



## MODERATION IN FATWAS AND IJTIHAD: AN ANALYSIS OF FATWAS ISSUED BY THE MKI MALAYSIA CONCERNING THE COVID-19 PANDEMIC

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**Abstrak:** Beberapa mufti tertentu menolak menerapkan moderasi saat memberikan fatwa. Mereka lebih rentan terhadap pendekatan ekstremisme atau kelalaian. Penolakan ini terjadi karena berbagai sebab. Hal itu jika dibiarkan akan berdampak merugikan bagi lembaga fatwa, mufti, dan para mustafti. Untuk itu, penelitian ini dilakukan dengan tujuan untuk membahas pengertian moderasi dalam Islam dan bagaimana penerapannya dalam konteks fatwa. Mengingat bahwa Malaysia saat ini sedang berurusan dengan pandemi COVID-19 dan bahwa MKI (Majlis Kebangsaan Bagi Hal Ehwal Ugama Islam Malaysia) telah mengeluarkan beberapa fatwa yang berkaitan hal tersebut. Penelitian ini akan melihat fatwa-fatwa tersebut dan bentuk moderasi yang melekat di dalamnya. Untuk menjelaskan rumusan masalah dan tujuannya, penelitian ini menggunakan pendekatan kualitatif dengan mengumpulkan data terkait dari dokumen primer dan sekunder menggunakan metodologi analisis dokumen Bowen. Data yang diperoleh dari kedua jenis dokumen tersebut dianalisis menggunakan metodologi analisis isi untuk mendapatkan informasi yang berharga dan disusun kembali untuk menghasilkan makna yang dapat dipahami dan dicerna. Temuan menunjukkan bahwa moderasi adalah simbol Islam, dan bahwa salah satu keutamaan Islam adalah moderasi saat menjalankan urusan agama dan mengeluarkan aturan. Dalam fatwa, gagasan moderasi berpusat pada prinsip memfasilitasi umat Islam dalam menjalankan urusan agamanya. Dalam konteks fatwa MKI saat ini, penelitian ini menemukan bahwa lima fatwa yang dikeluarkan berkaitan dengan urusan Islam dalam krisis pandemi COVID-19. Temuan penelitian ini menjelaskan bahwa setiap fatwa memiliki ciri moderasinya sendiri.

**Kata kunci:** moderasi; fatwa; ijtihad; COVID-19; MKI

**Abstract:** Certain muftis reject the moderation method when giving fatwas. They are more prone to extremism or dereliction approaches. This rejection occurs due to various causes and, if left unaddressed, will have a detrimental impact on the fatwa institutions, muftis, and mustaftis. This research discussed the notion of moderation in Islam and how it is applied in the realm of a fatwa. Given that Malaysia is currently dealing with the COVID-19 pandemic and that the MKI (Majlis Kebangsaan Bagi Hal Ehwal Ugama Islam) has issued several fatwas on it, this research will look into the fatwas and the features of moderation inherent within it. Using Bowen's document analysis methodology, this study was performed qualitatively by gathering pertinent data from primary and secondary documents. The retrieved data from both documents were analyzed using content analysis methodology to get valuable information and rearrange it to produce meaning that could be understood and digested. The findings demonstrate that moderation is a symbol of Islam and that one of Islam's virtues is to conduct religious affairs and issue rulings with moderation. In fatwas, the notion of moderation centers on facilitating Muslims' religious experiences. In the context of the MKI fatwas, this study discovered that five fatwas were issued on Islamic affairs during the COVID-19 pandemic. According to the findings of this study, each fatwa has its features of moderation.

**Keywords:** moderation; fatwa; ijtihad; COVID-19; MKI

## Introduction

The fatwa issued by collective ijtihad is enforced by the practice of *shūrā* among the competent muftis, experts, and academics (al-Mallāḥ, 2011). The mufti and several qualified and knowledgeable committee members comprise these authoritative bodies, professionals, and scholars in their respective disciplines. Unlike in the past, when a qualified jurist individually performed fatwas and ijtihad, most fatwas and ijtihad are nowadays carried out collectively by authorized fatwa councils, committees, or academies across the world (al-Zarqā, 2014). In Malaysia, the Muzakarah Committee of the National Council for Islamic Religious Affairs (MKI), Malaysia's authoritative fatwa council at the national level, has also applied a similar approach (A. Ibrahim et al., 2019; 'Adnin Ibrahim & Ab Rahman, 2021; Zabidi, 2019).

When a novel issue arises in Islamic affairs that need a fatwa as a remedy, such as the issues of Islamic affairs during the COVID-19 pandemic, it will go through four general fatwa issuing stages, namely: *taṣwīr* (problem description), *takyīf* (adaptation), *ḥukm* (legal explanation), and *iftā'* (fatwa determination) (Sholeh, 2020: 281; Jum'ah, 2009; Hassan & Khairuldin, 2020; Khairuldin et al., 2019). Various experts in related disciplines will be called to offer essential facts, information, and evidence to comprehensively observe the said case. The mufti and his committee members will evaluate the explanation provided by adapting the overall situation to the debate and discussion of Islamic jurisprudence from classical and contemporary jurists. Following that, they will determine the applicable ruling to the said case and issue a relevant fatwa on the particular matter based on the consensus decision or majority opinion of the councilors who participated in the discourse.

