

Analysis of Religious Decrees (Fatwas) on Worship Practices Amidst Covid-19 Pandemic in Selangor State

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Abstract

The Coronavirus Disease (COVID-19) pandemic has brought about impacts on social, economic, educational, political, and religious affairs. In order to control the spread of this pandemic, the new normal lifestyle of Muslims is guided by the Standard Operating Procedures (SOPs) established by the Malaysian National Security Council (NSC) and the Ministry of Health of Malaysia (MOHM). Worship activities involving the socialization of Muslims in mosques, such as congregational prayers, Friday prayers, and funeral management, are also subject to new norms implemented to safeguard public safety from COVID-19 infections, thereby influencing several legal decisions and fatwas. Thus, the objective of this study is to analyze several legal decisions and fatwas issued by the Selangor Mufti Department and the Special Muzakarah Committee Meeting of Malaysia's National Council of Islamic Religious Affairs (MKI) concerning various aspects of Islamic worship practices during COVID-19 pandemic phase. This study also incorporates the opinions and decrees from global scholars. Based on qualitative research methodology through document analysis, this study discusses the validity of the issued fatwas along with an investigation into the approach and principles of the discretion in fatwa. The findings of this study indicate that the issuance of fatwas based on the hanging opinions (*marjuh*) and non-definitive opinions of the Shafi'i school of jurisprudence aligns with the concept of discretion in fatwa (*al-tarakkhus fi al-fatwa*), which is endorsed by scholars who prioritize the well-being (*maslahah*) and concessions (*rukhsah*) for the Muslim community. The significance of this study lies in allaying public apprehensions regarding the compatibility of fatwa decisions issued by the Selangor Mufti Department with the established fatwa standards based on the Shafi'i school of jurisprudence in Malaysia and other global scholars.

Keywords: COVID-19, Ministry, Muslim, Fatwa, Worship

Introduction

The outbreak of the infectious Coronavirus Disease (COVID-19) emerged and began spreading in Malaysia in January 2020, leading to the declaration of the disease's seriousness reaching pandemic phase. This implies that the COVID-19 outbreak has affected all regions in Malaysia, and the infection rate involves a significantly large population in the country. This declaration is at a global level and was announced by the World Health Organization on March 11, 2020 (WHO, 2020). As a result, the Malaysian government took precautionary measures seriously by enforcing the Movement Control Order (MCO) from March 18, 2020, until June 9, 2020, for nearly three months, in an effort to curb the further spread of COVID-19 (NSC, 2020). This action was in line with the Prevention and Control of Infectious Diseases Act 1988.

The implementation of the MCO by the government not only led to economic downturn but also restricted various social and educational activities. Moreover, it indirectly impacted the practice of religious worship, particularly for the Muslim community in Malaysia. However, it is important to note that for Muslims, these restrictions only temporarily suspended social and congregational worship activities. The Malaysian National Security Council (NSC), in collaboration with the Ministry of Health of Malaysia (MOHM), has established Standard Operating Procedures (SOPs) that every Malaysian resident must adhere to as a measure to prevent the spread of the COVID-19 outbreak (NSC, 2020 & MOHM, 2020). Therefore, worship activities involving a large gathering of people can be carried out with strict controls and must comply with the established SOPs.

In this research paper, the focus will be on analyzing the fatwas issued by the Selangor Mufti Department and the Special Muzakarah Committee Meeting of Malaysia's National Council of Islamic Religious Affairs (MKI), which act as references and guidelines for Muslims in carrying out their worship practices while also addressing the spread of the COVID-19 pandemic. Even though the transmission of the COVID-19 pandemic is now in an endemic phase, the focus of the study will solely be on the fatwas issued during the pandemic phase.

Research Objectives

This research aims to

1.	Analyze a range of fatwas that have been issued by the Selangor Mufti Department pertaining to Muslim worship activities amidst the COVID-19 pandemic period.
2.	Examine several fatwas approved by the Special Muzakarah Committee Meeting of Malaysia's National Council of Islamic Religious Affairs (MKI) regarding the conduct of Muslim worship activities during the COVID-19 pandemic phase.
3.	Ascertain the notion of discretion within the fatwas officially gazetted by the Government of Selangor in line with the principle of <i>al-tarakhkhus fi al-fatwa</i> .

