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Transliteration Table: Consonants

Arabic	Roman		Arabic	Roman
ب	b		ط	ṭ
ت	t		ظ	ẓ
ث	th		ع	‘
ج	j		غ	gh
ح	ḥ		ف	f
خ	kh		ق	q
د	d		ك	k
ذ	dh		ل	l
ر	r		م	m
ز	z		ن	n
س	s		ه	h
ش	sh		و	w
ص	ṣ		ء	’
ض	ḍ		ي	y

Transliteration Table: Vowels and Diphthongs

Arabic	Roman		Arabic	Roman
اَ	a		اَ، اِيَّ	an
اُ	u		اُو	un
اِ	i		اِي	in
اَ، اِ، اِيَّ	ā		اَو	aw
اُو	ū		اَي	ay
اِي	ī		اُو	uww, ū (in final position)
			اَي	iyy, ī (in final position)

Source: ROTAS Transliteration Kit: <http://rotas.iium.edu.my>

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)

Abdul Manan Ismail*

Ahmad Syukran Baharuddin**

Muhammad Hazim Ahmad***

Abstract: About 650 years ago, al-Shāṭibī advocated new reforms on *Uṣūl al-Fiqh* with the introduction of some novel legal theories. The principle *i'tibār ma'ālāt* 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 *i'tibār ma'ālāt*. Nonetheless, in accordance with the development of the discipline of *maqāsid al-sharī'ah*, the discussion on the principle of *ma'ālāt*, 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)

* Associate Professor, Faculty of Syariah and Law, Universiti Sains Islam Malaysia (USIM). Email: manan@usim.edu.my

** Senior Lecturer, Faculty of Syariah and Law, Universiti Sains Islam Malaysia (USIM)/ Researcher, Academy of Islamic Civilisation, Universiti Teknologi Malaysia (UTM), Skudai, Johor Bharu. Email: ahmadsyukran@usim.edu.my. Corresponding author.

*** Research Assistant, Faculty of Syariah and Law, Universiti Sains Islam Malaysia (USIM).

has been selected to analyse the principle and application of *i'tibār ma'ālāt*. This study explores the principle and application of *i'tibār ma'ālāt* 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, *i'tibār ma'ālāt*, COVID-19

Abstrak: Sekitar 650 tahun yang lalu, al-Shāṭibī telah menganjurkan pembaharuan pada Uṣūl al-Fiqh dengan pengenalan beberapa teori baru. Prinsip *i'tibār ma'ālāt* adalah antara teori yang telah dikemukakan oleh beliau dalam *magnum opus*nya, al-Muwāfaqāt. Walau bagaimanapun, disebabkan beberapa keterbatasan, teorinya kurang mendapat perhatian dan kekal terbantut. Malah, sebelum ini para fuqaha klasik kurang memberi perhatian kepada prinsip *i'tibār ma'ālāt*. Namun begitu, sesuai dengan perkembangan disiplin ilmu *maqāṣid al-sharī'ah*, perbincangan mengenai prinsip *ma'ālāt* yang sebelum ini terbantut, baru mula mendapat tarikan di kalangan pengkaji seluruh dunia amnya, dan juga di Malaysia khususnya. Menariknya, teori al-Shāṭibī boleh digunakan dalam menyelesaikan beberapa kebimbangan agama yang muncul, terutamanya, sekiranya berlaku wabak COVID-19 yang tidak dibincangkan oleh sarjana Islam terdahulu. Beberapa *fatwa* telah dikeluarkan di peringkat kebangsaan dan juga negeri di Malaysia bagi membendung pandemik ini. Dalam kajian kualitatif ini, beberapa *fatwa* yang dikeluarkan oleh Majlis Kebangsaan Bagi Hal Ehwal Agama Islam Malaysia (MKI) telah dipilih untuk menganalisis prinsip dan aplikasi *i'tibār ma'ālāt* yang diwarisi di dalamnya. Kajian ini telah berjaya mencari prinsip dan aplikasi *i'tibār ma'ālāt* yang diaplikasikan secara tersirat dan tersurat dalam setiap *fatwa* yang dipilih. Tambahan pula, ini menunjukkan bahawa MKI telah berjaya melaksanakan prinsip ini dalam mengeluarkan *fatwa* bagi menjawab isu agama yang timbul.