Despite the advancement of collective ijtihad in fatwa today, some fatwa-related issues still require careful consideration and effective resolution. During their last conference in January 2010 at the Muslim World League, the Islamic Fiqh Council highlighted eight critical problems of fatwas today that need to be addressed by fatwa institutions across the globe (Islamic Fiqh Council, 2010). One of such problems is that some muftis have rejected the Qur'anic and Sunnah-based moderation approaches, even though the Prophet (p.b.u.h.), the Companions (r.a.), and the pious predecessors used moderation when issuing fatwas. On

the other hand, they are more prone to either carelessness and dereliction on the one hand or extremism and exaggeration on the other. The argument over this issue has not ended there, but researchers to this day are consistently discussing it (Saputera, 2020; al-Fahdawī, 2019; Kamali, 2015; Musyafaah & Ramadhan, 2021; Rahman et al., 2018). This demonstrates the significance of using moderation while issuing fatwas in dealing with various novel and contemporary issues in the present and future.

Furthermore, the Council's analysis indicates that this problem arises from some causes, including (1) misunderstanding of the meaning of facilitation in Islam; (2) Some muftis are lacking insight into the jurisprudence of reality and its final consequences; (3) The inability of the muftis to consider the harm and damage that their fatwas may inflict; (4) Lack of understanding of the legal texts and its significance, as well as the rules and principles that govern deductive reasoning, interpretation, and explanation of the legal texts; and (5) Only a few muftis are qualified to give fatwas, to fulfill the qualities of a mufti, and to comprehend the mufti's etiquettes.

The Council further stated that if this problem is not addressed effectively, it will have caused negative impacts on the field of the fatwa, such as (1) tarnishing the image of Islam, which is well known for its principles of moderation; (2) weakening the reputation of respected fatwa institutions; (3) causing dissatisfaction among the community; and (4) besmirching the dignity of the scholars by accusing them of being stagnant and extreme in issuing fatwas.

In light of this issue, this study aims to discuss the notion of moderation in Islam and how it applies to fatwa. Furthermore, this research will look at the standards or criteria required to determine whether a fatwa is moderate or otherwise. As Malaysia is experiencing the COVID-19 pandemic and the MKI issues several fatwas, this study will determine the associated fatwas and analyze the aspects or features of moderation inherent in the previous fatwas. Furthermore, this research will explore some of the notable fatwas issued by earlier scholars in response to the spread of contagious diseases in their period.

This research was carried out qualitatively to achieve the study's objectives. Bowen's document analysis methodology was used to obtain

data pertinent to the research (Bowen, 2009). This analysis was utilized as a stand-alone methodology (Chinedu & Mohamed, 2017; Lawson, 2018). The documents examined in this study include a combination of primary and secondary sources. The primary document is made up of materials produced by the Malaysian government as well as authoritative Islamic jurisprudence textbooks. The secondary document comprises secondary Islamic jurisprudence books that comment on or clarify the contents of the authoritative textbooks previously mentioned, as well as research articles from journals and conferences connected to the discourse of moderation in fatwas.

The data gathered from these documents was then evaluated using Bowen's proposed content analysis method (Bowen, 2009). Using this methodology, essential and relevant information for the study was collected and assessed from the documents (Baharuddin, 2017; Bengtsson, 2016; Erlingsson and Brysiewicz, 2017). The data is next organized to produce meanings that can be comprehended, digested, and used as research findings.

### **Moderation in Fatwa and Ijtihad in Contemporary Issues**

The clear-cut verse 143 in Surah al-Baqarah declares that moderation is the hallmark of Islam. Furthermore, one of Islam's virtues is that it encourages us to be moderate in carrying out our religious obligations and issuing rulings based on legal scriptures.

In terms of linguistics, moderation (or *wasatiyyah* in Arabic) denotes a mastery of the middle position (al-Qarāḍāwī, 2013). Arabic linguists assigned it several meanings, but they all point to the same conclusion: justice, middle, the fairest of everything is always its middle (al-Jawharī, 1979; al-Zābidī, 1983; Ibn Farīs, 1979; Ibn Manzūr, 1992). So the term "middle" here refers to fairness (Ibn Farīs, 1979). The center of any two opposites; one opposite is acceptable, while the other is unacceptable (al-Fāyūmī, 2016; al-Jawharī, 1979). The "middle" always refers to the best portion of the equation because it falls between these two (al-Qarāḍāwī, 2013).