Research Methodology

To complete this study, a qualitative approach using document analysis is employed. The research focuses on examining the details of religious rulings related to COVID-19 issues in the context of worship activities. One of the main approaches taken to accomplish this study is by referring to the opinions of scholars through classical and contemporary religious texts, as well as current fatwas issued, especially by the Selangor Mufti Department or the Selangor State Islamic Religious Council (MAIS). Furthermore, articles and scholarly writings shared by local muftis, global scholars, and other authoritative fatwa bodies regarding COVID-19 issues are also referenced to obtain additional information. Data collection on the current situation and issues related to COVID-19 has been taken through authoritative portals and websites. As a consequence, the information obtained is limited due to the restricted sources. All

acquired data will be subjected to analysis through the methodology of juristic reasoning by considering specific principles of Islamic jurisprudence and Islamic legal maxims related to the discussed issues.

The Position of Fatwa as a Legal Basis

Fatwa plays a crucial role as one of the essential instruments in the development of Islamic law (Farahin et al., 2013). It serves as a guiding principle and legal reference for the Islamic community, providing insights into matters concerning religion. Moreover, fatwa plays a vital role in enlightening the public regarding Islamic laws that encompass all aspects of life, practices, and beliefs. Fatwa can be determined as a pathway for resolution, which can help dispel misunderstandings and confusion faced by the Muslim community in the current context regarding emerging issues involving both individual and community matters. (Abdullah & Buang, 2004). It is regarded as one of the alternatives capable of breaking the impasse in the development of Islamic law, especially in addressing emerging religious issues and challenges (Mukhlisin et al., 2018). Therefore, the role of fatwa is crucial as a reference in dealing with challenges and issues related to performing worship practices during the COVID-19 pandemic transmission phase.

Initially, there was no definite legal certainty attached to the transmission of COVID-19 in Malaysia, making it a novel issue and challenge. Hence, addressing the concerns related to it requires legal *ijtihad* approach, seeking insights from experts in relevant fields. In light of the global impact of COVID-19, the insights of medical experts are crucial in formulating sound laws that safeguard humanity from harm. Therefore, before establishing any law through the process of *ijtihad*, muftis and scholars should refer to experts in specific fields to resolve arising issues, as stated in the Quran: *"If you do not know, then ask those who have knowledge."* (Quran, 16:43) The views of medical experts and health specialists who have conducted scientific research serve as the primary reference for scholars and muftis in determining laws pertaining to COVID-19 issues. This approach ensures that the guidelines they establish for the Muslim community to safely perform religious practices do not contradict the preventive measures against the spread of COVID-19.

Fatwas Regrading COVID-19 Issues in Selangor

The Selangor State Islamic Religious Council (MAIS) has issued numerous guidelines and explanations concerning the legal aspects of practicing religious rituals during the COVID-19 pandemic. However, this study specifically touches upon the officially proclaimed fatwas related to Islamic worship as governed by the Administration of the Religion of Islam (State of Selangor) Enactment. Some of the declared fatwas include:

1. Suspension of Friday Prayer

The COVID-19 pandemic has greatly affected the way daily practices of Muslims, albeit temporarily. This emergency situation has left Muslims questioning whether their obligations should be continued or given some leeway to be abandoned, especially for men who are obligated to perform the Friday prayer (*Jumu'ah*). The Special Meeting of the Selangor State Fatwa Committee Number 1/2020 took into account the decision of the Special Muzakarah Committee Meeting of Malaysia's National Council of Islamic Religious Affairs (MKI) Number 1/2020, which determined that

"All religious and community activities in mosques and musallas throughout the state of Selangor Darul Ehsan, including congregational prayers and Friday prayer, have been suspended starting from 23 Rajab 1441H, equivalent to 18 March 2020, until 06 Sya'ban 1441H, equivalent to 31 March 2020. During this period, all mosques, suraus, and musallas in Selangor Darul Ehsan must carry out regular cleaning and disinfection operations as a control measure to prevent the spread of the COVID-19 virus."

