

THE VALIDITY OF THE COVID-19 FATWA IN REVIEW OF THE AD-DHARAR YUZALU RULES

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Abstract

The covid 19 is a fiqh law product that has been issued by a fatwa institution that competent in Indonesia, which is the Indonesian Ulama Council. It has issued no less than 14 legal fatwas relating to covid 19. Those are the Conduct of Worship in Situations the covid 19 Outbreak, Concerning Guidelines for Prayers for Health Workers who Wear Personal Protective eqiument (APD), Guidelines for the management of Bodies Infected Muslim wirh covid 19, Regarding Utilizatiom Zakat, Infaq and Shadaqah Assets for Covid 19 Outbreak, Guidlines for Takbir Kaifiyyat and Eid al-Fitr Prayers during the Covid 19 pandemic, on organization Friday prayers and jamaahs to prevent covid 19 transmission, on Eid al-Adha prayers and jamaahs to prevent covid 19 transmisssion, on Eid al-Adha prayers and sacrificial animal slaughter the Covid 19 outbreak. The ad-Dharar Yuzalu rule is one of the principles of fiqh which aims to introduce how imprtant it is to protect lives and descendants from the dangers threats of Covid 19. It's a virus that can actually threaten lives and offspring, so by using this ad-dharar yuzalu rule, the the main purpose of religion can be realized in human life.

Keywords: Covid19; the Yuzalu ad-Dharar Rule.

INTRODUCTION

Covid 19 is an outbreak that has threatened humanity throughout the world today, for approximately 1 year Covid 19 has been in the form of human life, both from religious aspects, economic aspects and health aspects. Covid 19 when viewed from the islamic religion, then very much harm caused in human life because covid 19 can threaten the religious practices of a Muslim, can threaten human life, and can threaten children and even threaten the economy and human property may be the enforcer of life.

Therefore, any human being in this world does not want any difficulties in his life, so they always think and try to avoid difficulties and dangers that can threaten their lives. Islam as a religion that pays attention to human happiness, teaches how to avoid danger and how to bring happiness in life. That is why, the scholars try to formulate various rules of jurispruding as a tool in understanding the intentions of God who tencantum in the holy nas of the Qur'an and the prophet's hadith. One of the rules that represent the importance of avoiding danger in human life and bringing happiness is the rule of الضرر يزال

This ad-dharar yuzalu rule is one of the important things in human life and becomes a guideline for Muslims to solve the problem of covid 19 that can threaten human life. That is why the covid 19 fatwa has been widely issued by fatwa institutions in the Islamic world whose purpose is to save human lives from various harms or dangers that can be caused by covid 19.

The validity of the covid 19 fatwa is an important intrusion in the implementation and implementation of the covid 19 fatwa, because the success of overcoming covid 19 depends on how the community carries out the recommendations of the ulema council to eliminate the dangers that are stimulated by covid 19.

The purpose of this study is to explore the position and population of the rules of ad-dharar yuzalu as one of the legal istinbat methods related to mukallaf deeds. In addition, this study also aims to map the validity of the analysis of fatwa covid 19 hammering the rule method ad-dharar yuzalu mentioned.

METHOD

The scope of this research discussion consists of two objects of discussion, namely, First, the theory or rule of ad-dharar yuzalu and second is the validity of fatwa covid 19.

The method used in research is legal research using a sociological approach to law, which is an approach that examines various social events and events in a society based on the characteristics and character of that society. Another method associated with this research is the method of legal philosophy approach, which is an approach that examines various socio-cultural aspects of the development of the results of reasoning of mujtahids. This philosophical approach rests on various ontological aspects, cosmological aspects, theological aspects and ethical aspects.