Meanwhile, according to primary Islamic texts, moderation has various connotations in the context of shariah: fairness, choice, and moderate between exaggeration and dereliction; between good and

evil, or higher and lower; between the two ends; and between the two situations (Abdullāh, 1994; Abu al-Sa'ādāt Ibn al-Athīr, 1979; al-Qarāḍāwī, 2013; al-Rāghib al-Aṣfahānī, 2009; al-Ṭabarī, 2000; Ibn Ḥajar al-'Asqalānī, 2013a).

In this context, the fatwa refers to legal decisions derived from the entire Quran and Sunnah intending to make people's lives easier by reducing hardship (Alī Khunayn, 2009; al-Qarāḍāwī, 2013). The mufti's purpose is not just to facilitate but also to turn Muslims from following their whims to obeying their Lord Almighty (Islamic Fiqh Council, 2010). There are some controls on the facilitation of fatwa, such as the requirement that it must comply with Shariah principles and evidence, that it does not result in the disentanglement of legal obligations and commitments, and that the requirement for facilitation is achieved by repelling public or private hardship (al-Qarāḍāwī, 1988; al-Raysūnī, 2015; al-Shāṭibī, 2017; Islamic Fiqh Council, 2010; Ismail, 2020)

The first responsibility that each mufti must do is to become moderate in giving fatwas. Many scholars and researchers have addressed this point, including Shatibi, who wrote:

The competent mufti, who matures to a peak status, is the one that leads the people requesting fatwa to moderation as befitting the majority. He is not leading them to radicalism nor leaning to excessive uncontrolled liberalism. The evidence for this is that it [the path of moderation] is the straight path introduced by Shariah. Thus, it is based on the assumption that the objective of Shariah for those entrusted with worship is to bear [their religious duty] in moderation, without any excessive hardship or extreme ease. If the mufti goes beyond this [moderation] in dealing with people requesting fatwa, he has violated the objective of the Lawgiver [Allah]. As a result, the well-acquainted scholars abhor anyone who deviated from the parameters of moderation (al-Shāṭibī, 2017).

In addition to al-Shatibi, this is also confirmed by other well-acquainted scholars including Ibn al-Ṣalāh, al-Nawāwī, al-Qarāfi, Ibn Qayyim al-Jauziyyah, Ibn 'Ashūr, al-Qarāḍāwī, and al-Zuḥaylī (al-Nawāwī, 2020; al-Qarāḍāwī, 1988; al-Qarāfi, 1995; Ibn al-Ṣalāh, 2002b; Ibn 'Ashūr, 2016; Ibn Qayyim al-Jauziyyah, 2002a; Wahbah al-Zuḥaylī, 2004).

Furthermore, this responsibility is also consistent with their formal title in Malaysia, "*Ṣāhib al-Samāḥah*," which translated as "the Bearer

of Magnanimity." The term "magnanimity" refers to commendable ease in situations when individuals prefer to be stern (Ibn 'Ashūr, 2016). Magnanimity is the backbone of every virtuous quality. The fundamental understanding of magnanimity in the sharia is that Islam has become the religion of the *fiṭrah* and that it concerns humanity's constitution and innate disposition.

Therefore, by issuing moderate fatwas, such fatwas become closer to *fiṭrah*, and people are more willing to accept *fiṭrah*-related issues since they are ingrained in their souls. Similarly, avoiding hardship and sternness is also part of the *fiṭrah*. In the event of a decision between an easier and a more difficult fatwa, it is suggestive for the mufti to choose the former as feasible to avoid causing hardship to the people – but must not violate other sharia principles. Mufti should also avoid using complex rulings and scare-mongering in Islamic discourse, inquiry, and study since these only serve to drive people away from His path (Kamali, 2016).

Shatibi and other researchers emphasized that several conducts carried out by the Prophet (PBUH) demonstrate a moderate approach in issuing religious verdicts (Alī Khunayn, 2009; al-Shāṭibī, 2017): (i) The Prophet banned Uthman ibn Maz'ūn from committing celibacy because Uthman viewed marriage as an impediment to performing worship (al-Nasā'ī, 2014: 327, no. 984). (ii) The Prophet also directed that whoever is appointed as an Imam shorten the recitation of the verses in congregational prayers (al-Bukhārī, 2018: 1277, no. 5073-5074; Muslim, 2016 pp. 570, no. 1402). (iii) The Prophet also instructed people not to perform religious devotions that have been difficult for him or against the others pp. 226, no. 182-183 (al-Bukhārī, 2018: 330, no. 702-703; Muslim, 2016). (iv) The Prophet also advised Muslims to practice moderation in their religious devotion (al-Bukhārī, 2018: 202, no. 239). These have been done to make people's lives easier by reducing hardship.

