminologically referred as “al-istiṭā‘ah al-amniyyah” or “amnu al-ṭārīq” (al-Nawawī, 2011; Ibnu al-Naqīb al-Miṣrī, 2020; Hanafi, et al., 2022), that is, safe or secure on the trip, even if he passes every area with reasonable tranquility (Ibnu Hajar al-Haitami, 2016). If someone is afraid about himself, his wife, or his property being in danger from wild animals, adversaries, or street thugs, and there is no other way out, the trip to Mecca is not compulsory for him as there is harm (Syamsuddin al-Ramli, 1984).

Furthermore, one of the physical abilities cited by the scholars is that there is no restriction from the oppressive ruler (al-sulṭān al-jā‘ir) to travel on pilgrimage to Mecca (al-Kāsānī, 1986). If this notion is understood via superior analogy (qiyyās al-awlā), then a restriction order given by a just ruler is more important to comply. A fair government will not ban worship without Shariah-justified grounds. The Saudi Ministers of Hajj and Umrah and Islamic Affairs, Da’wah, and Guidance informed the MOPMD (Religious Affairs) that overseas pilgrims could not go to Mecca in 1441H (MOPMD, 2020b). It was exclusively accessible to residents and foreigners in Saudi Arabia during the time of the COVID-19 pandemic.

Overall, after examining the final outcomes, including the threat of COVID-19 infection to Malaysian pilgrims, difficulty in satisfying the obligatory conditions of istiṭā‘ah, specifically al-istiṭā‘ah al-amniyyah, and permission not granted by the Saudi Arabian government, the Muzakarah has decided to postpone the pilgrimage for 1441H. This is undertaken to safeguard Malaysian Hajj pilgrims, most of whom are elders susceptible to COVID-19.

iii) The ruling of vaccination against COVID-19

MKI has also issued a legal ruling regarding COVID-19 vaccine (MOPMD, 2020c, p. 31). The mode of iʿtibār maʿālāt is taken into account as the COVID-19 vaccine protects 16-year-olds and older against SARS-CoV-2. Vaccines are a kind of medication, and medicine has a close bond with Shariah (al-ʿIzz Ibni Abdissalam, 2020, p. 8). In recent decades, Muslim jurists have made various justifications in
favour of vaccines (Maravia, 2020). Islam supports vaccinations to prevent contagious diseases. In Malaysia, the MKI Muzakarah Fatwa Committee has issued six fatwas advocating vaccination from 1988 to 2013 (MOPMD, 2020c). These fatwas advocated vaccinations to avoid contagious such diseases such as Rubella, Hepatitis B, Measles, Tuberculosis, Pertussis, Diphtheria, Tetanus, and Polio.

Vaccinations are efficient in preventing diseases and reducing death. On this premise, it’s consistent with an Islamic legal maxim: “Prevention is easier, worthier, and stronger than elimination” (al-dafʿu ashal – awlā – aqwā min al-rafʿi) (al-Zarkashī, 1985; Ibnu Qayyim al-Jauziyyah, 2002; Jalāluddin al-Suyūṭī, 1990; Tājuddin al-Subkī, 1991). This legal maxim, which comes under the umbrella of “prevention is better than cure” (Muhammad al-Zuḥaylī, 2006), relates to taking precautions and being prepared for a crisis before it occurs (Burnu, 2003; Mohd Aswadi, et al., 2021). At this juncture, Ibnu ‘Ashūr (2016) and other researchers held that the greatest approach to safeguard human life was to decrease the likelihood of harm and devastation (Ali, Mohd, & al-Shafi’i, 2017, Othman, et al., 2022).