RESULT & DISCUSSION

1. Position of Rule Theory ad-Dharar Yuzalu

The rule of *الضَّرَرُ يُزَالُ* It consists of two words. *الضرر* and *يزال*. The word *الضرر* It's the opposite of the word *النفع* Which etymologically means eliminating benefits, can mean *الفساد* (damage). In terminology, it means to inflict harm on others.ⁱ Adapun *يزال*. Etymologically derived from the word *زال- يزول- زوالا* Which can be meaningful *تحول و انتقل عن مكانه* (Change and move from its place). Terminology means eliminating everything that is forbidden and leaving it.ⁱⁱ From this understanding, it can be understood that the rules *الضرر يزال* It is a rule that means all forms of harm must be eliminated either before it occurs or after.ⁱⁱⁱ

Dari pengertian kaidah *الضَّرَرُ يُزَالُ* tersebut di atas, maka kemudian ada tiga istilah yang saling berkaitan dengan kaidah *الضَّرَرُ يُزَالُ*, yaitu istilah ad-Dharar atau ad-Dhirar, darurat dan rukhsah.

a. Ad-Dharar/ad-Dhirar

Ad-Dharar in the sense of language can mean as *إسم للأذى* Which means the danger of the opponent from the benefits *النفع* Which can mean "inflicting damage to others". In terms

of meaning the term is not much different from the meaning of the language, which is "something that causes damage to others". In the view of Muhammad Husayn Abdullah, dharar or mudarat is the opposite of the word al-naf'u or benefit. For him, this understanding includes when a person causes harm, both to himself and others. These two contexts, namely inflicting harm on oneself and causing harm to others as the meaning of the prophet's hadith "Lâ dharar wa lâ dhirâr". It is understood that the word dharar in this hadith is a nakirah, so it is included in a common connoted meaning.

In the view of Shaykh Taqiyuddin an-Nabhani that the scope of this dharar law, includes two things, namely; 1) that something is indeed dangerous and dangerous even though there is no khitab from al-Shari's that indicates an order to carry out or leave. Danger or harm has become a common proposition of the prohibition of causing the mudarat. 2) In general, something that has been allowed by al-Shari'a or the maker of Shari'ah, but which is permissible there is a danger, thus causing it to be a proposition for its prohibition. Because, al-Shari'ah' or the maker of sharia has prohibited a matter that can harm or cause harm, even though in general the case is still a bad law. This is based on the prophet's word. to the companions in the Battle of Tabuk, when he had passed a piece of stone, he stopped there, and the people draw water from his well.^{iv}

While the words dharar and dhirar are dharar words indicate the existence of usefulness for themselves while for others can cause danger or damage. While the word dhirar does not contain benefits for itself but causes damage to others..^v

The difference between the two is that dharar occurs accidentally, whereas dhirar occurs intentionally. Therefore, dhirar is more dangerous than dharar because dhirar occurs intentionally.^{vi} Related to that understanding, then the harm that a person imposes on him is haram, because basically a person is not the owner of himself. Similarly, it is forbidden to inflict youth upon others, and that is what is meant by dhirar, so a person must not inflict youth on himself as he is forbidden to inflict on others.^{vii}

Related to the damage or mafsadat caused by dharar or dhirar, then Izuddin Abdussalam said that mafsadat can be divided into two, namely mafsadat that God forbidden to be approached and mafsadat that Allah does not like (makruh) to do. While mafsadat or corruption that is forbidden by Allah Swt., is consisting of two tabaqat or levels namely al-kabair or major sins that are divided into kabiir or major sins, akbar or the greatest sin and the attachment of mutawassit or middle-level sin. The greatest sin is the sin of the most mafsadatnya and vice versa, the sin of kabiir is the least sin of the sin of the kabair. The sin of kabair at the lowest level will reach the mafsadah which if reduced again will reach the tingatan of minor sins (shagair) and this is the second level of the forbidden mafsadat. Furthermore, shagaair mafsadah or minor sin at the lowest level will reach the mafsadah which if reduced again will reach the highest level of mafsadat makruh and mafsadat makruh the lowest will reach the limit of the loss of the mafsadat, thus entering the category of calamity..^{viii}

