

APPLICATION OF THE CONCEPT OF ISTISHLAH (MASLAHAH) IN THE MUI FATWA DURING THE COVID PANDEMIC

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ABSTRACT *Ishtishlah or benefit is one of the basic principles in issuing a fatwa. And during the Covid-19 pandemic that hit Indonesia in March 2020, the Indonesian Ulema Council issued several fatwas using the concept of istishlah. However, in several conditions, it appears as if the Indonesian Ulema Council is inconsistent in applying the concept of istishlah. So the matter that will be discussed in depth in this article is a comparison of the fatwas of the Indonesian Ulema Council regarding the application of the concept of istishlah. The question that will be answered in this article is whether the Indonesian Ulema Council is consistent in applying the concept of istishlah in taking fatwas? To find the answer, in-depth research was carried out on the Ulema Council's fatwa decisions by comparing one fatwa with another fatwa or one policy with another. After analyzing it analytically and critically, it can be concluded that the Indonesian Ulema Council has consistently seen the benefits of issuing a fatwa.*

KEYWORDS *Benefits, Fatwa, Indonesian Ulema Council, Covid Pandemic*

INTRODUCTION / INTRODUCTION

The world was shocked by the emergence of the corona virus for the first time in mid-November 2019 in Wuhan City, Hubei Province, China. In the end, the virus continued to spread to almost all corners of the world without being able to be stopped. This is because the Covid virus is very easily transmitted from one body to another. As a result, this virus has claimed many lives. Seeing the increasing number of transmission cases, the World Health Organization (WHO) has upgraded the status of Covid-19 from outbreak status to pandemic status, precisely on March 11 2020.(Cucinotta and Vanelli 2020)

The first cases detected in Indonesia were in March when two Depok residents interacted with a Japanese person who turned out to be infected with the virus. Responding to the emergence of this case on March 19 2020, the government spokesperson for handling Covid has explained that the government is currently working on mass Covid testing and that a PCR test needs to be carried out.(Nurhalimah 2020, p. 4)This policy was

taken because the virus is easily transmitted through fluid droplets that come from coughs and sneezes; personal contact such as through touching and shaking hands; touching objects or surfaces that have been infected with the virus, then continuing to touch your mouth, nose or eyes before washing your hands.

Apart from mass testing, one of the government's steps to break the chain of transmission of the virus is to issue a policy to implement social distancing (maintaining physical distance) from people around them and Large-Scale Social Restrictions (hereinafter shortened to PSBB) in the provinces. certain people affected by Covid 19 in large numbers.(Nasruddin and Haq 2020)This policy binds all activities involving large audiences, including worship activities such as congregational prayers which are routinely carried out by Muslims. To support this policy, the Indonesian Ulema Council as a recognized group of ulama in Indonesia has issued several fatwas as a reference for religious practices during the pandemic. Among them is fatwa number 14

of 2020 concerning the organization of worship in the Covid 19 situation.

Among the things cited by the author in this article is analyzing the decision of the Indonesian Ulema Council (MUI) which has used the problem concept in determining fatwas during the Covid 19 pandemic. This concept has also been widely used by the MUI in previous fatwas.

METHODS / METHODS

The data collection method in this paper is the literature review method, namely the concept of data collection by searching for and reading fatwas related to the research theme and writings related to the problem. The data that has been collected is in the form of secondary and tertiary data. Next, it will be analyzed by explaining it in a sentence that is explained clearly without accompanying data on values or statistics or mathematics or anything similar. Drawing conclusions in empirical (sociological) legal research will be carried out inductively, namely a method of drawing conclusions based on specific cases, to then draw conclusions based on the same aspects in those specific cases.

There are several studies about Istishlah (Maslahah) that have been carried out by several experts/scientists/researchers. First, the concept of benefit in the view of Sa'id Ramadhan Al-Buthi (Ulya 2019) and second, the Al-Istishlah Theory in the Application of Islamic Law. (Ar-Rahmaniy 2017) Meanwhile, this article discusses the application of the concept of Istishlah in fatwas during Covid.