The moderate fatwa is a natural result of a moderate approach. This moderation does not simply mean inventing a new methodology to fit the personal whims of those seeking fatwa or the needs of the age. On the other hand, a moderate approach to issuing fatwas is feasible by combining partial legal texts (*muṣūṣ al-juz'ī*) with universal sharia objectives (*al-maqāṣid al-shar'ī al-kullī*) (al-Qarāḍāwī, 2003). This

approach emphasizes the diversity of classical and contemporary jurists' views while never disregarding the needs of our time, as well as its issues and crises (al-Qarāḏāwī, 2011). This approach always maintains all relevant previous input while embracing new and beneficial input (al-Qarāḏāwī, 2003).

Several criteria must be satisfied in order for fatwas to be considered moderate (al-Fahdawī, 2019; Ibn Bayyah, n.d.), as follow:

Preserving the shari'a higher objectives: The mufti should issue a fatwa on the specific problem based on what is provided in Islamic legislative sources, either primary or secondary, as this is the basis for making sharia rulings. At the same time, he must uphold the legal objectives of those legal texts. If the mufti fails to safeguard sharia's objectives, he is amongst the heedless. As a result, the mufti should have used the principle of balancing the legal texts, and the objectives indicated so that he did not overlook one component in favor of another while also avoiding extremism or dereliction in issuing the fatwa.

Fatwa varies as a result of changes in time, place, custom, and circumstances: One of the *sunnatullah* in the legal construction and imposition to His servants is observing the pattern of changes and what occurs to human beings in terms of issues and problems (al-Qarāfi, 1994; Banānī, 2017; Ibn Khaldūn, 2004). The necessity to preserve sharia's higher objectives has led scholars over the ages to believe that fatwas will vary due to changes in time, location, custom, and situation (al-Qarāḏāwī, 2011; al-Qarāfi, 1995; al-Jauziyyah, 2002b). This practice has begun during the time of the Prophet (PBUH) (al-Qarāḏāwī, 2011). However, this does not imply that entire sharia rulings are vulnerable to fatwa modification due to time, region, or custom change. This is because, in sharia, there are generally two types of legislation (al-Jauziyyah, 2011): the first remains in its shape and form and neither be changed by changing periods and locations nor by a scholar's opinion; and the second varies according to what benefit dictates, concerning time, place, and situation. The second type of legislation is referred to in this context since it is based on local customs and culture. As a result, it is adaptable and may evolve to meet current needs as long as it does not contradict Islamic principles.

Heeding the customary practices: The community's customs are essential in issuing a fatwa (Ibn Bayyah, n.d.). Because this custom reflects society and may be used to measure the advantages and



disadvantages of life, it is vital to think about it. As a result, the mufti cannot issue a fatwa that focuses primarily on ostensible legal texts without considering community customs (al-Zarqā, 2014).

Considering the outcomes: The mufti must evaluate the outcomes of his rulings and fatwas. Consequently, the mufti shall not rule on a Muslim affair, whether commissioned or omitted, until he has carefully considered the results to which the action leads (al-Raysūnī, 2015; Kamali, 2012). The benchmark for this determination is, of course, whether the results of the conduct will achieve the sharia higher objectives or vice versa (al-Shāṭibī, 2017; Banānī, 2017; Ishak, 2018). In this context, the said objectives were to fulfill humanity's interests by accomplishing benefits and preventing harm or corruption (al-Āmidī, 2003; al-Ghazālī, 2015; al-'Izz Ibn Abdissalam, 2020; Muṭalib et al., 2020b).

Determining the basis in persons and types: It also entails considering Mustafa's circumstances and matters requiring a fatwa (al-Fahdawī, 2019; al-Shāṭibī, 2017). The purpose of determining the basis is to verify that the adequate cause remains present in the new ruling (Kamali, 2012). As a result, a ruling must apply to the individual or subject of the ruling in line with the adequate cause that exists in it. It indicates that a ruling is not applied equitably; it may be that it should apply to one individual but not another, or it may be that an act creates difficulties in certain circumstances but causes harm to others (Rahman et al., 2018).

Practicing religious concessions (*al-rukhsah*) is permitted under some circumstances. Religious concession entails altering a specified behavior for an individual or a society from strictness and difficulty to ease and indulgence due to compelling circumstances necessitating the sharia to abandon its objective of achieving a benefit or eliminating an evil (Ibn 'Ashūr, 2016). Knowing, comprehending, and mastering the concept of religious concession in sharia rulings are essential for muftis in order for them to be moderate in issuing fatwas (al-Fahdawī, 2019; al-Shāṭibī, 2017).

### **Classical Fatwas and Ijtihads Related to Contagious Disease**

According to Abdul Manan's study, fatwas can be utilized as a preventive measure in dealing with pandemic diseases such as COVID-19

(Abdul Manan Ismail & Ahmad Syukran Baharuddin, 2021; Ismail, 2020). Researchers are of the view that his conclusions are neither overstated nor baseless. That is because many fatwas and ijihad have been issued to prevent the *tā'ūn* transmission, a well-known contagious disease in Islamic history.

