

## The Epistemology of MUI's Fatwas on Covid-19: *Bayani* and *Burhani* Eclecticism

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### Abstract

This article aims to analyze the legal epistemology used in MUI's fatwas related to Covid-19. This article focuses on the MUI's fatwas on the Implementation of Friday and Congregational prayers to prevent the Transmission of the Covid-19 Pandemic and the Fatwa on Guidelines for managing the body (*tajbiẓ al-jana'iz*) of a Muslim infected with the Covid-19. This study is library research with qualitative methods. This article shows that MUI uses two epistemologies in its fatwas. The first is the epistemology of *bayani*, which is mainly derived from the authority of the Quran and Sunnah. This epistemology serves to establish the principle of law in the fatwa. The second is the epistemology of *burhani*, which is based on rational-empirical arguments. This epistemology serves to find out how dangerous the Covid-19 virus is. The two epistemological branches used by MUI above are an attempt to combine textual and rational-empirical arguments. Based on the eclecticism of these two epistemologies, the fatwa issued by MUI is more in line with the realities of today's life, especially regarding the reality of health during the pandemic of Covid-19.

**Keywords:** Legal epistemology; MUI's fatwa; covid-19; *bayani*; *burhani*

### Abstrak

Artikel ini bertujuan untuk menganalisis tentang epistemologi hukum yang digunakan dalam fatwa-fatwa MUI terkait Covid-19. Artikel ini fokus kepada fatwa MUI tentang Penyelenggaraan Salat Jum'at dan Jamaah untuk Mencegah Penularan Wabah Covid-19 dan Fatwa tentang Pedoman Pengurusan Jenazah yang Terinfeksi

Covid-19. Penelitian ini menggunakan jenis penelitian kepustakaan dengan metode kualitatif. Penulis menggunakan teori epistemologi Islam Muhammad ‘Abid al-Jabiri sebagai teori analisis. Artikel ini menunjukkan bahwa MUI menggunakan dua epistemologi dalam fatwa-fatwanya tersebut. Pertama adalah epistemologi *bayani* yang banyak bersumber dari otoritas teks al-Qur’an dan Sunnah. Epistemologi ini berfungsi untuk menetapkan kaidah hukum dalam fatwa. Kedua adalah epistemologi *burhani* yang menitikberatkan kepada argumen rasional-empiris. Epistemologi ini berfungsi untuk mengetahui seberapa berbahaya virus Covid-19 tersebut bagi seseorang. Dua corak epistemologi yang digunakan oleh MUI di atas merupakan upaya menggabungkan argumen tekstual dan rasional-empiris. Atas dasar ekletisisme dua epistemologi ini, fatwa yang ditetapkan oleh MUI lebih sesuai dengan realitas kehidupan saat ini, khususnya terkait realitas kesehatan di masa pandemi Covid-19.

**Kata Kunci:** Epistemologi hukum; fatwa MUI; covid-19; *bayani*; *burhani*

## Introduction

The Covid-19 (Coronavirus Disease) pandemic has changed all aspects of human life. People are forced to carry out a new normal to protect themselves from the transmission of the Covid-19 virus. According to Jacqueline Bachand in her research, the aspect of human life that is most affected by the Covid-19 pandemic is the economic and socio-religious aspects.<sup>1</sup> In the financial aspect, every government policy to lock down the country, including closing borders, schools, and workplaces and limiting crowds, has stopped many international economic activities. Economists predict that the lockdown policies implemented by most governments around the world will cause many people to lose their jobs. This can be seen from the latest statistical data on unemployment rates in several Asian countries, which have increased after the Covid-19 pandemic.<sup>2</sup> Especially in Indonesia, the impact of the Covid-19 pandemic on the economy can be understood from Taufiqurrohman's article, which explains the number of businesses that have closed during the pandemic.<sup>3</sup>

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<sup>1</sup> Jacqueline Bachand, "The Effect of Covid-19 on Income Among Households in HUD's Housing Choice Voucher Program," *Cityscape* 23, no. 1 (2021): 279–83, <https://www.jstor.org/stable/26999949>.

<sup>2</sup> Taro Abe, "The Japanese Economy and The Covid-19 Pandemic," *Investigación Económica* 80, no. 316 (2021): 279–83, <https://www.jstor.org/stable/27000415>.

<sup>3</sup> V Arianti and Muh Taufiqurrohman, "Security Implications of Covid-19 for Indonesia," *Counter Terrorist Trends and Analyses* 12, no. 3 (2020): 13–17, <https://www.jstor.org/stable/26915445>.

This explanation shows the negative impact of the Covid-19 pandemic on the economy in various countries, especially Indonesia.

Another aspect of life that is also experiencing a new normal due to the pandemic is the socio-religious aspect. Especially in Indonesia, a country with a majority Muslim population, the Covid-19 pandemic has changed a lot of religious traditions that have been running. The new normal in socio-religion raises several legal problems. Some realities of life are considered contrary to the religious doctrines believed by the Muslim community in Indonesia so far. This is understandable because the religious expression of Muslims in Indonesia is not only expressed in radical movements such as jihad but also expressed in socio-religious activities.<sup>4</sup>

The new normal during the pandemic needs to be supported by legal justification as a guide for the community to carry out religious activities such as prayers and other worship. One of the most widely published justifications for Islamic law is fatwas from various religious organizations and institutions. MUI is considered the most authoritative institution compared to other institutions in issuing a fatwa over the past ten years. Bagir Manan, as quoted by Zafrullah Salim, explained that Indonesian law accepts unwritten principles in the form of MUI's fatwas.<sup>5</sup> Therefore, it is not surprising that his fatwas are considered one of the sources of material law in Indonesia. Thus, the MUI's fatwas reflect the development of contemporary Islamic discourse in Indonesia because the issuance of MUI fatwas is influenced by public debate among Indonesian Muslims. The role and function of the MUI above are the main reasons why its fatwa related to Covid-19 has received various responses in the community. According to Imaduddin, most people use the fatwa as a guide in carrying out religious activities during the Covid-19 pandemic.<sup>6</sup>

This conclusion is the same as the research conclusion written by Riyanti and Muslim. They explained that the public response to MUI's fatwas regarding religious activities during the Covid-19 pandemic was very diverse. Most people obey these fatwas by carrying out all forms of religious activities at home, whether in the form of worship or socio-religious. This compliance is based on their belief that MUI's fatwas are always based on normative arguments such as

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<sup>4</sup> Greg Fealy, *Expressing Islam: Religious Life and Politics in Indonesia* (New York: ISEAS Publishing, 2008), p. 76-69.