There are several studies on fatwa analysis during the Covid pandemic in general that have been carried out by several experts/scientists/researchers. First, Analysis of the Mui Fatwa Regarding the Implementation of Worship in Mosques During the Pandemic (Fatwa Mui No. 14 of 2020 concerning the Implementation of Worship in Situations of the Covid-19 Outbreak) (Nafi'ah, Kurniawati, and Kahari 2021) and second, Istibatul Ahkam's

analysis of Mui's fatwa regarding holding Friday prayers and congregations to prevent the spread of the Covid 19 outbreak. (Sanusi et al. 2021) Meanwhile, this article focuses on analyzing the application of the Istishlah concept in fatwas during Covid.

Based on the data above, this article will discuss specifically the MUI's consistency in implementing the Istishlah concept in fatwas during Covid.

RESULTS / FINDINGS AND DISCUSSION

The Concept of Istishlah (Maslahah)

When referring to the Big Indonesian Dictionary (KBBI), the words benefit and benefit have different meanings. The word *maslahat* has the meaning of something that brings goodness, benefit and use, while the word *benefit* has the meaning of usefulness, kindness, usefulness and interest. (Indonesia, tt) So it can be seen that the KBBI categorizes the *maslahah* vocabulary as basic words, while the *benefit* vocabulary is classified into created nouns with the origin of the word *maslahat* then given the prefix /to/ and the suffix /an/. (Sanusi 2020, p. 12) Meanwhile, in Islam, what is meant by *maslahat* is the concept of *istishlah* which is usually used as a basis for establishing contemporary jurisprudential law.

Meanwhile, in the view of Muslim scholars, *benefit* has a more detailed meaning. Imam Al Ghazali defines *benefit* as an effort to maintain the goals of the Shari'a. So in this case it includes two aspects, first, maintaining by bringing benefits that are not yet available or maintaining existing benefits by rejecting harm in accordance with the five principles of the Shari'a. (الغزالي, tt, 2/ 481-482) Influenced by this definition, Imam Muhammad Sa'id Ramadhan Al Buthi also defined *maslahat* as benefits determined by Allah and the Messenger of Allah for the benefit of mankind which includes maintaining their religion, self, reason, offspring and property according to a

certain measure among many benefits.¹

Meanwhile, according to the contemporary Islamic jurisprudence scholar, Wahbah al Zuhaily, *istishlah* is the characteristics that are in accordance with the practice of the Shari'a and its meaning, for which there is no explanation from certain propositions about whether it applies or not, and the determination of laws with these characteristics can provide benefits or prevent harm. And in classical books this definition is known as *al mashlahah al murlahah*. Judging from the level of urgency, Zuhaily divides the problem of *Murlah* into three (الزحدي، tt, p. 757), namely: first, *al mashlahah al dharuriyyah* (primary benefit), namely the benefit that supports the upholding of human life. Second, *al mashlahah al hajiyah* (secondary benefits) are benefits that make human affairs easier, but their existence will not be detrimental to safety. Third, *al mashlahah al tahsiniyah* (tertiary benefit) is a complementary benefit whose existence does not affect the fulfillment of the five basic needs. This division shows that when several benefits are met in a case, the primary benefit will take priority over the secondary and tertiary, and so on. (Nabilah and Hayah 2022, p. 4)

The concept of *Istislah* is one method of determining Islamic law that is applied in the process of issuing fatwas which places more emphasis on the aspect of prioritizing benefits and eliminating harm in order to maintain the objectives of the Shari'a which includes five matters (*al-dharuriyah al-khams*) when making legal decisions. The five aspects included in the objectives of the Shari'a are maintaining religion, soul, reason, offspring and property. (Sanusi 2020)