The fatwa released by the Selangor state appears to coincide with fatwas put forth by the Islamic Religious Council of Singapore (MUIS, 2020), and the Fatwa Council of the United Arab Emirates (Bin Bayah, 2020), as well as recommendations from the International Union of Muslim Scholars (IUMS, 2020), and Jordan's Dar al-Ifta' (2020). This act is considered imperative and not culpable for individuals who opt out of participating in Friday prayers and congregational prayers, due to being infected or fearing infection from the prevailing pandemic situation. Under such circumstances, actions are decided based on the government's responsibility according to the principle: *"The leader's actions towards the people are contingent upon their well-being"* (Al-Suyuti, 1983).

The scholars have determined that any actions prescribed by the authorities must be based on the welfare and benefits for the entire community, encompassing the populace under their governance. The Mufti of Egypt clarifies that the closure of mosques for Friday prayers and congregational prayers is under government directive. As responsible citizens, it is imperative to comply with these instructions, as they serve as crucial precautionary measures (*sadd al-zarai'*) initiated by the government to curb the propagation of this pandemic (Allam, 2022). Should these actions run counter to their original purpose and objectives, they are deemed invalid and not applicable from a religious standpoint (Ali Burnu, 2003). The Prophet Muhammad (pbuh) also conveyed: *"Whoever hears the prayer call and does not attend the congregational prayer, then his prayer is not valid (deficient), except if he has an excuse."* The companions asked: *"What constitutes as the excuse?"* The Prophet (pbuh) answered: *"It is fear or illness."* (Hadith. Abu Daud. 551)

The fear referred to in the aforementioned hadith encompasses concerns for personal safety, financial wellbeing, and the welfare of family members. Thus, according to the mentioned context, the Islamic community is permitted to forgo the Friday prayer amidst the prolonged period of the COVID-19 pandemic, which instills fear and unease. This viewpoint is also acknowledged by a contemporary Muslim scholar, Al-Zuhayli (2007): *"And any hindrance that is of a similar level of difficulty as the hardship caused by illness is also considered an excuse that is equated with the sickness it is compared to. Hence, the obligation of attending the Friday congregational prayer does not obligatory for those who experience fear for themselves or their possessions."*

Taking into account the references and perspectives of scholars that have been mentioned, the enforcement of Movement Control Orders to contain the transmission of the COVID-19 pandemic, which has led to the temporary suspension of Friday prayers, is considered as an appropriate action taken by the government. It is the duty of the citizens to comply with the government as long as the instructions directives are grounded in benefit and do not contravene any religious principles (Al-Maraghi, 1946), as stated in the Holy Quran: *"O believers! Obey Allah and obey the Messenger and those in authority among you."* (Quran. 4:59) The government's intended benefit is to ensure the security and safety of the populace, shielding them from the threats of the COVID-19 pandemic that could result in loss

of life. It is clear in this context that the restriction on Friday prayers at that time, which is a gathering that involves a large number of individuals, is aimed at the welfare of the people, namely to control and mitigate the transmission of the COVID-19 outbreak.

A similar reasoning is also issued by the fatwa body in Egypt Allam (2022), and Qatar (Islam Web, 2020). The fatwa issued in Qatar concurs with the principle that also affirms: *"Preventing harms takes precedence over attaining benefits."* (Al-Zarqa, 1989) Thus, when harm and benefit come into conflict, preventing the harm is given priority. This is due to the Sharia's emphasis on refraining from forbidden actions with greater weight than the pursuit of obligatory ones. The core concept of harm prevention involves averting its occurrence beforehand and addressing it if it has already transpired. The basis for this principle lies in the hadith: *"What I have forbidden you, stay away from. What I have ordered you to do, do as much of it as you can."* (Hadith. Al-Bukhari. 7288) Therefore, it becomes obligatory to comply with government directives, and those who resist them are committing a transgression and in wrongdoing. Their actions not only endanger themselves but also implicate others.

Limited Congregational Size for Friday Prayer

Even though the transmission of COVID-19 has not shifted to an endemic phase and still remains at a pandemic level during that time, the Malaysian government continues to strive towards national recovery. Consequently, the Standard Operating Procedures (SOP) for the Movement Control Order (MCO), initially introduced by the National Security Council (NSC), were modified into the Conditional Movement Control Order (CMCO) during that period. With the adoption of these updated SOP, the Muslim community had the opportunity to engage in religious practices, particularly Friday prayers, albeit within restricted capacities and under stringent conditions.