<sup>5</sup> Nico J. G. Kaptein and Michael Laffan, "Theme Issue: Fatwas in Indonesia," *Islamic Law and Society* 12, no. 23 (2005): 25-47, <https://www.jstor.org/stable/30002043>.

<sup>6</sup> M. Firdaus Imaduddin, "Studi Persepsi Masyarakat Terhadap Fatwa MUI No. 14 Tahun 2020 Tentang Penyelenggaraan Ibadah Dalam Situasi Wabah Covid-19," *JISA* 3, no. 2 (2020): 92-103.

the Quran and hadith as one of the epistemological bases.<sup>7</sup> In addition, some people deny the MUI's fatwas by continuing to carry out religious activities collectively in the mosque. This neglect was due to a lack of information about the dangers of transmitting the Covid-19 virus and some people's distrust in the legal epistemology used by MUI in some of its fatwas.<sup>8</sup>

Dahlan also explained the same conclusion in his research. He explained that the negative response of Jamaah Tabligh to the MUI's fatwas on Covid-19 occurred because of differences in the legal epistemology they believed in.<sup>9</sup> The studies above show that people who tend to have a textual legal epistemology will reject and deny MUI fatwas related to Covid-19. For the Jamaah Tabligh, the large number of Islamic Sharia texts (Quran and Sunnah) that recommend praying together in mosques cannot be eliminated only by invalid Covid-19 information.

All the explanations above show that the rejection and neglect of the MUI's fatwas are due to the differences in epistemology believed by each group. Therefore, the epistemological aspect has a vital role in establishing Islamic law. The pattern of the law that is determined depends on the style of epistemology used. As explained by As-Suyuthi, one of the factors that cause legal differences is the different legal epistemology among the scholars.<sup>10</sup>

Based on the explanation above, this article aims to examine the epistemology of two MUI fatwas related to socio-religious activities during the Covid-19 pandemic. The first is a fatwa on implementing Friday prayers and congregational prayers. The second is a fatwa concerning Guidelines for the Management of Corpses (*tajhibiz al-jana'iz*) of Muslims Infected with Covid-19. Therefore, the primary source of this research is the documents of the two MUI fatwas related to Covid-19. This research uses a normative-philosophical approach. This approach is used to examine the epistemology of the two MUI fatwas above in terms of their textual, rational, and intuitive arguments.

The theory used as the basis of analysis in this article is the theory of Islamic epistemology initiated by Muhammad 'Abid al-Jabiri. In his theory, al-Jabiri divides Islamic epistemology into three types, namely *Bayani* (textualism), *Burbani* (rationalist-empirical), and *'Irfani* (intuitive). This theory is used to

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<sup>7</sup> JM. Muslimin, Rizky Fauzi Iskandar, and Yulia Fatma, "Islam and Medicine: A Study on The Fatwa of Indonesian Ulama Council on Vaccines," *Al-Istinbath: Jurnal Hukum Islam* 6, no. 1 (2021): 85–106, <https://doi.org/10.29240/jhi.v6i1.2496>.

<sup>8</sup> Riyanti, "Fatwa Kedaruratan Beribadah Di Masa Pandemi: Studi Atas Respon Masyarakat Bantul Yogyakarta Terhadap Fatwa MUI Tentang Tata Kelola Pelaksanaan Ibadah Di Masa Pandemi" (Yogyakarta, 2020), p. 215.

<sup>9</sup> Moh Dahlan, "Respons Jamaah Tabligh Terhadap Fatwa Majelis Ulama Indonesia Tentang Covid-19," *Jurnal Qiyas* 5, no. 1 (2020): 53–69, <http://dx.doi.org/10.29300/qys.v5i1.3232>.

<sup>10</sup> Jalaluddin Al-Suyuthi, *Ikhtilaf Al-Madzahib* (Kairo: Dar al-F'isham, 2006), p. 74.

confirm the legal epistemological construction used by MUI in its fatwas related to Covid-19. The data analysis method used in this research is content analysis. This method was chosen to analyze the MUI arguments in its fatwa.

## Discussion

### The Epistemology of Islamic Law: *Bayani*, *Burhani* and *ʿIrfani*

There are three kinds of studies in philosophical discourse related to science: ontological, epistemological, and axiological. These three branches of philosophical studies are the basis for the existence of a scientific discipline. Epistemology is a branch of philosophy that discusses the sources of knowledge, its limits, properties, and methods. Ontology is a branch of philosophy that discusses theories and products of science. At the same time, axiology is a branch of philosophy that concerns the value and function of specific disciplines.<sup>11</sup> Epistemological studies are the most important philosophical studies because they discuss the sources of knowledge in a scientific discipline. According to Abdullah Saeed, expertise in determining the epistemological aspects of science will significantly affect its ontological and axiological aspects.<sup>12</sup> Thus, discussing the epistemology of Islamic law means discussing the sources and methodological framework for establishing Islamic law.

According to al-Jabiri, the discourse of Islamic thought since the classical Islamic era has had three types of dialectical epistemologies, namely: *bayani* (explanation), *burhani* (demonstration) and *ʿirfani* (gnostic).<sup>13</sup> The three epistemologies have different approaches and methodologies. Bayani is an Islamic epistemology based on religious texts with a conservative-textualism approach. Bayani epistemology uses two ways to establish the law. The first way is by making the Quran, Sunnah, and *Ijma* for the primary reference. The second way is by using the *qiyas* method, which is considered the primary methodology of *bayani*.<sup>14</sup> While *burhani* is an epistemology that relies on the power of reason.<sup>15</sup> In this epistemology, the primary tool for establishing law is the power of reason possessed by every human being. In contrast to the two epistemologies above, *ʿirfani* is an epistemology that originates from intuitive experience with the *kasyf* method, namely the revelation of the secrets of reality from God.<sup>16</sup> Thus, the epistemology of *ʿirfani* is a deep religious appreciation and experience as a tool for understanding and explaining religious law.