The application of the *istishlah* method in determining laws is still a topic of discussion among Islamic school

scholars. There are at least two opinions regarding making *maslahah* a legal basis. First, the opinions of *Malikiyah* and *Hanabilah* regarding the validity of *maslahah* as a legal basis. Second, contradictory opinions come from some of the *Syafi'iyah* and *Hanafiah* circles as well as the *Zahiriah* group who do not recognize *mashlahah* as a law-making concept, for strong reasons which have been explained by Sheikh Muhammad Mustofa Az Zuhaily, in his phenomenal book entitled "*Kitab al-Wajiz fi Usul al-Fiqh al-islamy*", that Allah and His Messenger have formulated legal rules that guarantee all forms of human benefit. Determining the law based on benefits means considering Islamic law as incomplete with the assumption that there are still benefits that have not been covered by the rules of Allah as the creator of the law. Another reason is that justifying benefit as a legal basis means opening the door to enacting laws according to the tastes of the authorities for the reason of achieving benefit. Practices like this will damage the image of religion. ("Muhammad Mustofa Az Zuhaily, *Buku al-Wajiz fi Usul al-Fiqh al-islamy.pdf*," tt, p. 255)

The *istishlah* method is needed as a basis for *ijtihad* in responding to problems faced and developing in the midst of community life which demands immediate and wise solutions, especially those related to aspects of Islamic law. To strengthen the position of *istishlah* as a legal basis, the scholars who recognize it set conditions for using this method. The main condition for implementing the *maslahah* concept is that it is in line with the types of *sharia* actions that form Islamic law (Azwar 2015, p. 1), then any benefit that is contrary to the Koran, *Sunnah*, or *Ijma'* can become invalid and must be thrown away. Because the problem in the study of *fiqh* proposals is included in the group of rational arguments. And the rule written in the legal determination is that if the arguments of reason conflict with the arguments of *Naql* such as the Koran, *Sunnah* and *Ijma'* then what must be followed is the proposition of *Naql*. ("Al-Syathibi, *al-Muwafaqat fi Ushul*

¹ "Muhammad Sa'id Ramadhan Al-Buthi, *Dhowabith al-Maslahah fi al-Syari'ah al-Islamiyyah*," p. 23, accessed December 2, 2022, <https://ia600204.us.archive.org/8/items/waq31187/31187.pdf>.

al-Syariah.pdf," tt, p. 51)

Apart from that, there is a second condition that must be met to be able to apply the concept of *maslahah*, namely that it can be justified by reason, is generally applicable in matters of human *muamalat*, and is agreed upon by the majority of Muslims. (Hamid 2015, p. 2) Basically, these four conditions must be fulfilled in making legal decisions based on *maslahah*.

According to the *ulama*, the concept of *mashlahah murrasa* still has to return to its compatibility with Islamic law. Therefore, benefits that conflict with the *Shari'a* must be rejected because they will bring greater harm. This kind of understanding is quite relevant to be discussed or analyzed to address contemporary Islamic legal issues, while still prioritizing the compatibility between the realities of life that occur and the postulates of the *Shari'a*. Especially in the MUI fatwas regarding the pandemic which uses *maslahah* as its legal basis.

Criteria for Using *Istishlah* in MUI Fatwas

The Indonesian Ulema Council (MUI) has set several standards for issuing fatwas. Especially in fatwas that rely on *istishlah*, the MUI has issued Fatwa Number 6 of 2005 concerning Benefit Criteria. (MUI, tt) The fatwa explains several limitations in the use of benefits as the basis for a fatwa, as follows: first, benefits according to Islamic law are those that fulfill the *maqashid* of the *sharia*, which are realized in the form of fulfilling the five primary needs, namely religion, reason, soul, wealth and offspring.

Second, the benefits recognized in the *Shari'a* are benefits that do not conflict with the text. And third, those who have the right to determine whether something is beneficial or not according to *sharia* are institutions that have competence in the field of *sharia* and through *jama'i ijtihad*. With this rule, it will be seen that MUI fatwas which are based on benefit will be

safe from deviant fatwas.