Related to the description above, then actually the hope is divided into three forms, namely; 1) the expectations that have been approved by the makers of sharia, such as the application of hudud, the application of qishash law, the application of ta'zir punishment, textually, the three forms of harm in nature will still bring benefits to humans. 2) The

impediability that occurs and afflicts humans that are difficult to avoid (تَعْمُّمٌ بِهِ الْبَلْوَى). For example, smoke coming out of vehicles and the sound of horns on public roads, this form of harm is a misfortune that can be tolerated because it is almost impossible to eliminate it. Another example is in the matter of buying and selling where someone who sells apples one basket then it can not be 100% sure that the apple is all good. 3) The misfortune that befell a person but he has forgiven the one who gave him the pleasure, for example, a woman who will marry a poor man, where the wife will get a blessing because of her poverty, but if the guardian gives her pleasure then it is not a problem. 4) the forbidden impedige, which is aside from the three types of impediability above.

Among the rules of derivative rules الضَّرَرُ يُزَالُ This means dharar / dhirar or mudarat which has been classified by Shalih bin Ghanim al-Sadlan in his book entitled Al-Qawâid al-Fiqhiyah al-Kubra wa Mâ Tafarra'a Anha, into 7 derivative rules, namely:^{ix}

الضَّرَرُ يُدْفَعُ عَلَى قَدْرِ الْإِفْكَانِ، الضَّرَرُ لَا يُزَالُ بِمَثَلِهِ، إِذَا تَعَارَضَ مَفْسَدَتَانِ رَعَى أَعْظَمَهُمَا ضَرراً بِإِزْتِكَابِ أَحَقِّهِمَا، يُجْتَمَلُ الضَّرَرُ الْخَاصُّ لِدَفْعِ الضَّرَرِ الْعَامِّ، الضَّرَرُ الْأَشَدُّ يُزَالُ بِالضَّرَرِ الْأَخْفِ، وَدَرءُ الْمَفَاسِدِ أَوْلَى مِنْ جَلْبِ الْمَصَالِحِ، بِمَحْتَمَلِ الضَّرَرِ الْخَاصِّ لِدَفْعِ ضَرَرِ عَامٍ

If good is one of the goals of the lowering of sharia to man, which must be realized, then mudarat is part of the purpose of religion that must be eliminated because if the mudarat is not eliminated, then it will be the cause of the difficulties of human life in the world. Therefore, the problem of youth or difficulties in human life is something of the essence to be eliminated, which is why the Nash Qur'an and hadith legitimize efforts to eliminate mudarat or difficulty. Among the verses and hadiths that recommend that the youth or difficulty be eliminated is contained in the Qur'an.;

a) QS. al-Baqarah/2: 233

لَا تُضَارَّ وَالِدَةٌ بِوَلَدِهَا وَلَا مَوْلُودٌ لَهُ بِوَالِدِهِ

"Do not let a mother suffer because of her child and not a father because of his child..^x

b) QS. al-Baqarah/2: 231.

وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَبَلَغْنَ أَجَلَهُنَّ فَأَمْسِكُوهُنَّ بِمَعْرُوفٍ أَوْ سَرِّحُوهُنَّ بِمَعْرُوفٍ ؕ وَلَا تُمْسِكُوهُنَّ ضِرَارًا لِيَتَعْتَدُوا...

And when you divorce your wives, and until the end of their wives, hold them in a good way, or divorce them in a good way. And do not hold them with the evil intention of abusing them..^{xi}

c) QS. al- Ṭalāq/65: 6

أَسْكِنُوهُنَّ مِنْ حَيْثُ سَكَنْتُمْ مِنْ وَجْدِكُمْ وَلَا تُضَارُّوهُنَّ لِتُضَيِّقُوا عَلَيْهِنَّ