<sup>11</sup> Lies Sudibyo and Bambang Triyanto, *Filsafat Ilmu* (Sleman: Deepublish, 2014), p. 72.

<sup>12</sup> Abdullah Saeed, *Islamic Thought: An Introduction* (New York: Routledge, 2006), p. 54.

<sup>13</sup> Muhammad ʿAbid Al-Jabiri, *Bunyab Al-ʿAql Al-ʿArabi* (Bairūt: Markaz Dirāsāt al-Wahdah al-ʿArabiyyah, 2009), 72-75.

<sup>14</sup> Al-Jabiri, p. 64.

<sup>15</sup> Al-Jabiri, p. 384.

<sup>16</sup> Al-Jabiri.

Al-Jabiri explained that epistemology that has dominated Islamic reasoning since the classical period is *bayani* epistemology, which mostly came from texts with a conservative-textualism approach.<sup>17</sup> The consensus of the majority of scholars who consider the Quran and Sunnah as the most authoritative sources of Islamic law prevents the use of reason and rational approaches that are more dominant.<sup>18</sup> Therefore, methodologically, the majority of the establishment of Islamic law comes from the texts of the Quran and Sunnah. All legal issues must be returned to the text of the Quran and Sunnah, either expressly or impliedly.

What al-Jabiri explained was agreed upon by other Islamic scholars. For example, Muhammad Arkoun, Adonis, and Nasr Hamid Abu Zayd considered that most Islamic legal epistemology was focused on studying the text and depended on the explicit meanings contained in the text without trying to interpret the implicit information implied in the text.<sup>19</sup> From the various explanations of contemporary thinkers above, it can be understood that the epistemology of *bayani* has become the basis of knowledge, both in understanding and evaluating all religious issues since the era of classical Islam.

The dominance of *bayani* epistemology in Islamic law does not mean that *Burhani* and *Irfani* epistemologies have not developed in the history of Islamic law. Both of these epistemologies developed although not as dominant as the *bayani* epistemology. In the *Burhani* epistemological tradition, philosophers such as Ibn Rushd are known as rational thinkers. For Ibn Rushd, the texts of the Quran and Sunnah cannot stand alone as sources of law in Islam. Both must be balanced by rational and argumentative reasoning so that the legal conclusions set can contain authoritative interpretations.<sup>20</sup> This can be seen in Ibn Rushd's Islamic legal thought in one of his books entitled *al-Dlaruri fi Usul al-Fiqh*.

While the epistemology of *irfani* can be referred to as the thoughts of Sufism figures. For this group, God and all of its laws are not only known through textual, rational, and empirical evidence but also through direct experience (*mubasyarah*).<sup>21</sup> Therefore, it is not surprising that the majority of legal establishments in Sufism are different from *fiqh*. For example, in establishing the

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<sup>17</sup> Muhammad 'Abid Al-Jabiri, *Al-Khitab Al-'Araby Al-Mu'ashir* (Bairut: Markaz Dirasat al-Wahdah al-'Arabiyah, 1994), p. 64.

<sup>18</sup> Al-Jabiri, p. 47.

<sup>19</sup> Muhammad Arkun, *Al-Fiker Al-'Araby* (Bairut: Mashurat 'Awidat, 1985), p. 48; Adunis, *Al-Tsabit Wa Al-Mutahawwil: Bahs Fi Al-Ibda' Wa Al-Ittiba' 'Inda Al-'Arab* (Bairut: Dar al-Saqi, 1994), vol. 1, p. 51; Nasr Hamid Abu Zayd, *Naqd Al-Khitab Al-Din* (Kairo: Sina lil-Nasyr, 1994), p. 84-89.

<sup>20</sup> Ibn Rusyd, *Fashl Al-Maqal Fi Ma Bayna Al-Hikmah Wa Al-Syari'ah Min Al-Ittishal* (Bairut: Dar al-Masyriq, 1986), p. 187.

<sup>21</sup> Al-Jabiri, *Bunyab Al-'Aql Al-'Arabi*, p. 243.

month of Ramadan, the Sufis have a different opinion from the majority of scholars. The Sufis establish the beginning of the month of Ramadan with the *kasyf* method.

According to Ahwan Fanani, those epistemologies are often interconnected into a single epistemology. This fact can be understood by al-Harith al-Muhasibi who tried to combine the epistemology of *bayani* and *irfani*, al-Kindi who wanted to unite the epistemology of *bayani*, and *burhani* and the Ikhwan as-Safa who wanted to compromise the epistemology of *burhani* and *irfani* in their thoughts.<sup>22</sup> For al-Jabiri, *bayani* epistemology is a supporter of *burhani* epistemology that cannot be ignored in establishing law. Al-Jabiri himself believes that the most ideal and complete epistemology to be applied in contemporary times is the eclecticism of *burhani* and *bayani*.<sup>23</sup>

This Islamic epistemological theory will be an analytical theory in mapping the epistemology of pandemic *fiqh*, which is expressed and implied in the MUI fatwas related to Covid-19. Thus, this study will confirm the conclusions of previous studies that the MUI's fatwas use the *bayani* epistemology as explained in the introduction above.

### **The Methodology and Mechanism of the Establishment of MUI's Fatwas**

MUI has various commissions, including the Fatwa Commission, which has the task and responsibility of issuing fatwas on various legal issues determined collectively (*al-ijtihad al-jama'i*). This commission also has the authority to determine the procedures and methodologies for determining the law after obtaining approval from the leadership of the MUI (Indonesian Ulama Council).