MUI Fatwa Number 14 of 2020²

While hit by the Covid pandemic, from 2020 to 2022, the MUI has issued dozens of fatwas based on the pandemic itself. In response to the needs of Muslims in Indonesia in understanding and responding to the pandemic. Below are several fatwas issued by the MUI in 2020 at the start of the pandemic along with an analysis of the application of the concept of *istishlah* or *maslahah* when determining the related fatwa; first, fatwa number 14 concerning the organization of worship in the Covid 19 situation, second, fatwa number 17 concerning prayer procedures for medical personnel who wear Medical Protective Equipment (PPE) when caring for and handling Covid 19 patients, third, fatwa number 18 concerning guidelines for handling Muslim bodies identified Covid 19, fourth, fatwa number 28 concerning guidelines for *takbir* and Eid prayers during the Covid 19 pandemic, fifth, fatwa number 31 concerning holding Friday and congregational prayers to prevent the spread of the Covid 19 outbreak and sixth fatwa number 36 concerning Eid al-Adha prayers and slaughtering sacrificial animals during Covid 19. ("Fatwa of the Indonesian Ulema Council (MUI)," tt)

The first fatwa issued by the MUI in response to the emergence of the pandemic was the fatwa issued on March 16 2020 number 14 which stipulated nine articles. MUI fatwa number 14 of 2020 was determined by the fatwa commission of the Indonesian Ulema Council using several methods, first, the *bayani* method, second, the *qiyasi* or *ta'lili* method and third, the *maslahah murlahah* or *istishlahi* method which is the object of this article. And this method can be used in this condition, because there are no arguments that explain explicitly from the *Qur'an* or *hadith*

² "Fatwa Number 14 of 20 concerning Violations of Worship in Situations of the Covid 19 Outbreak," TT, p. 8-9.

about the outbreak or outbreak of the Covid virus. Several verses from the Qur'an and hadith statements that have been quoted in this fatwa are general in nature (Supena 2021, p. 10) and zhanni (rational truth) to explore and create a law regarding religious measures during the pandemic.

The application of the concept of istishlah to this fatwa can be seen in the second article which reads; The second article, people who have been exposed to the Corona virus, are obliged to protect and isolate themselves to prevent transmission to other people. For him, Friday prayers can be replaced with noon prayers, because Friday prayers are an obligatory worship that involves many people, so there is a chance of mass transmission of the virus. For him, it is haram to carry out sunnah worship activities that open up opportunities for infection, such as congregation for the five daily prayers or Idul Fitri prayers, Tarawih and Eid prayers in mosques or other public places, as well as attending public recitations and tabligh akbar.

To change the original law on the implementation of worship for Muslims who are exposed to Covid, the concept of istishlah is applied. This fatwa even changed the original law (أندلسي، tt, 1/344) by forbidding participation in religious services such as congregational prayers and tabligh akbar for those identified as being contaminated with the virus on the grounds of eliminating harm in the form of transmitting the virus to other Muslims which could endanger their lives. The soul is something that is glorified by Allah SWT, so all Muslims are obliged to care for it. (Supena 2021, p. 3) And nurturing the soul is one of the main goals of religion (al-dharuriyat al-khams) which is very much paid attention to by syarak. The decision to eliminate this disadvantage is one aspect of implementing the concept of istishlah. When no basis is found from the Qur'an and as-Sunnah, the concept of istishlah is used as the basis for legal

determination in the following articles and articles in fatwa number 14 of 2020.

Among the articles stipulated by the concept of istishlah are; Article three, People who are healthy and who are not yet known or believed not to have been exposed to Covid 19, must pay attention to the following things: First, if they are in an area where the potential for transmission is high or very high based on the decision of the competent authority, they may leave Friday prayers and replacing them with noon prayers at the residence, as well as leaving the congregation for the five daily prayers/rawatib, Tarawih, and Eid prayers in the mosque or other public places. Second, if he is in an area where the potential for transmission is low based on the decision of the authorities, he is still obliged to carry out his religious obligations as usual and is obliged to take care of himself so as not to be exposed to Covid 19, such as not having direct physical contact (shaking hands, hugging, kissing hands). , bring your own prayer mat, and wash your hands often with soap.