Kata Kunci: *Fatwa*, Langkah pencegahan wabak, *i'tibār ma'ālāt*, 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-tā'ūn*) 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-Ṭabarī, 1989), social or physical distancing (al-Bukhārī, 2018, no. 5707 & 5771; Muslim, 2016, no. 2221), and *shurā* with specialists (al-Bukhārī, 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-sharī'ah*) 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 (*i'tibār ma'ālāt*), whether it is compatible with the *maqāṣid al-sharī'ah*, or whether it is in conformity with Shariah principles. This research focuses on this idea of the compatibility between *i'tibār ma'ālāt* and *maqāṣid al-sharī'ah*.

The Evolution of *I'tibār Al-Ma'ālāt* Theory: From Stagnation to Continuous Advancement.

The word "*ma'ālāt*" or "*ma'āl*" 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 "*ma'āl*" is actually a verbal noun with a prefixed *ma* (*maṣḍar mimi*) to the verb "*āla*" (Umar, 2008). Classical jurists have applied *i'tibār ma'ālāt* 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 *ma'ālāt* based on traditional practises (Hamitu, 2018; Jadiyyah, 2010). It can be deduced that *ma'ālāt* 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 *i'tibār ma'ālāt*. 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-'Ubaidī, 1992; Ishak, 2018b). His work revising *Uṣūl al-Fiqh* is complex and nuanced.

Only a few classical jurists formerly considered *ma'ālāt*, forming views or decisions on it because *ma'ālāt* 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 *ma'ālāt* (al-Husin, 2009). First, *Uṣūl al-Fiqh*, which concentrates on Islamic legal methods, neglected features about *Maqāṣid al-Sharī'ah*, particularly the idea of *ma'ālāt*. Second, although earlier jurists did not advocate *ma'ālāt* 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-Sharī'ah*, the principle of *ma'ālāt* has lately gained popularity among academics globally and in Malaysia. Recent studies on *ma'ālāt* include theses and dissertations (al-Husin, 2009; Jadiyah, 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

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

In Malaysia, a study conducted by Asni and Sulong (2021) blended *murū'āt 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 *i'tibār 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-Sharī'ah* by al-Shāṭibī regarding the principle of *i'tibār 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 *I'tibār Ma'ālāt* Conceptual Framework Developed by Al-Shātibī

Al-Shātibī championed *i'tibār ma'ālāt* 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-Shātibī, 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-sharī'ah* or not (al-Shātibī, 2017a; Ishak, 2018b). The declared objectives were to improve mankind by avoiding damages or corruptions (al-Āmidī, 2003; al-Ghazālī, 2015b; al-'Izz Ibnī Abdissalam, 2020; Baharuddin, 2017; Mutalib 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-dharā'ī*) when the potential for negative effects outweighs the initial benefit (al-Jizānī, 2009). Similarly, the idea of comfort (*tawṣī'ah*) and alleviate hardship (*raf' u al-ḥaraj*) permits the legalisation of previously illegal conducts that provide benefits (al-Jizānī, 2009).

Al-Shātibī 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 *i'tibār ma'ālāt* concept is related to one of al-Shātibī's *maqāṣidic* cause-and-effect theories (al-Mariniyyi, 2002; al-Shātibī, 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 *i'tibār ma'ālāt*. A careful inductive examination of *Shariah* law literature may provide evidence for this. In *Surah al-A'raf* 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 *i'tibār ma'ālāt* 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 (*Hiyāl*), (2) preserving the human's interests by juristic preference (*Istiḥsān*) and consideration for opposing points of view (*Murū'āt al-Khilāf*), and (3) originally legitimate rules are not

alleviated by external contingents (*al-Qawā'id al-Mashrū'ah bil-Aṣali la Tarfa'ahā al-'Awāriḍ al-Khārijīyyah*).