After evaluating the prospective outcome, this fatwa encourages and convinces people to receive the COVID-19 vaccination to boost self-immunisation against the SARS-CoV-2 virus and avert life-threatening pandemic transmission. On the flip side of the vaccination debate is whether the government may compel citizens to acquire vaccines. Vaccine is part of medicine and is Sunnah for humans to take (al-Khaṭīb al-Shirbīnī, 1994b; Saʿid Baʾishin, 2004). This ruling is based on the hadith in Abu Dāud (2013, no. 3855) and al-Tirmidhī (2011, no. 2038). Therefore, COVID-19 vaccination is recommended. Depending on the scenario and circumstances, this initial ruling may be overturned. When the COVID-19 pandemic continues to spread, causing an increase in infection and mortality, as well as negative impacts from the anti-vaccine movement’s stigma and propaganda, the government has the right, based on Siyāsah al-Syarʿiyyah, to impose a COVID-19 vaccine immunisation programme on the people under his jurisdiction. This is in agreement with the Islamic legal maxim “Taṣarrufu al-Imāmi ʿalā al-Raʿiyyati Manūṭūn bil-Maṣlaḥah” (The actions of an Imam (leader) are driven by the interest of the community). According to scholars, the government’s authority to obligate people whether they wish to or not depends on outcomes and benefits (Burnū, 1996; Ibnu Nujaym, 1999;
Zaydān, 2015). People must follow their ruler if it does not violate Shariah principles. This requirement is mentioned in the hadith 1839 in Muslim (2016). At this point, it’s important to study the *al-Fatāwā al-Fiqhiyyah al-Kubrā* by Ibnu Hajar al-Haitamī:

> If the ruler commands anything that is in conformity with the opinions of the imams’ authoritative school, we shall carry it out. We should not blame him, and we do not say he has to know the incorrect thing like everyone else. This is due to the fact that in-depth discussion of this kind of issue leads to significant criticism, which should be avoided. (Ibnu Hajar al-Haitamī, n.d., p. 331)

According to the advice above, scholars want us to obey the ruler’s directives without questioning or disputing, if such directives are in conformity with Islamic jurists. The MOPMD (Religious Affairs) (2020c) has also included scholarly viewpoints from major Islamic contemporary scholars and Fatwa Institutions worldwide. None of the opinions rejected COVID-19 vaccination.

Several parties would undoubtedly attempt to reject government’s decision to take the COVID-19 vaccination. In several hadiths, the Prophet (p.b.u.h.) is quoted as saying, “Do not pour medicine in my mouth” (al-Bukhārī, 2018, nos. 4458 & 5712; Muslim, 2016, no. 2213). From this hadith, they will say it is not acceptable to compel someone to take medication. This mistake and misperception must be remedied since a hadith must be viewed holistically. The hadith cannot be seen from one standpoint or taken literally.

According to scholars, Rasulullah (p.b.u.h.) did not want ladud because it was not suitable for his disease, not because he denied treatment (Abu Ja’far al-Ṭaḥāwī, 1994; al-Qastallānī, 1996; Ibnu Hajar al-ʿAsqalānī, 2013b). “Do not pour medicine in my mouth” does not include a legal injunction that a person cannot be compelled to consume medicine. If a disease presents a danger to human life if not treated and avoided, preventive measures such as immunisation may be imposed (al-Muhammadi, 2000, p. 1574).

Furthermore, alleging that the Prophet (p.b.u.h.) refused to cure or use medicine based on this hadith may lead to contradiction with other Shariah scriptures. Other hadiths of the Prophet advocate utilising medicine to avert disease, *inter alia*, “make use of medical treatment,
for Allah has not made a disease without appointing a remedy for it, with the exception of one disease; viz., old age.” (Abu Daud, 2013, no. 3855; al-Tirmidhi, 2011, no. 2038). Similarly, various hadiths encourage us to take precautionary measures while facing an infectious disease crisis (al-Bukhari, 2018, no. 5707; al-Bukhari, 2018, no. 5771; Muslim, 2016, no. 2221; Malik, 2013, no. 31; al-Bukhari, 2018, no. 5730; Muslim, 2016, no. 2219).

Conclusion

In a nutshell, al-Sha’ibani introduced ʿitibār maʿālāt in “al-Muwāfaqāt”. This notion was difficult to implement in the past. Later, as knowledge and information developed, the notion of ʿitibār maʿālāt became feasible for realisation via collective ijtihad, as is evidenced through fatwa institutions in Malaysia. This is because fatwa committee members have diverse experience and expertise, and they collaborate to ensure that fatwas issued are effective and adhere to Islamic standards.

The analysis of selected fatwas shows that the MKI National Fatwa Muzakarah has applied ʿitibār maʿālāt. Collective ijtihad has always been a key part of this achievement. This is because, while issuing a fatwa, members of the fatwa committee with diverse educational backgrounds and experiences gather and analyse the topic thoroughly. An exchange of ideas based on each other’s expertise will occur, and the outcomes will be of high quality. Finally, muftis must employ ʿitibār maʿālāt while issuing fatwas so that each fatwa issued is rational, effective, and acceptable as pandemic prevention measures for Malaysians, particularly Muslims.

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Note from the Editor

Research Articles

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