Arab historians have reported over 45 occurrences of *tā'ūn* infection in Islamic countries (al-Suyūṭī, 1996; Ibn Ḥajar al-'Asqalānī, n.d.). The first known occurrence is *tā'ūn shīruwiyah*, which occurred during the prophetic period and hit *al-madā'in* in the year 6AH/627CE (al-Nawāwī, 1994; Yāqūt al-Ḥamawī, 1995). Al-Nawāwī has described this disease succinctly:

And as for the plague (*al-tā'ūn*), it consists of purulent pustules (*qurūḥ*) that erupted on the body. They appear in the groin (*al-marāfiq*), or in the axillae (*al-ābāt*), on the hands (*al-aydī*), or the fingers (*al-aṣābī'*), and elsewhere on the body, accompanied by swelling and intense pain. Furthermore, the eruption of these pustules (*qurūḥ*) was accompanied by a fiery inflammation (*lahīb*); the surrounding area blackens and darkens or reddens into a dingy purple, and with this, there also occurs palpitation of the heartbeat and nausea (al-Nawāwī, 2010: 227-228).

The description above not only explains the meaning of *tā'ūn*, but also states the symptoms of the disease. The symptoms suggest bubonic plague (CA et al., 2020; Conrad, 1982; Mutalib et al., 2020a, 2020b). In cases of bubonic plague, patients usually grow regional red, dry, and hot skin, with intensifying pain in the flea-biting region and forced position caused by severe pain of the swollen lymph nodes (Conrad, 1982; Wickremesinghe, 1997; Yang, 2018).

The following are some of the fatwas and ijihad about the prevention of *tā'ūn* that was documented at the time:

People shall not be permitted to enter or leave regions infected with contagious illnesses unless necessary (Abu al-'Abbās al-Qurṭubī, 1996; al-Bukhārī, 2018 pp. 1399, no. 5729; al-Nawāwī, 2010; Muslim, 2016; Sābiq, 2004). When dealing with emerging issues like the spreading of outbreaks, it is recommended to hold *shurā* with trustworthy and competent people (al-Bukhārī, 2018: 1399, no. 5729; al-Nawāwī, 2010; Ibn al-Jauzī, 1997; Muslim, 2016). People who have contracted a contagious disease are not allowed to live with or be near healthy people (al-Bukhārī, 2018: 1395-1396 & 1407, no. 5707 & 5771; Ibn al-Ṣalāḥ, 2002a; Muslim, 2016: 941, no. 2221;

Sābiq, 2004). Implementing effective preventative measures is the most productive way to combat the spread of infectious diseases (al-Jauziyyah, 2019).

The fundamental approach to safeguarding human life against infectious disease is to prevent such harm from occurring in the first place (Ibn 'Ashūr, 2016). Even if they do not die as a result of the epidemic, those who dwell in their houses or places during the pandemic will get the reward of martyr of the Hereafter (al-Bukhārī, 2018: 902 & 1400, no. 3474 & 5734; al-Qaṣṭallānī, 1996; Ibn Ḥajar al-'Asqalānī, 2013b). It is recommended to settle in a specific location and inhabit it temporarily to control and prevent the spread of the disease (Abu al-Hasan Ibn al-Athīr, 1997; al-Ṭabārī, 1989). The practice of mass gatherings for praying at an infected location to ward off the plague is heavily condemned and labeled as invented heresy (*bid'ah*) (al-Suyūṭī, 1996; Ibn Ḥajar al-'Asqalānī, n.d.).

There were three different fatwas issued on the practice of mass gatherings at contaminated areas to pray in the congregation for the alleviation of infectious disease: (1) Several scholars have issued fatwas stating that it is allowed in Islam; (2) Several scholars have ruled that it is abhorrent in Islam; and (3) The majority of scholars [precise and unambiguous fatwa] have declared that it is best to avoid it (Ibn Ḥajar al-'Asqalānī, n.d.). In cases involving contagious diseases, a referral to at least two Muslim physicians who are fair and skilled in medical knowledge is necessary (al-'Imrānī, 2000; Ibn Ḥajar al-'Asqalānī, n.d.).

The researchers discovered that all of the fatwas and ijtihads above were issued in order to achieve the Shariah's higher objectives, which are to accomplish humanity's interests through the realization of benefits and the prevention of harm or corruptions (al-Āmidī, 2003; al-Ghazālī, 2015; al-'Izz Ibn Abdissalām, 2020; Baharuddin, 2017; Baharuddin et al., 2021; Hamim, 2021; Harisudin & Choriri, 2021; Mohd Aswadi et al., 2021; Syaripuddin, 2020; Wan Ismail et al., 2021)

## **Highlights from MKI's Fatwa on Islamic Religious Affairs of COVID-19.**

Five fatwas on Islamic religious affairs issued by the MKI have been identified, all relevant to the reality of COVID-19's local context in Malaysia. These fatwas were discovered and collected from the primary document, the Al-Bayan periodical series, which the Malaysian government published via the Office of the Minister in the Prime Minister's Department of Religious Affairs Malaysia.