Article four, In conditions where the spread of Covid 19 is uncontrolled in an area which is life-threatening, Muslims are not permitted to hold Friday prayers in that area, until the situation returns to normal and must replace them with noon prayers in their respective places. Likewise, it is not permissible to hold worship activities that involve large numbers of people and are believed to be a medium for the spread of Covid 19, such as five daily prayers/rawatib congregations, Tarawih and Eid prayers in mosques or other public places, as well as attending public recitations and taklim assemblies.

Seventh article, The management of corpses (tajhiz al-janaiz) exposed to Covid 19, especially in washing and shrouding them, must be carried out according to medical protocols and carried out by authorized parties, while still paying attention to the provisions of the sharia. Meanwhile, praying and burying him is carried out as usual while ensuring that he

is not exposed to Covid 19.

MUI Fatwa Number 17 of 2020

Ten days after the enactment of fatwa number 14, the central MUI fatwa commission issued a second fatwa addressing the needs of health workers in treating patients infected with Covid. On March 26, fatwa number 17 was issued containing eleven articles of legal provisions³. In determining this fatwa, the MUI made benefits a consideration for determining the fatwa. This is clearly stated at the beginning of the fatwa, regarding the MUI weighing in; first, that for the sake of safety, health workers who care for and handle Covid 19 patients must wear disposable personal protective equipment (PPE) during work, so that it is difficult to perform ablution and tayammum when going to pray, second, that at the same time health workers sometimes have to treat patients for a long time, making it very difficult to pray on time.

From the explanation above, you can see the application of the concept *istishlah* in the aspect of prioritizing concerns in determining articles two to five which reads; The second article, in conditions when his working hours have finished or before starting work he still has time to pray, he is obliged to carry out fardlu prayers as appropriate. The third article, in the condition that he is on duty starting before zhuhur or maghrib time and ends while still being at Asr or Isha' prayer time, then he may perform prayers with the ta'khir congregation. The fourth article, in the condition that he is on duty starting at zhuhur or maghrib time and is expected to be unable to perform Asr or Isha prayers, he may perform prayers with jama' taqdim. Fifth article, In conditions when his working hours fall within the time span of two prayers which can be pluralized (zhuhur and asr as well as maghrib and

isha'), then he may pray in congregation.

In these four articles, the condition of health workers wearing PPE is one of the *masyaqqah* which allows rukhsah in the form of multiple prayers. And it is realized that attaching *masyaqqah* to the condition of health workers who wear PPE does not exist in a special clause in the verses of the Qur'an and as-Sunnah, so the concept of *istishlah* in the rules of fiqh (qawaid fiqhiyah) is the basis for the validity of this. This is in line with al-Syatibi's thought which states that *maslahat* has the authority to annul the provisions of the sacred text. (Supena 2021, p. 11)

The application of this concept can also be concluded from the birth of the seventh and eighth chapters; Seventh article: When it is difficult to perform ablution, he performs tayammum and then performs prayer. The eighth article, in conditions of hadas and the impossibility of purification (wudlu or tayammum) then he continues to pray under the existing conditions (*faqid al-thahurain*) and is not obliged to repeat the prayer (*i'adatu al-shalah*).

Permitting Tayammum and validating prayer in unclean clothing without making up for it are two things that have experienced legal shifts. (السنة تادي، tt) These two articles were established to prioritize the welfare of medical personnel in performing prayers, on the basis of applying the *istishlah* method.

MUI Fatwa Number 18 of 2020

In order to perfect the previous fatwa and answer the needs of Muslims in Indonesia, one day after the issuance of fatwa number 17, on March 27 2020 the MUI issued a new fatwa number 18 concerning guidelines for handling corpses (*Tajhiz al-jana'iz*) Muslims infected with Covid 19. ("Fatwa Number 18 of 20 concerning Guidelines for Managing the Bodies of Muslims Infected with Covid.pdf," tt, p. 9-10) The concept of *istishlah* which is applied in determining this fatwa is more

³ "Fatwa Number 17 of 20 concerning Guidelines for Prayer Practices for Health Workers Who Wear PPE," tt, 14-15.

focused on the aspect of eliminating harm, in the form of transmitting the virus from the bodies of infected Muslims.