The consensus of scholars from the Shafi'i and Hanbali schools stipulates that the minimum number for a congregational Friday prayer is a group of 40 mature male individuals, and their status must include legal competence (*mustautin*), including the imam (Al-Shafi'i, 2001 & Al-Nawawi, 2010). In the context of the Malaysian Muslim community, which predominantly follows the Shafi'i school in their religious practices, this is the definitive opinion that serves as the foundational reference. However, due to the emergency situation caused by the spread of the COVID-19 pandemic, the customary requirement of having 40 congregants for Friday prayers cannot be reinstated, as outlined in the SOPs issued during the CMCO period. The permissible number of congregants for Friday prayers in green zones with no COVID-19 cases during that time is limited to only one-third of the main prayer hall's capacity in the mosque (MJKFNS, 2020). The capacity of most mosques in the state of Selangor does not reach 40 congregants for Friday prayers while adhering to the SOPs.

In this context, the decision to set the minimum number of congregants for Friday prayers below 40 individuals is based on the second opinion which is the hanging opinion (*marjuh*) within the Shafi'i school (Al-Nawawi, 1991), as well as the viewpoints of other scholars and different school of jurisprudence. According to Imam Abu Hanifah and Muhammad al-Shaibani, the minimum required number for Friday prayers is four individuals, including the imam (Al-Kasani, 2003). As for Imam Abu Yusuf, he stated that the congregation for Friday prayers is sufficient with just three individuals, including the imam (Al-Nasafi, 2011). The Hanafi school argues by saying: *"Because it is a number that exceeds the absolute minimum for a plural term."* (Al-Kasani, 2003 & Al-Nasafi, 2011) On the other hand, Maliki's scholars assert that the minimal count of congregants for Friday prayers is twelve adult male

residents (*mustautin*) who follow the imam from the commencement of the sermon until the completion of the Friday prayer (Al-Hattab, 1992; Al-Baji, 2010).

Egypt's Dar al-Ifta' explains that the COVID-19 pandemic is a danger and has resulted in a significant number of human deaths. Consequently, it is deemed an emergency situation that permits the adoption of another school of thought regarding the minimum number of congregants for Friday prayers. Presently, it is advisable to adopt a more lenient approach and not be strictly bound by the Shafi'i school of thought, particularly in this context. This is because performing Friday prayers with the minimum congregation according to other school of jurisprudence is preferable over completely abstaining from Friday prayers due to insufficient minimum number of congregants ('Allam, 2022).

3. Management of Muslim COVID-19 Patients' Deceased Bodies

The spread of COVID-19 has led to changes in the usual procedures for managing the burials of Muslims. The term 'deceased' here refers to individuals who have died due to the COVID-19 outbreak. The bodies of COVID-19 patients can carry the virus and pose a risk to those involved in the burial process. Therefore, the Special Muzakarah Committee Meeting of Malaysia's National Council of Islamic Religious Affairs (MKI) deliberated the best methods to handle deceased Muslim individuals who have been confirmed to be infected with COVID-19. The goal was to prevent the transmission of the virus to healthcare workers responsible for the deceased management. This was achieved by employing legal decision and guidelines derived from the Management of Deceased Individuals Suspected or Confirmed to Be Infected with the Ebola Virus among Muslims in Malaysia (JAKIM, 2015).

The National Council of Islamic Religious Affairs (MKI) reached a consensus to replace the original procedure of washing deceased bodies to the implementation of dry ablution (*tayammum*) on the deceased. This adjustment aims to mitigate the risk to personnel by avoiding contact with water or touching skin, which carries a high potential for virus transmission to those involved in handling the bodies. The Selangor Mufti Department has also scheduled a set of fatwa outlining the legal rulings and procedures for managing the deceased Muslim COVID-19 patients MAIS (2021), as outlined below

Table 2

LEGAL REGULATIONS AND METHODS FOR HANDLING THE BODIES OF MUSLIM PATIENTS AFFECTED BY COVID-19
<ol style="list-style-type: none"> 1. The fundamental legal principle for managing the Muslim bodies, even those who have succumbed to COVID-19, should be carried out thoroughly through the process of washing, shrouding, performing the funeral prayer, and burying them as quickly as possible, in accordance with the defined Standard Operating Procedures. 2. If there is a high potential for the body management process to pose an infection risk due to water usage, it should be substituted with <i>tayammum</i> on the body parts, taking into account the established Standard Operating Procedures.
<ol style="list-style-type: none"> 3. If there are obstacles or concerns that the body management could lead to disease transmission, then the obligation to wash or perform <i>tayammum</i> on the body is waived, and it suffices to shroud, perform the funeral prayer, and bury the body. 4. Hospitals and religious authorities should ensure availability of sufficient workforces, necessary equipment, and proper provisions for the management of COVID-19 bodies.