Place them where you live according to your abilities, and do not trouble them to constrict them..^{xii}

d) QS. al-Nisā/4: 12

مَنْ بَعْدَ وَصِيَّةٍ يُوصَى بِهَا أَوْ دَيْنٍ غَيْرَ مُضَارًّا

After fulfilling the will made by him or after being paid his debt by not giving mudharat (to the heirs).^{xiii}

e) QS. al-Taubah/9:107

وَالَّذِينَ اتَّخَذُوا مَسْجِدًا ضِرَارًا وَكُفْرًا وَتَفْرِيقًا بَيْنَ الْمُؤْمِنِينَ وَإِزْوَادًا لِمَنْ حَارَبَ اللَّهَ وَرَسُولَهُ مِنْ قَبْلُ وَلَيَحْلِفُنَّ إِنْ أَرَدْنَا إِلَّا الْحُسْنَىٰ وَاللَّهُ يَشْهَدُ إِنَّهُمْ لَكَاذِبُونَ

And (among the hypocrites) there are those who set up mosques to cause harm(to the believers), for unbeliefiing and to divide between the believers and to wait for the coming of those who have fought Allah and His Messenger for a long time. They swore, "We have nothing but good." And Allah bears witness that they are liars..^{xiv}

f) QS. al-Baqarah:2/195

وَأَنْفِقُوا فِي سَبِيلِ اللَّهِ وَلَا تُلْقُوا بِأَيْدِيكُمْ إِلَى التَّهْلُكَةِ وَأَحْسِنُوا إِنَّ اللَّهَ يُحِبُّ الْمُحْسِنِينَ

And spend it in the way of Allah, and do not throw yourself into perdition, and do good, for Allah loves those who do good..

If surah al-Baqarah/2:233 speaks of harm or hardship that must be eliminated in a mother and father suffering because of their child, then QS. al-Baqarah/2:231 speaks of the harm caused by divorcing wives because of the evil intention of abusing them. While QS. al-Ṭalāq/65:6 describes the harm caused by placing wives in troublesome dwellings. As for QS. al-Nisā/4:12 advises against harming the heirs for paying the heir's debt. It's different from QS. al-Taubah/9:107 where this verse explains the danger or harm of the munafiq. While in QS al-Baqarah /2:195 is a verse that emphasizes the importance of protecting yourself from destruction that can threaten life, reason, descendants and property. From a variety of youth including the dangers of covid 19.

While the hadith proposition that can be used as the basis for the need to eliminate harm is the hadith narrated by the friend Abū Sa'īd al-Khudrī r.a.:

عَنْ أَبِي سَعِيدٍ سَعْدِ بْنِ مَالِكِ بْنِ سِنَانَ الْخُدْرِيِّ -رَضِيَ اللَّهُ عَنْهُ- أَنَّ رَسُولَ اللَّهِ -صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ- قَالَ: (لَا ضَرَرَ وَلَا ضِرَارَ) حَدِيثٌ حَسَنٌ، رَوَاهُ ابْنُ مَاجَهَ وَالذَّاهِقِيُّ وَعَبْدُ اللَّهِ مُسْنَدًا، وَرَوَاهُ مَالِكٌ فِي الْمَوْطَأِ مُرْسَلًا عَنْ عَمْرِو بْنِ يَحْيَى عَنْ أَبِيهِ، عَنْ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَأَسْفَطَ أَبُو سَعِيدٍ، وَلَهُ طُرُقٌ يُقَوِّي بَعْضُهَا بَعْضًا^{xv}.

From Abū Sa'īd Sa'ad bin Mālik bin Sinān al-Khudrī r.a. that the Prophet said: Neither can do ḍarar nor should it do ḍirār. Hasan Hadith, narrated by Ibn Mājah, Dāruqutni and besides musnad and Imam Malik narrates in the book Muwaṭṭa mursally from 'Amr bin Yaḥyā from his father from the Prophet, without mentioning Abū Sa'īd. This hadith has several paths that strengthen each other. Ad-Darurat

Ad-Emergency etymologically according to Ibn Mansur is al-Idtirar which can mean a very urgent need..^{xvi} While according to the term jurispruding is defined by an expression, that is;