The following articles apply the concept of *istishlah*; in the third article regarding guidelines for washing corpses; point (a), The body is washed without having to be undressed, point (f.2), For the sake of personal protection when wiping, the officer still uses PPE and (g), If in the opinion of a trusted expert that washing or burial is not possible because endanger officers, then based on the provisions *under the law of syar'iyah*, the body is not washed or placed in *tayamum*.

In the fourth article; regarding forgiveness guidelines corpse; point (a), After the body is bathed or placed in *tayammum*, or due to sharia law it is not bathed or placed in *tayamum*, the body is shrouded in a cloth that covers the entire body and placed in a body bag that is safe and impermeable to water to prevent the spread of the virus and protect officer's safety and point (b) After the burial is complete, the body is placed in a casket that is impermeable to water and air, tilted to the right so that when buried the body faces towards the Qibla.

In the fifth chapter; regarding guidelines for praying for corpses is in point (d), the party praying is obliged to protect themselves from being infected with Covid 19. In the sixth article; regarding guidelines for burying bodies; point (b), This is done by inserting the body with the coffin into the grave without having to open the coffin, plastic, and shroud and point (c), Burying several bodies in one grave is permitted due to an emergency (*al-dlarurah al-syar'iyah*) as regulated in the provisions of MUI Fatwa number 34 of 2004 concerning Management of Bodies (*Tajhiz al-Jana'iz*) in Emergency Situations.

MUI Fatwa Number 28 of 2020

In 2020, Muslims around the world were forced to adapt to a new environment

when fasting. For the Indonesian Muslim population, that year they were shocked by the government's policy and MUI fatwa number 14 regarding the policy of maintaining distance. So many mosques had to be closed and prayer congregations had to be diverted to their homes so that the spread of the virus could be suppressed.

Responding to increasingly heated global conditions, on March 31 2020 President Jokowi held a Press Conference, with the aim of announcing to the public the policies he had chosen to respond to Covid 19 as a global pandemic that was being faced by the Indonesian people. At the press conference, President Jokowi announced the policy regarding the implementation of Large-Scale Social Restrictions (PSBB). Even after implementing the PSBB, the spread of the Covid virus is increasing, as per data as of May 2 2020, the Government of the Republic of Indonesia has reported that 10,843 people have tested positive for the Covid-19 virus. There were 831 deaths related to Covid-19 reported and 1,665 patients were declared cured.(Rusyana et al. 2020, p. 2)This has caused increasing anxiety among Indonesian Muslims, because in mid-May Muslims will hold a series of events celebrating Eid al-Fitr.(Supena 2021, p. 9)

With many questions regarding the procedures for carrying out Eid al-Fitr prayers in Indonesia accompanied by worsening conditions due to the high spread of Covid cases, on May 13 2020 the MUI issued fatwa number 28.("Fatwa Number 28 of 20 concerning Guidelines for Kaifiat Takbir and Eid Al-Fitr Prayers during the Covid 19 Pandemic.pdf," tt, p. 9-11)This fatwa was issued regarding the benefits of takbir and Eid al-Fitr prayers during the Covid 19 pandemic. When establishing this fatwa *masalah* was used as an important basis. This can be seen in several articles, such as; the second article, the second point regarding the implementation of Eid al-Fitr prayers at

home in congregation with family members or alone (munfarid), especially those in areas where the spread of Covid 19 is not yet under control and the third point regarding the implementation of health protocols and preventing potential transmission by shortening the reading prayer and sermon.

These two points were established on the basis of preventing harm such as spread due to crowding. This was done to protect the souls of Muslims in Indonesia because of the ferocity of the corona virus at that time. And protecting the soul is recommended by Islamic law in maqasid al-syariat. And the same thing can be found in the sixth article, point five, regarding limiting the number of takbiran participants or diverting takbiran from home or media such as television, radio, social media and other digital media.