There have been four phases of the development of the MUI *ijtihad* methodology since its establishment in 1975. The first phase is in the range of 1975-1986, the second phase is in the range of 1986-1997, the third phase is in the range of 1997-2002, and the fourth phase is in the range of 2002-now.<sup>24</sup> According to Atho Mudzhar, MUI did not have standard guidelines in establishing laws in the early days.<sup>25</sup> The MUI began to use specific guidelines in establishing laws in the second phase after publishing the Guidelines and Procedures for Establishing the Fatwas of MUI. The guidelines for establishing fatwas are as follows:

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<sup>22</sup> Ahmad Fanani, *Islam Dalam Berbagai Pembacaan Kontemporer* (Yogyakarta: Pustaka Pelajar, 2009), p. 192.

<sup>23</sup> Al-Jabiri, *Bunyab Al-'Aql Al-'Arabi*. p. 298.

<sup>24</sup> Rumadi Ahmad, *Fatwa Hubungan Antar Agama Di Indonesia: Kajian Kritis Tentang Karakteristik, Praktik, Dan Implikasinya* (Jakarta: Gramedia Pustaka Utama, 2016), p. 159.

<sup>25</sup> M. Atho Mudzhar, *Fatwas of The Council of Indonesia Ulama: A Study of Islamic Legal Thought in Indonesia 1975-1988* (Jakarta: INIS, 1993), p. 69-70.

1. Before the decision is issued, members of the Fatwa Commission first review the opinions of authoritative scholars (*mu'tabar*) on legal issues that will be published.
2. If during the review there are differences of opinion among scholars, then MUI uses two methods:
  - a. *al-jam'u wa al-taufiq* method establishes the law by trying to find common ground between these opinions.
  - b. Tarjih method establishes the law by favoring one legal opinion over another.
3. If a legal solution to a problem is not found among the ulama, then the determination of the fatwa is carried out by *ijtihad* collectively.
4. All legal establishments in the Fatwa Commission must always be based on the public interest.<sup>26</sup>

The guidelines, methodologies and procedures for establishing fatwas show that the epistemology of MUI tends to have a *bayani* pattern. The MUI's first guideline in setting a fatwa is a review of the texts of the Quran, Sunnah and *ijma'*, which are considered the most authoritative sources of law. This guideline was established because MUI believes that the law clearly defined by the Quran, Sunnah and *ijma'* is a definite law (*qath'i*) that cannot be challenged and revised.<sup>27</sup> In this guideline, there is no chance for *ijtihad*.

In cases where there are no explicit legal rules in the Quran, Sunnah and *ijma'*, MUI uses authoritative methods as a source of determining its fatwa. These methods include *istihsan* (prioritizing from the use of a *qiyas* to another *qiyas* that is stronger than him), *mashlahah mursalah* (public interest that is neither acknowledged nor rejected by Sharia), *istishab* (the enforcement of the law until there is evidence that changes the law), *aqwal al-shababat* (the opinions of companions), *'urf* (tradition and culture), *syar'un man qablana* (the implementation of the previous Prophet's Sharia), and *sadd al-dz'ara'i* (strengthening of law on an act to prevent the occurrence of prohibited acts).<sup>28</sup> MUI also uses *fiqh* rules often quoted in his fatwas to strengthen the main argument.<sup>29</sup> The Fatwa Commission of MUI established all of these methods as a guide in issuing fatwas.

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<sup>26</sup> Majelis Ulama Indonesia, *Himpunan Fatwa Majelis Ulama Indonesia Sejak 1975* (Jakarta: Erlangga, 2003), p. 5-6.

<sup>27</sup> Majelis Ulama Indonesia, p. 5.

<sup>28</sup> Abu Hamid Al-Ghazali, *Al-Mustashfa Min 'Ilm Al-Ushul* (Madinah: Syirkah al-Madinah al-Munawwarah, 2009), vol. 2, p. 265-286.

<sup>29</sup> Wahbah Al-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatub* (Damshiq: Dar al-Fikr, 1985), vol. 2, p. 417; Zainul Mun'im, "Peran Kaidah Fikih Dalam Aktualisasi Hukum Islam: Studi Fatwa Yusuf Al-Qaradawi Tentang Fiqh Al-Aqalliyat," *Al-Manabij: Jurnal Kajian Hukum Islam* 15, no. 1 (2021): 151–72, <https://doi.org/10.24090/mnh.v15i1.4546>.

In issuing a fatwa, MUI has procedures and mechanisms that must be obeyed by members of the Fatwa Commission. This procedure is set so that the fatwa issued has a solid and authoritative argument. The procedures and mechanisms are as follows:

1. The meeting must be attended by members of the Fatwa Commission with a minimum number of more than half of the total members.
2. The Fatwa Commission is obliged to present outside participants who are truly experts in the science that is being the object of MUI's fatwa.
3. The Fatwa Determination Meeting is held:
  - a. If there are legal questions from society.
  - b. If there are legal questions from the government or social and community organizations.
  - c. If there is a problem that needs to be legalized.
4. The meeting is chaired by the Chair and Deputy Chair of the Commission.
5. The Fatwa Commission issues the fatwa after carrying out a collective and comprehensive discussion.
6. The Commission's decision shall be reported to the MUI Leadership Council as soon as possible.<sup>30</sup>

Ma'ruf Amin as Chair of the Fatwa Commission explained that the guidelines and procedures for determining fatwas above aim to avoid the determination of fatwas based solely on political and other interests. This must be avoided because fatwas with certain interests only argue with presumptions without clear evidence.<sup>31</sup> Therefore, the purpose of these procedures, mechanisms and guidelines above is to make the MUI's fatwas truly according to Sharia values and the public interests and avoid the issuance of fatwas that are not based on strong arguments.

The procedure for issuing fatwas above shows that the Islamic law epistemology of MUI leads to the epistemology of bayani. This can be understood from the making of the texts of the Quran and Sunnah as the primary sources in determining fatwas. MUI is also guided by the methods of *ushul fiqh* such as *qiyas*, *istihsan*, *istishlah* or *mashlahah mursalah*, *istisbab* and other methods that are more textual. According to Nasr Hamid, the classical *ushul fiqh* method cannot be separated from understanding the texts of the Quran and Sunnah, such as the *qiyas* method, which places the texts of the Quran and Sunnah as various legal analogies.<sup>32</sup> George Tharabisi has the same opinion. He explained that classical *ushul fiqh* methods such as *qiyas*, *istishlah* or *mashlahah mursalah*, even though they were categorized as rational methods, were still based on understanding the texts of the Quran, Sunnah and *ijma'* which were

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<sup>30</sup> Majelis Ulama Indonesia, *Himpunan Fatwa Majelis Ulama Indonesia Sejak 1975*, p. 6-7.