All of them are summarized in Table 1 below, and the features of moderation in the fatwas will be expounded and addressed in the following discussion.

Table 1. Fatwas Issued by the MKI to COVID-19

No. Fatwas	Sources
1	<p>Postponement of Hajj pilgrimage for the year 1441AH/2020CE due to the outbreak of the COVID-19 pandemic.</p> <p>al-Bayan siri 1: <i>Penangguhan Ibadah Haji 1441H: Suatu Pencerahan</i></p>
2	<p>The physical distancing of the congregational prayers is at least one meter between the imam, the congregants, and the congregants.</p> <p>al-Bayan siri 6: <i>Isu Penjarakan Fizikal Semasa Solat Berjemaah di Masjid dan Surau</i></p>
3	<p>Physical distances in congregational prayers are reduced to less than one meter, depending on the appropriateness of mosques and suraus for green zone regions.</p> <p>al-Bayan siri 6: <i>Isu Penjarakan Fizikal Semasa Solat Berjemaah di Masjid dan Surau</i></p>
4	<p>The initial ruling on the use of COVID-19 vaccination is recommendable, but it becomes mandatory for the group set by the Malaysian government.</p> <p>al-Bayan siri 7: <i>Pengambilan Vaksin COVID-19: Hukum dan Permasalahannya</i></p>
5	<p>Principally, it is accepted that the government should declare an emergency if it is required for the benefit of the people and country.</p> <p>al-Bayan siri 10: <i>Pengisytiharan Darurat Menurut Siyasa Syar'iyah</i></p> <p>The MKI has issued the fatwas mentioned above following a series of video-conferenced meetings to address Islamic affairs impacted by the outbreak of the COVID-19 pandemic in Malaysia.</p>

## The Features of Moderation in the MKI's Fatwas

In the previous section, this study provided five MKI fatwa rulings on COVID-19 in Malaysia. The moderating aspects of these five fatwas were compiled and listed in Table 2 below.

Table 2. Features of Moderation in the MKI's Fatwas

No. Fatwas	Features of moderation
1	<p>Postponement of Hajj pilgrimage for the year 1441AH/2020CE due to the outbreak of the COVID-19 pandemic.</p> <p>Preserve the lives of elderly pilgrims vulnerable to infection with COVID-19 disease.</p>
2	<p>The physical distancing of the congregational prayers is at least one meter between the imam, the congregants, and the congregants.</p> <p>We are making it easier for Muslims to conduct congregational prayers in a pandemic crisis.</p> <p>I am caring for and preventing the welfare of the people against the possibility of infection with COVID-19 when praying in the congregation.</p>
3	<p>Physical distances in congregational prayers are reduced to less than one meter, depending on the appropriateness of mosques and suraus for green zone regions.</p> <p>Consideration of Muslims' local norms concerning the practice of congregational prayers.</p>
4	<p>The initial ruling on the use of COVID-19 vaccination is recommendable, but it becomes mandatory for the group set by the Malaysian government.</p> <p>You are saving lives by advising, advocating, and encouraging individuals to get the COVID-19 vaccination.</p> <p>Vaccination is a manifestation of sharia's higher objective to preserve human life.</p>
5	<p>Principally, it is accepted that the government should declare an emergency if it is required for the benefit of the people and country.</p> <p>An emergency proclamation is permitted provided that it does not contradict other established sharia legislation and protects the population's welfare and the State under its jurisdiction.</p>

In this section, the researcher will go over all of the fatwas and analyze and discuss the moderation features emphasized in the fatwas.

## First Fatwa

"The 6th MKI Special Discussion Committee Meeting held on 9th June 2020 via video conference at the Putrajaya Islamic Complex concluded that the Hajj pilgrimage in 1441 AH/ 2020 AD was postponed owing to the outbreak of COVID-19 pandemic. Pilgrims who were offered in 1441 AH/ 2020 AD will be given priority in the following rotation on 1442 AH/ 2021 AD. The rites of pilgrimage, according to the MKI, should be postponed for the following reasons:

*Istiṭā'ah* refers to the ability to conduct the pilgrimage in numerous ways, including health, finances, pilgrim safety, and authorization to travel to Saudi Arabia. *Istiṭā'ah* criteria cannot be fulfilled without adequate preparation to meet these competencies in order to complete the pilgrimage. At the time of implementation, the obligation of pilgrimage is classified as a general obligation. It shall be postponed if the mandatory conditions are not met within the year.