Source: Government of Selangor Gazette (74)(19)

Global scholars have also deliberated on the matter of managing deceased COVID-19 patient. Their views closely resemble the fatwa issued by the Government of Selangor. For instance, Egypt Allam (2022), Qatar Islam Web (2020), and Jordan Dar al-Ifta (2020) have outlined guidelines concerning the handling of deceased COVID-19 patient. Firstly, in cases where healthcare workers are capable of managing the deceased in the usual manner but under the guidance of medical experts, the deceased should be treated as usual, albeit with mandatory precautions and adherence to safety protocols. However, if the usual handling is not feasible due to concerns about infection, *tayammum* is recommended as an alternative. Additionally, if doctors confirm a high risk of transmitting the virus to healthcare workers and the public, the obligation of washing the body or performing *tayammum* is waived. This is attributed to the prioritization of collective welfare over individual interests, namely the welfare of the deceased.

Islam demonstrates a remarkable level of flexibility and practicality that resonates with human existence. It places paramount importance on human welfare and provides guidance for fostering a harmonious life. The adaptations made to procedures and protocols for managing the deceased underscore the fact that Islam is far from being rigid or confined. Rather, Islamic jurisprudence is characterized by its facilitative nature, as evident in the following Quranic texts: “*Allah intends ease for you, not hardship.*” (Quran. 2:185) In other verse mentioned: “*And laid upon you no hardship in the religion.*” (Quran. 22:78) The Prophet Muhammad (pbuh) has also stated: “*The religion (of Islam) is easy, and whoever makes the religion a rigour, it will overpower him.*” (Hadith. Al-Bukhari. 39)

The management of deceased COVID-19 patients is granted leniency (*rukhsah*) to the extent that dry ablution (*tayammum*) is permissible due to the high risk associated with using water, which may lead to infection among personnel handling the bodies. This fatwa decision is in line with the outcome of the Special Meeting of the National Council for Islamic Religious Affairs Malaysia (MKI) in 2020, held on March 15th, which determined that the customary washing process of the deceased can be substituted with *tayammum* (MJKFNS, 2020).

COVID-19 Vaccine Injections During Ramadan

Each religious practice is subject to conditions and criteria set by religious law. This also applies to the act of fasting, which is bound by obligatory requirements and factors capable of rendering it void. Amid the backdrop of the COVID-19 pandemic, a pertinent concern arises regarding the fasting status of Muslims who undergo COVID-19 vaccinations, especially during the holy month of Ramadan.

In general, what can break a fast is when the conditions of fasting are not met or when one of its fundamental components is compromised. Scholars have clarified that among the factors that invalidate fasting is introducing something into the body through open pathways such as the nose and mouth. This is as elucidated by Imam al-Nawawi: “*Among the things that invalidate fasting is the insertion of something into the inner cavity. Scholars have determined that when something enters cavity (al-jauf), it breaks the fast with certainty. This refers to a situation where it crosses from the external limits to the internal ones through an open cavity deliberately and knowingly while fasting.*” (Al-Nawawi, 1991)

Regarding receiving the COVID-19 vaccine injection during daylight hours in the month of Ramadan, it is permissible and does not invalidate the fast, as the injection does not pass through an open cavity. This aligns with the fatwa (MAIS, 2022) issued by the Government of Selangor, as stated below

Table 3

**FATWA ON THE LEGAL RULING OF COVID-19 VACCINE INJECTIONS DURING
RAMADAN AND FOR PILGRIMS OF HAJJ AND UMRAH**

- (a) It is permissible for fasting Muslims to receive COVID-19 vaccine injections during Ramadan. This is because the administration of the COVID-19 vaccine via the specified dosage injection follows the same procedure as other vaccine administrations and does not invalidate the fast.