<sup>31</sup> Majelis Ulama Indonesia, p. vii.

<sup>32</sup> Zayd, *Naqd Al-Khitab Al-Din*, p. 173.

considered most authoritative.<sup>33</sup> Therefore, currently, there is a need for further research that examines the epistemology of the MUI's fatwas in other fields. This is an effort to affirm the hypothesis as described above

### **The Arguments of MUI's Fatwas Regarding Covid-19**

As one of the authoritative institutions in establishing law, MUI has several fatwas related to Covid-19. The fatwas are divided into various fields, including the socio-religious and medical fields. Several fatwas cause the controversy in society. Some people support the decisions in the fatwas and some ignore the fatwas. Among the fatwas that cause controversy is the Fatwa on Implementation of Friday and Congregation Prayers to Prevent the Transmission of Covid-19 and the Fatwa on Guidelines for the Management of Corpses (*tajbiẓ al-jana'iz*) of Muslims Infected with Covid-19.<sup>34</sup> The various responses of the people above are the factors in choosing these two fatwas as the object of research in this article.

#### **1. Fatwa on Implementation of Friday and Congregation Prayers to Prevent the Transmission of Covid-19**

The MUI fatwa regarding the implementation of worship during the Covid-19 pandemic was stipulated on March 16, 2020. This fatwa decided several rules, including:

- a. People infected with Covid-19 must isolate themselves so they do not transmit the virus to others. The Friday prayer can be replaced with the *Zubr* prayer for that person. In addition to Friday prayers, people infected with Covid-19 are prohibited from performing sunnah prayers that allow transmissions, such as congregational prayers and tarawih prayers in mosques.
- b. In areas with red zone status (zones where the virus spreads out of control) which can be life-threatening, Muslims are prohibited from performing Friday prayers until the area changes to a green zone status. back to normal. Muslims are also obliged to replace Friday prayers with *Dzubahur* prayers at home. This prohibition also applies to worship activities that involve many people, such as congregational and tarawih prayers.
- c. In areas with yellow or green zone status (zones where the spread of the virus is controlled), Muslims are required to hold Friday prayers and are allowed to hold worship activities that involve many people, such as congregational prayers on the condition that health protocols apply.<sup>35</sup>

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<sup>33</sup> George Tharabisiy, *Iykalīyat Al-'Aql Al-'Araby* (London: Dar al-Saqi, 1998), p. 68-72.

<sup>34</sup> Ani Nursalikah, "Fatwa Dinilai Jauhkan Umat Dari Masjid, Ini Penjelasan MUI," *Republika*, 2020, <https://www.republika.co.id/berita/q7fg8r366/fatwa-dinilai-jauhkan-umat-dari-masjid-ini-penjelasan-mui>.

<sup>35</sup> Majelis Ulama Indonesia, "Fatwa Majelis Ulama Indonesia No. 14, Tahun 2020 Tentang Penyelenggaraan Ibadah Dalam Situasi Terjadi Wabah Covid-19" (Jakarta, 2020), p. 1-2.

The decision of the MUI fatwa in the letters "a", "b" and "c" is a legal opinion based on the text of the Quran and Sunnah. This explanation can be understood from the use of Quranic verses as one of the legal arguments, such as verse 195 of Surah al-Baqarah:

وَلَا تُفْجَرُوا بِأَيْدِيكُمْ إِلَى التَّهْلُكَةِ

*And do not throw (yourselves) with your hands into the destruction.*<sup>36</sup>

According to al-Thabari and Ibn Kathir, although this verse has a general meaning, it was revealed in the context of livelihood. For the majority of scholars, people who do not spend a little of their wealth on religious struggles are considered to have plunged themselves into destruction.<sup>37</sup> The opinion of al-Thabari and Ibn Kathir above is different from the MUI, which interprets the general meaning of this verse. Therefore, for MUI, this verse means a prohibition to plunge oneself into anything that can destroy. MUI also cites several hadiths as one of the normative arguments in its fatwa. Among these are the following hadiths:

عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: إِذَا سَمِعْتُمْ بِالطَّاعُونِ بِأَرْضٍ فَلَا تَدْخُلُوهَا، وَإِذَا وَقَعَ بِأَرْضٍ وَأَنْتُمْ بِهَا فَلَا تَخْرُجُوا مِنْهَا

*The Prophet said, "If you hear of an outbreak of plague in a land, do not enter it; but if the plague breaks out in a place while you are in it, do not leave that place (HR. al-Bukhari)."*<sup>38</sup>

The MUI textual arguments above are the basis for setting a fatwa on implementing worship during the pandemic. However, the arguments of the Quranic verses and the hadith are not the only arguments that form the basis of the fatwa above. MUI also uses Islamic legal maxims (*al-qawaid al-fiqhiyyah*) to determine its fatwa regarding the implementation of worship during the Covid-19 pandemic.<sup>39</sup> Seven Islamic legal maxims conclude the obligation to protect oneself from harm. The principles of *fiqh* include *la dlarar wa la dlihar* (no harm to oneself and others). According to al-Subki, this maxim has rules that all activities, whether obligatory or not, must be avoided if these activities endanger oneself or others.<sup>40</sup> Thus, these maxims become arguments that strengthen the Quranic verses and hadith, which are the basic arguments for MUI in issuing fatwas.

<sup>36</sup> Majelis Ulama Indonesia, p. 2.

<sup>37</sup> Abu Ja'far Muhammad bin Jarir Al-Thabari, *Jami' Al-Bayan 'an Ta'wil Ay Al-Qur'an* (Kairo: Maktabah Ibn Taymiyah, 2008), vol. 3, p. 183-195; Ibn Kathir Al-Dimasyaqi, *Tafsir Al-Qur'an Al-Karim* (Kairo: Dar al-Kutub al-'Ilmiyyah, 1998), vol. 2, p. 220-223.