This decision is also consistent with several Islamic legal maxims, including the following: harm shall be eliminated, rejecting matters that lead to harm shall take precedence over obtaining its benefit, the public benefit shall take precedence over particular benefit, harm shall be rejected as much as possible, and the government's policy toward its people should be based on benefit." (Minister's Office in the Prime Minister's Department (Religious Affairs), 2020b: 39-40)

The MKI has taken a moderate approach in analyzing the legal status of completing the Hajj pilgrimage in the current COVID-19 pandemic, which is engulfing the world, particularly in Malaysia and Saudi Arabia. The MKI has concluded, with the advice of medical specialists from the Malaysian Ministry of Health, that the well-being of pilgrims, mostly the elderly, is in jeopardy and that they are at risk of contracting COVID-19 disease. Furthermore, the threat and risk of COVID-19 infection have directly created difficulties in fulfilling the mandatory pilgrimage requirements of capability (*istiṭā'ah*) (al-Nawāwī, 2011; Ibn al-Naqīb al-Miṣrī, 2020), especially in terms of security (*al-istiṭā'ah al-amniyyah* or *man'u al-ṭariq*) (al-Nawāwī, 2016; Ibn Ḥajar al-Haytami, 2016; Syamsuddin al-Ramli, 1984), as well as the Saudi Arabian government's refusal to accept international pilgrims (al-Kasānī, 1986; al-Mawwāq, 1994; Minister's

Office in the Prime Minister's Department (Religious Affairs), 2020a), has strengthened the MKI fatwa argument in implementing the suspension. After contemplating the final consequence, which could cause harm and danger to the pilgrims if they are permitted to conduct the rites, the MKI decided to postpone the execution of the Hajj pilgrimage to safeguard their welfare, particularly in terms of human life preservation.

## Second and Third Fatwas

The 4th Muzakarah Committee of the National Council for Islamic Religious Affairs met through video-conferencing at the Islamic Complex of Putrajaya on 30th April 2020 to discuss the Special Muzakarah Resolution. The meeting agreed to implement the proposed Guidelines for Obligatory and Optional Congregational Prayer in the Post-Movement Control Order period (PKP-Covid-19), which states, among other things, that the distance between the imam and the congregants is one meter, as well as the distance between the congregants. (Minister's Office in the Prime Minister's Department [Religious Affairs]), 2002: 35)

The 4th Muzakarah Committee of the National Council for Islamic Religious Affairs met through video-conferencing at the Islamic Complex of Putrajaya on 30th April 2020 to discuss the Special Muzakarah Resolution. The meeting resolved, among other things, that the physical distance in congregational prayers is reduced to less than one meter, depending on the appropriateness of mosques and suraus for green zone regions. ((Minister's Office in the Prime Minister's Department [Religious Affairs], 2002: 35)

Both fatwas were issued by the MKI after contemplating the advice and opinions of several experts and authorities, especially from the Ministry of Health Malaysia (Minister's Office in the Prime Minister's Department (Religious Affairs), 2020a) The fact that majority of scholars believe that closing the row is only a strongly recommended (not amount to obligatory) and that deviating from it is *makrūh* (al-Khaṭīb al-Sharbinī, 1994; al-Tarmasī, 2011; Ibn Ḥajar al-Haytamī, 2006). Nevertheless, a legal maxim indicates that "the ruling of *makrūh* is discarded if there is a need" (Kafi, 2004). The issue of physical

distancing during congregational prayer is the same. Although it is among the matters that are *makrūh*, if it is done for the sake of need, let alone an emergency, then that *makrūh* is removed.

Overall, the outcome of this fatwa is thought to be capable of achieving two dimensions of Shariah's higher objectives, namely the preservation of religion and human life. The preservation of religion is achieved through giving facilities to Muslims in Malaysia, with adherence to the established SOPs, to perform congregational prayers in mosques or suraus, even if it is necessary to distance themselves from other congregants physically. Concerning the need for physical distance, this is imposed to guarantee the safety of Muslims who wish to worship in congregations at the mosques and suraus. It protects them against the risk of contracting COVID-19, which might endanger their lives and health. Meanwhile, preservation of human life is achieved by mitigating or alleviating the risk of viral infection from COVID-19 patients with symptoms as well as asymptomatic carriers of this contagious disease, who can infect others at the same rate as patients with symptoms (Minister's Office in the Prime Minister's Department [Religious Affairs], 2020b).

Meanwhile, the third fatwa is directly related to considering local custom. This is because Muslims in Malaysia have adopted the custom of closing rows during congregational prayers (Malek, 2021; Qotadah, 2020). However, owing to the emergence of the COVID-19 pandemic, this custom has significantly changed. As a result, if the current situation is a green zone or a COVID-19 free zone, it is best to reinstate this custom.

#### **Fourth Fatwa**

"The 10th Special Meeting of the MKI Muzakarah Committee, held on 3rd December 2020, resolved that the initial ruling on the use of COVID-19 vaccination is recommendable, but it becomes mandatory for the group designated by the Malaysian government." (Minister's Office in the Prime Minister's Department [Religious Affairs], 2021: 31)

The MKI issued this fatwa to preserve human lives by advising, promoting, and persuading the people to acquire the COVID-19



vaccination. This vaccine is designed to activate immunization against COVID-19 disease caused by the SARS-CoV-2 virus (Engku et al., 2018). It injects a small quantity of a disease antigen into the human body while stimulating the immune system enough to produce the required antibodies (Engku et al., 2018).