Source: Government of Selangor Gazette (75)(35)

Therefore, the fatwa that permits taking the vaccine during daylight hours in the month of Ramadan, issued by the Selangor Mufti Department, corresponds with the present imperative of curbing the spread of the COVID-19 virus.

Al-Azhar al-Sharif of Egypt also has issued a fatwa stating that taking a vaccine to protect oneself from contracting the coronavirus is obligatory and does not break fasting during Ramadan. This determination is based on the fact that the vaccine liquid is administered through an injection into the upper arm, rather than being ingested through the mouth, nose, or other open body parts leading to the stomach. The principle of injection involves the liquid moving through skin pores across the body, rather than entering the stomach. Therefore, vaccine injections do not nullify fasting during Ramadan (Al-Azhar Fatwa Centre, 2021). Moreover, various other countries on the global stage have also issued similar rulings grounded in nearly identical rationales. This alignment is evident in Kuwait's fatwa, which asserts that vaccinations do not invalidate fasting and can be administered during daylight of Ramadan (KUNA, 2021). Similarly, Qatar's fatwa stipulates that vaccinations do not break the fast, as they are not categorized as food or drink, and they move through the muscles of the skin (Islam Web, 2021).

COVID-19 Vaccine Injections for Hajj and Umrah Pilgrims

In the same gazette, the Selangor Mufti Department also released a decree stating that taking the COVID-19 vaccine is obligatory and must be fulfilled by Muslims who intend to perform the *hajj* and *umrah*.

Table 4

- (b) It is justifiable to establish the condition of receiving the COVID-19 vaccine injection as a prerequisite for prospective Hajj and Umrah pilgrims in order to curb the spread the COVID-19 virus. The administration of the COVID-19 vaccine is based on the directives and SOPs issued by the government or relevant authorities.

Source: Government of Selangor Gazette (75)(35)

This decision is in line with the resolution of the Special Muzakarah Committee Meeting of Malaysia's National Council of Islamic Religious Affairs (MKI) Number 10/2020 and the Meeting of the Selangor State Fatwa Committee (MJFKNS) Number 1/2021, both of which determined that the usage of the COVID-19 vaccine is not only necessary but also obligatory for specific groups designated by the Malaysian government (MAIS, 2021). As a result,

prospective pilgrims for Hajj and Umrah are also included in the category of those who must receive the COVID-19 vaccine.

The government's effort to administer vaccines is seen as a proactive approach to safeguarding the population from infectious diseases and minimizing the threat of mortality. This action is in harmony with the objectives of Sharia (*maqasid shari'ah*), particularly the preservation of human life (*hifz al-nafs*). The provision of vaccines is viewed as a crucial endeavor to ensure the protection of lives during this period. The effort to prevent or eliminate any risk of disease transmission within the community is a highly encouraged endeavor in Islam, as indicated by the hadith narrated from Ibn Rajab (2008), in which the Prophet Muhammad (pbuh) said: "Do not inflict nor reciprocate harm." (Hadith. Ibn Rajab. 211) This hadith elucidates the forbiddance for Muslims to cause any form of harm, whether to themselves or others, especially concerning health matters. This corresponds to the objective of vaccination, which aims to fortify and boost the body's immune system, thereby safeguarding oneself from being infected by diseases and preventing the possibility of transmitting infections to others. Thus, the requirement for *hajj* and *umrah* pilgrims to receive the COVID-19 vaccine is an appropriate measure mandated by the government to ensure the smooth and regulated observance of these religious practices by the Muslim community.

Additionally, the Saudi government has established a set of Standard Operating Procedures (SOP) for pilgrims who intend to perform *hajj* and *umrah* in Makkah and Madinah. The Ministry of Health of Saudi Arabia requires prospective pilgrims to complete their full vaccination and undergo a medical examination before embarking on their pilgrimage. Furthermore, these pilgrims are also obligated to undergo a swab test several days prior to their departure and present the necessary documentation upon arrival. Failure to furnish this information will result in the Saudi government prohibiting the pilgrim from partaking in *hajj* and *umrah*. This initiative is aimed at curbing the transmission of the COVID-19 pandemic within the country and not at obstructing Muslims from fulfilling their *hajj* and *umrah* obligations (MOHSA, 2021). The UAE Council of Fatwa also issued that it is imperative to follow the instructions set forth by the government of the Kingdom of Saudi Arabia, as these directives are grounded in their governmental and religious obligations to ensure the well-being of all pilgrims (Bin Bayyah, 2020).