<sup>38</sup> Majelis Ulama Indonesia, "Fatwa Majelis Ulama Indonesia No. 14, Tahun 2020 Tentang Penyelenggaraan Ibadah Dalam Situasi Terjadi Wabah Covid-19." p. 3.

<sup>39</sup> Majelis Ulama Indonesia, p. 6.

<sup>40</sup> Mauhammad Al-Zuhaili, *Al-Qawaid Al-Fiqhiyyah Wa Tatbiqatuhā Fi Al-Madāzhib Al-Arba'ah* (Damsyiq: Daar al-Fikr, 2006), p. 152.

The Islamic legal Maxims, as quoted by the MUI above, tend to be *bayani* epistemology which is mostly sourced from the texts of the Quran and Sunnah. This is because the Islamic legal maxims are general conclusions from various laws that have been stipulated in the Quran, sunnah, and *fiqh*.<sup>41</sup> Al-Jabiri and Muhammad Arkoun explained that the majority of Islamic legal epistemology in *fiqh* and all its branches tend to be textual (*bayani*).<sup>42</sup> Thus, every value or principle contained in the Islamic legal maxims cannot be separated from the hegemony of the texts of the Quran, Sunnah, and *fiqh*, because these maxims are the conclusions of various legal rules in the Quran and Sunnah, as described above.

Although there are researchers who argue that the MUI's fatwa on the procedure for praying for health workers during a pandemic prioritizes the *talfiq manhaj* method,<sup>43</sup> the MUI's decision in the fatwa regarding the implementation of Friday and congregational prayers above is under the opinion of scholars of the Syafi'i school. The majority of scholars argue that one of the reasons a person is allowed to leave Friday prayers is a contagious illness that can harm other people.<sup>44</sup> This opinion is the same as Abdullah bin Abdurrahman Bafadhhal who explains that people who are allowed to leave Friday prayers and congregations are sick people and people who are worried about the safety of their lives or property.<sup>45</sup> Thus, through these arguments, it is very clear that the MUI used the *bayani* epistemology in its fatwa.

The MUI fatwa regarding the implementation of worship during this pandemic also includes an explanation from scientists about the Covid-19 virus as a legal consideration. For example, MUI takes the opinion of the World Health Organization (WHO) about the dangers of transmitting Covid-19 as one of the considerations in determining the permissibility of leaving Friday prayers.<sup>46</sup> In the perspective of al-Jabiri's philosophy of science, the WHO opinion above is determined by using a *burhani* epistemology that uses logical and rational evidence as a source of law. This is because the WHO opinion is the conclusion of empirical research on the Covid-19 virus. Al-Jabiri argues that

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<sup>41</sup> Taj al-Din Al-Subki, *Al-Aasybah Wa Al-Nadzair* (Bairut: Dar al-Kutub al-Ilmiyyah, 1991), vol. 1, p. 37.

<sup>42</sup> Al-Jabiri, *Bunyab Al-'Aql Al-'Arabi*, p. 64; Arkoun, *Al-Fiker Al-'Araby*, p. 53.

<sup>43</sup> Frina Oktalita and Darlin Rizki, "Analysis of MUI Fatwa Number 17 of 2020 Regarding Kaifiat Prayer Guidelines for Health Workers Who Wear Personal Protection Equipment (PPE) When Treating and Handling Covid-19 Patients," *Al-Istinbath : Jurnal Hukum Islam* 6, no. 2 (2021): 247–70, <https://doi.org/10.29240/jhi.v6i2.3332>.

<sup>44</sup> Muhyi al-Din bin Syarf Al-Nawawi, *Kitab Al-Majmu' Syarh Al-Muhadzdzab* (Jiddah: Maktabah al-Irsyad, 2007), vo. 9, p. 352.

<sup>45</sup> Sa'id bin Muhammad Ba'aly, *Syarh Al-Muqaddimah Al-Hadlramiyyah* (Bairut: Dar al-Minhaj, 2004), p. 331-332.

<sup>46</sup> Majelis Ulama Indonesia, "Fatwa Majelis Ulama Indonesia No. 14, Tahun 2020 Tentang Penyelenggaraan Ibadah Dalam Situasi Terjadi Wabah Covid-19." p. 1.

epistemology that emphasizes rationality like the WHO research above is categorized as *burhani* epistemology.<sup>47</sup> Thus, in, the context of this argument, MUI uses the *burhani* epistemology by directly referring to WHO research on Covid-19 as one of the legal considerations.

The explanations above show that the Fatwa on Implementation of Friday and Congregation Prayers to Prevent the Transmission of Covid-19 uses two legal epistemologies: *bayani* and *burhani*. *Bayani* epistemology is used to determine legal reasons for leaving Friday prayers and replacing them with *Dzuhur* prayers in a pandemic. One of the legal reasons is a dangerous infectious disease and a concern for the safety of many people life. Meanwhile, the *burhani* epistemology is used by MUI to examine the dangers of Covid-19 as an infectious disease so that it can be a legal reason for leaving Friday prayers.

The eclecticism of the *bayani* and *burhani* epistemology in this fatwa is the same as the MUI fatwa on the implementation of other worship during a pandemic, such as the Fatwa on Takbir Guidelines and *Eid* Prayers during the Covid-19 Pandemic. This is due to the similarity of the fatwas in terms of their legal object, namely the implementation of worship during the Covid-19 pandemic. To make it easier to understand this article, the following is an explanation of the epistemological framework of the MUI fatwa above in the following table form:

**Tabel. 1 The Epistemology of Fatwa on Implementation of Friday and Congregation Prayers to Prevent the Transmission of Covid-19**

No	Fatwa	Epistemology	
		<i>Bayani</i>	<i>Burbani</i>
1	Fatwa on Implementation of Friday and Congregation Prayers to Prevent the Transmission of Covid-19	al-Qur'an and Hadith Islamic legal maxims	WHO's the explanation of the dangers of transmitting Covid-19
2.	Fatwa on Guidelines for the Management of Corpses ( <i>Tajbiẓ al-Jana'iz</i> ) of Muslims Infected with Covid-19		

The Fatwa on Guidelines for the Management of Corpses (*tajbiẓ al-jana'iz*) of Muslims Infected with Covid-19 was issued on March 27, 2020. This fatwa establishes several decisions, including:

- a. The management of Corpses (*tajbiẓ al-jana'iz*) infected with Covid-19, especially in bathing and shrouding, must be carried out by the competent authorities while maintaining health protocols and the rules of Islamic law.