MUI Fatwa Number 31 of 2020

In June 2020 the number of Covid sufferers increased, so the implementation of physical distancing rules was increasingly tightened. In this regard, the MUI also improved the decision of fatwa number 14 by issuing fatwa number 31 of 2020 which contains several points "MUI Fatwa on Friday Prayers during the Pandemic,

<https://www.cnnindonesia.com/nasional>" that is; The first article is about stretching the belt during congregation, which includes several things in the form of; first, straightening and closing the rows of congregational prayers is the priority and perfection of the congregation, second, congregational prayers with rows that are not straight and not tightly closed are still valid but lose the priority and perfection of the congregation, third, to prevent the spread of the Covid 19 outbreak, the implementation physical distancing during congregational prayers by stretching the legal boundaries is permissible, the prayer is valid and does not lose the priority of the congregation because this condition is a

syar'iyah intention.

The second article concerns the implementation of Friday prayers, which includes several things, namely; firstly, basically Friday prayers can only be held once in one mosque in one area, secondly, to prevent the spread of the Covid 19 outbreak, those holding Friday prayers may apply physical distancing by stretching the rows, thirdly, if the Friday prayer congregation does not can be accommodated due to the implementation of physical distancing, it is permissible to carry out ta'addud al-jumu'ah (holding multiple Friday prayers), by holding Friday prayers in other places such as prayer rooms, halls, meeting buildings, sports halls and stadiums. .

Fourth, in the event that mosques and other places still do not accommodate Friday prayer congregations and/or there is no other place for Friday prayers, then the MUI Fatwa Commission Session has a different opinion regarding the congregation who cannot perform Friday prayers as follows: The first opinion, the congregation may hold Friday prayers in mosques or other places that have held Friday prayers with a shift model, and the implementation of Friday prayers with a shift model is legal and the Second Opinion, the congregation performs midday prayers, either alone or congregation, and the implementation of Friday prayers using a shift model is not legal. Regarding the differences of opinion above (points a and b), in practice the congregation can choose one of the two opinions by considering the conditions and benefits in their respective areas.

The current article regarding the use of masks during prayer, which includes; firstly, wearing a mask that covers the nose during prayer is permissible and the prayer is valid because the nose is not a part of the body that must be attached to the place of prostration during prayer and secondly, covering the mouth during prayer is makruh, unless there is a syar'iyah

intention. Therefore, praying while wearing a mask because there is a desire to prevent the spread of the COVID-19 outbreak is legal and not makruh.

In the three articles above, we can see a shift from the original law to another law on the basis of *maslahah*, such as implementing physical distancing during congregational prayers by stretching the legal provisions, it is permissible, the prayer is valid and does not lose the priority of the congregation. (Sobandi 2021) A similar concept also applies to the law on Friday prayers by performing *ta'addud al-jumu'ah* and Friday prayers. (Nasution 2017) This also happens when you cover your mouth with a mask during prayer. (Kohari 2021)

Relaxation of MUI Fatwa

As explained in the previous discussion, the MUI fatwa comes in line with the government's advice regarding *social distancing* (maintain physical distance). Starting from March to December, Muslims in Indonesia adhered to the MUI's directives through its fatwas. Even Indonesian Muslims have to be willing to move their worship activities and the two Islamic holidays to their homes or reduce the number of gatherings while observing this rule.

But it is very unfortunate that there is a national scale relaxation which has created a polemic and raised big questions among Indonesian people, namely regarding the simultaneous regional elections. The simultaneous regional elections will initially be held on September 23 2020, which will be attended by 9 provinces, 224 regencies and 37 cities which were postponed due to the Covid pandemic on the basis of Law no. 6 of 2020 concerning the Stipulation of Government Regulations in Lieu of Laws, in article 120 paragraph (1) it is explained that "In the event that in some electoral areas, all electoral areas, most regions, or all regions there are riots, security disturbances,

natural disasters, non-natural disasters, or other disturbances which result in some stages of holding elections or simultaneous elections cannot be carried out, further elections or further simultaneous elections are carried out."