The Principle of Tarakhkhus in the Fatwas of Selangor State

The term '*tarakhkhus*' essentially entails embracing the concept of *rukhsah* (concession) which embodies the idea of making things easier. *Rukhsah* is also characterized as the divine facilitation that Allah grants to His servants in specific matters (Ibn Manzur, 1993). If the essence of *rukhsah* includes leniency, convenience, and comfort, then *tarakhkhus* can be identified as the act of opting for something less burdensome and simpler. In the context of this study, the application of *tarakhkhus* refers to an approach that leans towards adopting the more lenient religious rulings and perspectives put forth by scholars or school of jurisprudence, which is also known as jurisprudential licenses (*al-rukhas al-fiqhiyyah*). According to Mahaiyadin et. al (2021)

1. *Tarakhkhus* involves adhering to the more lenient verdicts of jurists (*fuqaha*) in certain matters due to the prevailing necessity.
2. *Tarakhkhus* also encompasses specific regulations (*dawabit*).
3. The original fatwa will be reinstated to once the need for *tarakhkhus* ceases to exist.

Certain fatwas that were issued earlier were specifically applicable during the COVID-19 pandemic. One of the discussed fatwas pertains to the obligation of performing Friday prayers under the Movement Control Order (MCO) with a congregation of less than 40 praying individuals, as prescribed by the Shafi'i scholars. The adoption of legal rulings from school of jurisprudence other than Shafi'i is permissible under specific circumstances in the state's Islamic legal administration regulations, provided there is a valid legal reason (*maslahah*). This flexibility can be applied when it is determined that adhering strictly to definitive legal opinions (*fatwa mu'tamad*) could lead to difficulties within the Muslim community during the prevalence of COVID-19. This relaxation of fatwas is explicitly outlined in all State's Administration of the Religion of Islam Enactment, including Section 54 of the Administration of the Religion of Islam (State of Selangor) Enactment 2003, which states

Table 5

1. When issuing any fatwa under Section 48 or confirming any opinion under Section 53, the Fatwa Committee should generally adhere to the predominant view (*qaul mu'tamad*) of the Shafi'i school of jurisprudence.
2. If the Fatwa Committee determines that following the predominant view of the Shafi'i schools of jurisprudence would lead to a situation conflicting with the public interest, the Committee may then opt for the predominant view of the Hanafi, Maliki, or Hanbali schools of jurisprudence.
3. Should the Fatwa Committee determine that none of the predominant opinions from the four schools of jurisprudence can be adopted without conflicting with the public interest, the Fatwa Committee is authorized to issue a fatwa based on independent juridical reasoning (*ijtihad*), without being restricted by the predominant opinions of any of those four schools of jurisprudence.

Source: Administration of the Religion of Islam (State of Selangor) Enactment 2003

It is clear that all the aforementioned Enactments and Acts grant leeway to the muftis in determining authoritative fatwas in order to ensure the well-being of the Muslim community within their respective jurisdictions. This is especially relevant when there are circumstances like challenges (*mashaqqah*), emergencies (*darurah*), or critical needs, and while upholding the established Shafi'i juridical standpoint (*fatwa mu'tamad*). In a roundabout manner, these legal provisions illustrate that the fundamental allegiance to the Shafi'i school of jurisprudence is not absolute and beyond questioning. This also showcases the alignment between legal strictness and the adaptable implementation in managing the affairs of the Muslim community.