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 *ijtihād* (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), *ḥukm* (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 *ijtihād*, the *mufti* must undertake final research on the *fatwa*, which will be given to the *mustafti* 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 *Tahqīq al-Manāṭ al-Khaṣ* (al-Raysūnī, 2015; Kamali, 2012). The terminology of *Tahqīq al-Manāṭ* has been elucidated by numerous classical and contemporary scholars, such as al-Ghazālī (2015a), al-Āmidī (2003), Ibn Amīr Ḥāj (1983), Ibn Qudāmah (2002), Taqīyuddin al-Subkī and Tājuddin al-Subkī (2004), Wahbah al-Zuhaylī (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 *'illah* in individual cases.

At this point we can understand why implementing *i'tibār ma'ālāt* 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-khaṣ* 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-'Ām* and *Taḥqīq al-Manāṭ al-Khāṣ* (al-Shāṭibī, 2017a).

In fact, al-Shāṭibī admits that *i'tibār ma'ālāt* 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 *i'tibār ma'ālāt* and overcome its implementation issues.

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

By convening collective *ijtihād* 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 *ijmā'* or majority opinion (al-Zarqā, 2014). Thus, *i'tibār ma'ālāt* will be realised, and *fatwas* will be more flexible, effective, moderate, and adaptive (Bin Bayyah, n.d.).

3. Appraising the Application of *I'tibār Ma'ālāt* 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 *Ashābus 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-‘Asqalāni, 2013a), Ibn Taimiyyah (Jādallah, 2013; Syamsuddin Ibn Mufliḥ, 2003), Ibnu Ḥazm (2003), Ibnu Hajar al-‘Asqalāni (2013a), al-Ṣan‘ānī (1997), and Ibn ‘Uthaimīn (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-Ṣan‘ānī, 1997; al-Shawkānī, 2000; Ibn ‘Uthaimīn, 2002). Meanwhile, the majority of scholars, especially the Shafi'iyyah 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 Hajar 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 aṣ-ṣalāh*” in the *hadiths* clearly referred to *Sunnah* and are not included in the pillars or valid conditions of prayer (Ibn Baṭṭāl, 2003; Ibnu Daqīq al-‘Id, 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-sharī‘ah*. 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-ṭarīq*” (al-Nawawī, 2011; Ibnu al-Naqīb al-Miṣrī, 2020; Hanafī, *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 (*qiyās 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 *i‘tibār ma‘ālāt* 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-‘Izz Ibnī 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-daf'u ashal – awlā – aqwā min al-raf'i*) (al-Zarkashī, 1985; Ibnu Qayyim al-Jauziyyah, 2002; Jalāluddīn al-Suyūfī, 1990; Tājuddīn al-Subkī, 1991). This legal maxim, which comes under the umbrella of "prevention is better than cure" (Muhammad al-Zuhaylī, 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-Shirbinī, 1994b; Sa'id Ba'ishin, 2004). This ruling is based on the hadith in Abu Dāūd (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-Syar'īyyah*, to impose a COVID-19 vaccine immunisation programme on the people under his jurisdiction. This is in agreement with the Islamic legal maxim "*Taşarrufu al-Imāmi 'alā al-Ra'īyyati Manūṭun bil-Maşlahah*" (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-Ṭahāwī, 1994; al-Qaṣṭallānī, 1996; Ibnu Hajar al-'Asqalānī, 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 Dāūd, 2013, no. 3855; al-Tirmidhī, 2011, no. 2038). Similarly, various *hadiths* encourage us to take precautionary measures while facing an infectious disease crisis (al-Bukhārī, 2018, no. 5707; al-Bukhārī, 2018, no. 5771; Muslim, 2016, no. 2221; Malik, 2013, no. 31; al-Bukhārī, 2018, no. 5730; Muslim, 2016, no. 2219).

Conclusion

In a nutshell, al-Shāṭibī introduced *i'tibār ma'ālāt* in “*al-Muwāfaqāt*”. This notion was difficult to implement in the past. Later, as knowledge and information developed, the notion of *i'tibār ma'ālāt* 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 *i'tibār ma'ālāt*. 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 *i'tibār ma'ālāt* 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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