Then the simultaneous regional elections were rescheduled and will be held on December 9 2020, even though positive cases of Covid 19 are still increasing. So many people think that this decision is not right and could give rise to a new cluster of spread of Covid 19 because it gives rise to crowd. This has happened in Malaysia which held elections or General Elections (PRN) for the state of Sabah on September 9 2020. As a result, Sabah entered the Covid 19 red zone. (Wahyudi and Hanifannur 2021, 8-9)

And another reason that raises big questions, especially among the Muslim community, is the condition of MUI fatwa number 14 of 2020 which is still in effect and has not been revoked. When they had to leave the mosques and reduce crowd numbers during two holidays; Eid al-Fitr and Eid al-Adha, but the rules for reducing crowds do not seem to apply to democratic celebrations in the form of regional elections.

And after further investigation, it turned out that several rejections had been found from the MUI and its ranks, such as the statement by the Deputy Secretary of the Fatwa Commission of the Indonesian Ulema Council (MUI), Miftahul Huda, who expressed his opinion via electronic message to Republika.co.id that the regional elections were being held in the midst of a virus pandemic. Corona is currently very prone to transmission. Thus, it seriously endangers life safety. Therefore, Miftah's opinion was written that "postponing the implementation of regional elections is a mandatory choice for the government". ("Deputy Secretary for Fatwa MUI: Regional Elections During a Pandemic Are Prone," tt)

Even stronger than Miftah's personal statement, MUI has also issued an official

briefing number Kep-1702/DP-MUI/IX/2020 which was signed by MUI Deputy General Chairperson Muhyiddin Junaidi and MUI Secretary General Anwar Abbas on September 29 2020. ("MUI: Continuing to Hold Regional Elections is Insensitive and Forced" 2020) In one of the articles of the briefing it is clearly illustrated that the MUI rejects holding elections as long as the Covid 19 case has not yet slowed down by making benefits a source of consideration; "For the sake of *hifzhu an-nafsi* (maintaining the safety of the human soul) which must take priority as currently in accordance with the rules of *dar'u al-mafasid muqaddamun 'ala jalbi al-mashalih* and in accordance with the constitutional mandate as contained in the Preamble to the 1945 Constitution which states that the duty of the state is "To protect the entire Indonesian nation, the implementation of the regional elections in December 2020 must be postponed until the transmission of the Covid-19 pandemic hits."

So it is clear that the attitude taken by the Deputy Secretary of the Fatwa and briefing commission number Kep-1702/DP-MUI/IX/2020 reflects the MUI's consistency in applying the concept of *mashlahah murlahah* in responding to pandemic conditions. But because the MUI fatwa is not included in Indonesian positive law, in a law-based country like Indonesia, the fatwa does not have strong, legally binding power. (Suhartono 2017, p. 1) So it seems as if the fatwa has been relaxed according to the public's view, even though the fatwa relating to Covid-19 is still valid until it is issued. MUI Leadership Council Bayan number 28 in March 2022. ("Bayan Fatwa Worship during the pandemic.pdf," tt)

CONCLUSION / CONCLUSION

Based on the explanation above, it can be concluded that the MUI has been consistent in using the concept of *istishlah* (*maslahah*) when issuing fatwas during the beginning of the pandemic, such as fatwa number 14 of

2020 concerning congregational prayer rules at the start of the pandemic, fatwa number 17 of 2020 concerning officer prayer procedures. Muslim medics who wear PPE when treating patients infected with Covid 19, fatwa number 18 of 2020 concerning procedures for handling the bodies of Muslims infected with Covid 19, fatwa number 28 of 2020 concerning procedures for takbiran and Eid prayers and fatwa number 31 of 2020 concerning the implementation of Friday prayers during the pandemic.

The assumption that the fatwa will be relaxed during the simultaneous regional elections in December 2020 is a mistake. Because the MUI's position has been represented by the opinion of the Deputy Chair of the Fatwa Commission and official briefings number Kep-1702/DP-MUI/IX/2020 about postponing the regional elections until such time as possible. And MUI fatwas number 14, 28 and 31 were not revoked until the pandemic conditions subsided, to be precise when the MUI Leadership Council Bayan number 28 was issued in March 2022.

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