Vaccinations to protect individuals from contagious diseases are not unheard of in Islam (Maravia, 2020). They are a type of medicine, and medicine, in its objective aspect, has a strong relationship with Shariah. Both strive to help human beings by giving them safety and health and preventing the damage of accidents and diseases to the greatest extent feasible (Abdissalam, 2020; Ismail et al., 2021).

In general, vaccination is an efficient method of preventing disease and reducing the mortality rate. On this premise, it is consistent with an Islamic legal maxim that asserts: "Prevention is easier – worthier – stronger than elimination" (al-Zarkashī, 1985; al-Jauziyyah, 2002b; al-Suyūfī, 1990; Tājuddīn al-Subkī, 1991). What is meant by it is to take precautionary measures and set preliminary plans before something unfavorable occurs (Burnu, 2003). This maxim is within the subject of prevention is better than cure (al-Zuḥaylī, 2006). Not only that, but vaccination is also a manifestation of human life preservation (Ali et al., 2018), as advocated by Ibn 'Ashūr, in which the most crucial approach to safeguard human life is to prevent harm and devastation from happening in the first place (Ibn 'Ashūr, 2016).

### **Fifth Fatwa**

"The members of Muzakarah Committee of the National Council for Islamic Religious Affairs agreed, in principle, that is necessary for the benefit of the people and the country, the government should declare an emergency. The effective action is predicated on "emergency" circumstances, which calls for the government to act prudently based on Siyāsah Shar'īyyah principles. This is consistent with Islamic legal maxims, which state that: [the government's policy toward its people should be based on benefit]." (Minister's Office in the Prime Minister's Department [Religious Affairs], 2020a: 34).

In this fatwa, the MKI stressed the concept of Siyāsah Shar'īyyah in the matter of His Majesty the Yang di-Pertuan Agong's proclamation

of a health emergency. This proclamation was issued in response to the current COVID-19 pandemic in Malaysia. In this fatwa, the MKI argued that the health emergency proclamation is lawful and complies with the *Siyāṣah Sharʿiyyah* principles, provided that it does not violate other well-established Shariah legislations. This principle can be defined as the ruler's disposition in terms of laws, policies, systems, and others that bring people closer to righteousness and away from evil, even if such disposition was not done by the Prophet (PBUH.) or revealed to him, as long as it does not contradict what Shariah has stated, that is, it is permissible (al-Zarqā, 2014; Ibn Nujaym, 1997; al-Jauziyyah, 2019; Khallāf, 1988).

Furthermore, rulings based on this principle are flexible and adaptable. Therefore, such rulings are subject to the *ijtihad* of competent religious authorities, as well as the government's discretion in enforcing rulings based on the interests and conditions of Muslims in its jurisdiction (al-Zarkashī, 1985; Minister's Office in the Prime Minister's Department (Religious Affairs), 2002)). As a result, the MKI effectively concluded its fatwa by decreeing that any emergency proclamation must be based on the interests and welfare of Muslims, by Islamic legal maxims: "Conducts of those with authority over people must take the interests of the people into consideration."

The study's findings demonstrate that the concept of moderation in issuing fatwas is founded on the idea that it may facilitate Muslims and save them from having difficulty practicing their faith. However, the facility in question should not be misunderstood arbitrarily, and several regulations must be obeyed to ensure that such a facility is not exploited. Several standards or criteria must be satisfied to establish whether a fatwa is moderate or not.

This investigation discovered that MKI Malaysia had issued five fatwas about Islamic affairs in the context of the COVID-19 pandemic. These fatwas have a moderate value and are based on preserving Malaysian Muslims' welfare from the threat of COVID-19 disease. Furthermore, this study's findings reveal that the previous jurists issue certain classical fatwas as a measure to prevent the *ṭāʿūn* outbreak, which is quite common in Islamic history.

## Conclusion

Islamic scholars, particularly muftis, should always take a moderate stance. This is done to protect the advantages, reject harms, remove difficulties, and make life easier for all Muslims. This approach must be maintained regularly as it is the most effective approach for issuing fatwas and has been applied since the time of the Prophet (PBUH). In addition, this approach is highly recommended for today's implementation, as the area of fatwa has now centered on the notion of collective ijtihad via authoritative fatwa institutions composed of muftis and a line of committee members with diverse academic backgrounds and expertise. Previous jurists issued classical fatwas to prevent *ṭā'ūn* outbreaks, which are common in Islamic history. This research also reveals that MKI Malaysia issued five Islamic fatwas regarding the COVID-19 pandemic. These moderate fatwas aim to protect Malaysian Muslims from COVID-19.

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