<sup>47</sup> Al-Jabiri, *Bunyab Al-'Aql Al-'Arabi*, p. 383-385.

Meanwhile, funeral and funeral prayers were carried out as usual while still implementing health protocols such as keeping a distance so as not to be infected with Covid-19.

- b. The guidelines for bathing the Corpses of Covid-19 victims are carried out as follows:
- 1) The corpse is bathed without having to take off its clothes
  - 2) The sex of the officer must be the same as the corpse of the Covid-19 victim.
  - 3) If there is no officer of the same sex, then the corpse is bathed by the available officer on the condition that the corpse is bathed without removing its clothes. If this is not possible, then replace it with tayammum.
  - 4) The officer cleans all the impure things attached to the corpse's body (if any) before being bathed.
  - 5) Officers wash the corpse by pouring water evenly throughout the body.
  - 6) Suppose there are expert considerations that explain that bathing the bodies of Covid-19 victims cannot be carried out. In that case, it can be replaced with tayammum by the rules of Islamic law, namely by wiping the face and hands of the corpse with holy dust.
  - 7) If health experts believe that it is not possible to wash or tayammum because it can transmit the virus to officers, then the body of a Covid-19 victim does not have to be bathed or tayammum. This is based on the rules of *fiqh* in the form of *dharurat syar'iyah*.<sup>48</sup>

In determining the fatwa decision above, MUI used four verses of the Quran as an argument, including verse 195 of al-Baqarah, which was also quoted in its fatwa on Implementation of Friday and Congregation to Prevent the Transmission of the Covid-19. The verse, as explained above, has the meaning of prohibiting any action or activity that can lead to destruction. Another verse cited by MUI as one of the arguments in its fatwa is verse 185 of al-Baqarah as follows:

يُرِيدُ اللَّهُ بِكُمْ الْيُسْرَ وَلَا يُرِيدُ بِكُمُ الْعُسْرَ

*Allah intends for you ease, and He does not want to make things difficult for you.*<sup>49</sup>

According to Ibn Kathir, this verse specifically explains remission for not fasting in Ramadan for those who are sick, on a trip, or for other *syar'i* reasons.<sup>50</sup> However, the MUI interprets the verse in general terms and does not

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<sup>48</sup> Majelis Ulama Indonesia, "Fatwa Majelis Ulama Indonesia Nomor 18 Tahun 2020 Tentang Pedoman Pengurusan Jenazah (Tajhiz Al-Jana'iz) Muslim Yang Terinfeksi Covid-19" (Jakarta, 2020), p. 7.

<sup>49</sup> Majelis Ulama Indonesia, p. 2.

<sup>50</sup> Al-Dimsyaqi, *Tafsir Al-Qur'an Al-Karim*, vol. 2, p. 182-186.

only include remission in fasting. For the MUI, the verse generally explains that Sharia requires convenience in all matters, including the issue of *tajbiẓ al-jana'iz* (management of corpses). Therefore, if the rules in the management of corpses cannot be carried out perfectly under certain conditions, they are carried out as much as possible or replaced with tayammum. To strengthen its argument, MUI cites another verse of the Quran, as verse 78 of al-Hajj:

وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ

*And he has not placed upon you in the religion any difficulty.*<sup>51</sup>

MUI's fatwa on Guidelines for the Management of Corpses (*tajbiẓ al-jana'iz*) of Muslims Infected with Covid-19 also uses hadith to support the Quranic verses above. Nine hadiths explain the remission (*rukhsah*) of the management of the corpses (*tajbiẓ al-jana'iz*) under certain conditions. Among these hadiths are as follows:

مَا نَهَيْتُكُمْ عَنْهُ فَاجْتَنِبُوهُ، وَمَا أَمَرْتُكُمْ بِهِ فَافْعَلُوا مِنْهُ مَا اسْتَطَعْتُمْ

*What I have forbidden for you, avoid. What I have ordered you [to do], do as much of it as you can (HR. Muslim).*<sup>52</sup>

This hadith explains that the rules of the Sharia are dynamic. Under certain conditions that do not allow carrying out these rules perfectly, Islam provides relief or remission.<sup>53</sup> This applies to all rules in the Sharia, including the practices for the management of corpses (*tajbiẓ al-jana'iz*) under certain conditions, as issued by MUI in its fatwa. Therefore, many scholars have concluded various reliefs and remissions (*rukhsah*) in Islamic law as Islamic legal Maxims, such as *al-dlarar yuzalu* (danger must be eliminated), *dar'u al-mafasid muqaddam 'ala jalb al-mashalih* (rejecting benefit is prioritized over bringing benefit), *al-musyaaqqah tajlib al-taysir* (hardship can lead to relief), *al-dlarar yudfa' bi qadr al-imkan* (danger must be prevented within possible limits) and *hurmat al-bayy wa hijz nafsih ball min hijz al-mayyit* (respecting the living and protecting their souls is more important than respecting the corpse).<sup>54</sup> These rules become the reference for the MUI fatwa in strengthening its main argument, namely the Quran and Sunnah.

The MUI fatwa on the management of corpses during this pandemic has similar argument characteristics to its fatwa on the holding of prayers during the

<sup>51</sup> Majelis Ulama Indonesia, "Fatwa Majelis Ulama Indonesia Nomor 18 Tahun 2020 Tentang Pedoman Pengurusan Jenazah (Tajhiz Al-Jana'iz) Muslim Yang Terinfeksi Covid-19." p. 2.

<sup>52</sup> Majelis Ulama Indonesia, p. 3-4.

<sup>53</sup> Muhyi al-Din Abu Zakariya ibn Sharaf Al-Nawawi, *Al-Minhaj Sharah Shahih Muslim* (Kairo: Maktabah al-Mishriyyah, 1926), vol. 10, p. 127.