The subject concerning the minimum number of congregants required for Friday prayers, as discussed earlier, has been extensively discussed by global scholars. This falls within the scope of juridical accommodation (*talfiq*), which is a concept within Islamic jurisprudence that involves blending or harmonizing legal opinions from different schools of jurisprudence in order to address specific situations or issues that might lack a straightforward ruling within a single school of jurisprudence. *Talfiq* offers a measure of legal adaptability, allowing scholars to draw from various sources to find practical solutions when confronted with complex or unique circumstances. *Talfiq* is employed when there is a legitimate need to find a solution that aligns with the overarching principles of Islamic law and the well-being of those involved. It permits scholars to tailor and apply the most relevant rulings from different schools of thought to suit the specific context while upholding the fundamental tenets of

Islamic jurisprudence. However, *talfiq* comes with certain conditions and constraints, and it is generally a recourse when no clear ruling exists within a single school of jurisprudence. Scholars engage in *talfiq* with careful consideration of the teachings and principles of Islamic law to ensure the solution is consistent with the objectives of Sharia and does not undermine its integrity.

Egypt's Dar al-Ifta' (1954 & 2013) has been issued guidelines for the application of *talfiq* in Fatwa No. 6901 and Fatwa No. 2393, wherein one of the prerequisites is that it should be resorted to only in urgent situations that compel the use of such accommodation to facilitate matters. Qatar's Fatwa No. 37716 and also have been discussed on this matter and adheres that certain scholars have advocated the permissibility of *talfiq* through extrapolation from evidence, although this approach may not be feasible for the average individual due to their lack of familiarity with the underlying evidence (Islam Web 2003). The following Qatar's Fatwa No. 107754 stipulated that the act of deducing conclusions between any pair of the four schools of jurisprudence or other schools in matters of *ijtihad* is not inherently restricted, provided that it does not pertain to a single issue within a particular circumstance. Moreover, *talfiq* should not be aimed at pursuing concessions without proper legal evidence (Islam Web 2008). These fatwas align with the circumstances of the pressing COVID-19 pandemic, which necessitated the adoption of juridical accommodation as a precautionary measure to contain the continued spread of the outbreak.

Conclusion

In facing the COVID-19 era, the practice of religious rituals according to their original as prescribed in the Quran and hadith might not be suitable for a while due to the potential for substantial harm during the pandemic. As a result, there are other reasonable factors that can be weighed, grounded in the examination of directives from governmental authorities, religious scholars (muftis), and medical professionals. These factors aid in determining the priorities in implementing religious regulations pertaining to worship. This study found that:

1.	The fatwas issued by the Selangor Mufti Department or through the Selangor State Islamic Religious Council are in accordance with the reality of combating the COVID-19 infectious disease, which poses a lethal threat to human lives
2.	The prudent decisions made collectively by the authorities, alongside the muftis and medical experts serving the Malaysian government, facilitate the religious practices of the Muslim community, particularly in Selangor.
3.	The discretion within the fatwas officially gazetted by the Government of Selangor in accordance with the principle of <i>al-tarakhkhus fi al-fatwa</i> , demonstrates the inclusive nature of Islam, thereby enhancing accessibility and reducing the burden on the Muslim populace, in matters related to religious practices.

Despite the practices in Selangor being aligned with that of other states following the Shafi'i school, due to the constraints and challenges (*mashaqqah*) faced by the Muslim community, matters such as Friday prayers and others temporarily adopt viewpoints from different schools of jurisprudence. The rigid adherence to specific schools of jurisprudence can be simplified within the local community through a knowledge-based approach and proper fatwa methodology, addressing both Islamic law and legal considerations. The repository of legal provisions encompasses a wide array of fatwas, whether originating from the Shafi'i school of jurisprudence or other respected schools, including hanging opinions (*marjuh*). These can serve as guiding principles for the Muslim community, especially for muftis, in navigating legal

complexities, along with generating new collective fatwas. From this study, it also can be concluded that

Al-tarakhkhus fi al-fatwa is not an approach that urges the abandonment of the held school of jurisprudence, but rather, it broadens the scope of Sharia to a wider perspective. While acknowledging the significance of the Shafi'i school of jurisprudence in Selangor as a systematic and coherent way to understand and implement Sharia for the general public, the careful extraction of insights from other schools of jurisprudence should be tactfully managed by authoritative muftis and experts in Islamic law. This aims to prevent the exploitation of divergent juristic opinions by irresponsible parties. The outcomes of this research can also offer insights for the administration and formulation of fatwas in other states across Malaysia. It is imperative that research of this kind be expanded upon to ensure that the issued fatwas consistently achieve the overarching goal of safeguarding the welfare of the Muslim populace.

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