<sup>54</sup> Al-Subki, *Al-Aybab Wa Al-Nadzair*, vol. 1, p. 102.

Covid-19 pandemic. The similarity lies in the explicit meaning in the Quran and Sunnah texts which are used as the main reference for MUI in the two fatwas above. In al-Jabiri's theory, these arguments are the basis of *bayani* epistemology which makes the texts of the Quran and Sunnah as the primary sources in determining his fatwa.<sup>55</sup> Thus, it can be concluded that the main argument of the MUI's fatwa related to Covid-19 tends to be *bayani* epistemology.

The textual argument in the MUI's fatwa above is the same as the opinion of the scholars. 'Abd al-Rahman al-Jaziri explained that replacing water with dust (*tayammum*) in bathing a corpse is only allowed because there is no water or the corpse has been infected with a contagious disease.<sup>56</sup> Imam al-Nawawi also explains the same opinion that one of the justified reasons for getting remission (*rukhsah*) for the management of the corpse (*tajhiz al-jana'iz*) is the danger that can threaten the person who is taking care of the corpse. Among these dangers are deadly infectious diseases.<sup>57</sup>

It is not surprising that MUI's opinion in its fatwa regarding the management of the bodies of Covid-19 victims follows the opinion of *fiqh* scholars. The arguments of the MUI and classical scholars both point to the *bayani* epistemology. As explained by al-Jabiri and Arkoun, most Islamic law stipulations in the classical era used *bayani* epistemology, which was oriented to the text of the Quran and Sunnah as the main source.<sup>58</sup>

MUI uses another argument in its fatwa. This argument is the statement of medical experts such as the WHO (World Health Organization), the Indonesian Ministry of Health and IDI (Indonesian Doctors Association) about the dangerous and infectious level of Covid-19. After considering the explanations of the medical experts above, MUI explained that the dangerous Covid-19 virus could survive in the bodies of Covid-19 victims. Therefore, the virus can still be transmitted to people who have physical contact with the corpse in handling it.<sup>59</sup> The consideration of the experts in this fatwa is related to the procedure for determining the MUI fatwa which has been described previously. One of the rules in the procedure is the obligation of the Fatwa Commission to present experts if the matter to be legalized requires an expert explanation.

The explanation of experts that Covid-19 can be transmitted even though the patient has died is an opinion based on empirical research that uses

<sup>55</sup> Al-Jabiri, *Bunyab Al-'Aql Al-'Arabi*, p. 64.

<sup>56</sup> 'Abd Rahman Al-Jazairi, *Al-Fiqh 'Ala Al-Madzahib Al-Arba'Ah* (Bairut: Dar al-Fikr, 1996), vol. 1, p. 476.

<sup>57</sup> Al-Nawawi, *Kitab Al-Majmu' Syarh Al-Muhadzdzab*, vol. 16, p. 352.

<sup>58</sup> Al-Jabiri, *Al-Khitab Al-'Araby Al-Mu'Asbir*, p. 46; Arkun, *Al-Fikr Al-'Araby*, p. 48.

<sup>59</sup> Majelis Ulama Indonesia, "Fatwa Majelis Ulama Indonesia Nomor 18 Tahun 2020 Tentang Pedoman Pengurusan Jenazah (Tajhiz Al-Jana'iz) Muslim Yang Terinfeksi Covid-19." p. 1.

rational approaches. This rational approach was acknowledged by Asrorun Ni'am as Secretary of the Fatwa Commission of MUI in one of his articles.<sup>60</sup> Therefore, the MUI citation of the experts' explanations above shows that the MUI also uses a *burhani* epistemology. As explained by al-Jabiri, empirical and rational evidence is one of the elements of *burhani* epistemology. This epistemology was widely used by classical Islamic philosophers.<sup>61</sup>

The explanation above shows the important role of *burhani* epistemology in the MUP's fatwa on managing the corpses of Covid-19. This epistemology is the basis for knowing whether the Covid-19 virus can be categorized as a dangerous disease or not. The following is an explanation of the epistemological framework of the Islamic law of the MUP's fatwa above in tabular form:

Tabel. 2 The Epistemology of Fatwa on Guidelines for the Management of Corpses (*Tajbiẓ al-Jana'iz*) of Muslims Infected with Covid-19

No	Fatwa	Epistemology	
		<i>Bayani</i>	<i>Burbani</i>
1	Fatwa on Guidelines for the Management of Corpses ( <i>Tajbiẓ al-Jana'iz</i> ) of Muslims Infected with Covid-19	Quran Hadith Islamic legal maxims	The Explanation of WHO, IDI and the Indonesian Ministry of Health about the dangers of Covid-19 transmission

### Conclusion

The MUP's Fatwa on Implementation of Friday and Congregation Prayers to Prevent the Transmission of Covid-19 and the Fatwa on Guidelines for the Management of Corpses (*Tajbiẓ al-Jana'iz*) of Muslims Infected with Covid-19 mostly use the texts of the Quran, Sunnah and Islamic legal maxims as the primary source of legal determination. This primary source is supported by empirical and logical sources, namely the explanations of medical experts related to the Covid-19 virus as a hazardous virus that threatens the safety of a person's life. The two types of arguments resulted in a fatwa decision that was truly in accordance with the reality of the pandemic that was endemic in all corners of the world. Using al-Jabiri's theory of epistemology, this study shows that pandemic *fiqh* in the MUI fatwas tends to use an eclectic epistemology that combines *bayani* which focuses on textual authority and *burhani* which focuses more on empirical and logical data. *Bayani* and *Burbani* eclecticism in the MUI

<sup>60</sup> Asrorun Ni'am Sholeh, "Towards a Progressive Fatwa: MUP's Response to the COVID-19 Pandemic," *AHKAM: Jurnal Ilmu Syariah* 20, no. 2 (2020): 181–98.

<sup>61</sup> Al-Jabiri, *Bunyab Al-'Aql Al-'Arabi*, p. 383-385.

fatwa is an epistemology that is considered as the most ideal to be applied today, as al-Jabiri's opinion explained at the beginning of this study.

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