إِسْمٌ لِلْحَالَةِ الْمَلْجَأَةِ لِإِقْتِرَافِ الْمَحْظُورِ الْمَمْنُوعِ فِي الشَّرْعِ بِحَيْثُ بَحِثُ إِذَا لَمْ يَرْتَكِبِ الْمَكْلَفَ الْمَحْظُورَ تَعَرُّضَ لِلْمَهْلِكِ أَوْ لِضَرَرٍ جَسِيمٍ

A condition is forced to do what is forbidden and forbidden by sharia because if mukallaf does not do the forbidden thing then he will be faced with death or physical harm..

Based on the definition above, it can be concluded that an emergency is a difficulty experienced by humans and is very influential in the stability of life because it can threaten and endanger human life that is covered by threats to religious teachings, the safety of the soul, the health of reason, the survival of offspring, the security of property and the guarantee of human honor. On the other hand, the existence of an emergency indicates the elimination of the law and the emergency itself where the emergency can be divided into five forms, namely;^{xvii}

a. An emergency that indicates the condition of a person who, if not getting help, can cause death. An example is a man who is starving, causing his face to turn pale, his body can tremble and sweat coldly. Emergency conditions like this cause the fulfillment of emergency levels so that it is permissible to eat illegal food.

b. Hajat or a condition that causes a person to need help and if not immediately helped, can cause fatigue, but not to death. In such circumstances, the person cannot allow the forbidden goods to be eaten.

c. The benefit, namely the interest of man to make his life more worthy, therefore, the law is applied based on what is the law because actually the law brings benefits. Examples are eating staple foods that include rice, fish, vegetables, side dishes and so on. d. Zinah, is a need that causes a person to eat something simple, even though he wants a good meal with a fancy side dish.

e. Fudul, is a need where a person eats enough, but he still wants to eat more. Under these conditions, a person can eat haram or syubhat.

Related to the description above, Abdul Qadir Audah explained that the emergency that causes a person to do an illegal act if fulfilled four things, namely; 1) if he is in a serious condition that is feared to endanger his life or his limbs. 2) a condition or circumstance that is very serious, so it can no longer be delayed to deal with it. An example is if a person who is in a state of hunger cannot eat a carcass unless he has been in a dangerous condition if he does not eliminate his hunger. 3) The solution in overcoming the emergency is no other way but to commit illegal acts. 4) Emergency conditions should only be overcome by doing or taking according to the level of his needs only for the purpose of maintaining his life).^{xviii}

Among the rules that mean emergency, among others, are rules that explain the emergency condition of the emergency of a forbidden emergency, the emergency must be adjusted to the level of emergency, the emergency does not eliminate the rights of others, the need to occupy the place of emergency either general or special emergency, emergency conditions allow other conditions.

الضرورات تبيح المحظورات, الضرورات تقدر بقدرها, ما أبيع للضرورة يقدر بقدرها, الإضطراب لا يبطل حق الغير, الحاجة تنزل منزلة الضرورة عامة

كانت أو خاصة, يجوز في الضرورة ما يجوز في غيرها

1. The rules of the above emergency underlie the ability to leave the law of azimah by turning to the law of rukhsah, here are some verses and hadiths that legitimize the emergency condition.

QS. Al-Baqarah: (173);

إِنَّمَا حَرَّمَ عَلَيْكُمُ الْمَيْتَةَ وَالدَّمَ وَلَحْمَ الْخِنْزِيرِ وَمَا أُهْلِيَ بِهِ لَعَنَ اللَّهُ فَمَنْ اضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَلَا إِثْمَ عَلَيْهِ إِنَّ اللَّهَ غَفُورٌ رَحِيمٌ

Allah only forbids for you carcasses, blood, pork, and animals which (when slaughtered) are called (names) other than Allah. But whoever is compelled (to eat it) while he does not want it and does not exceed the limit, then there is no sin for him. Surely Allah is merciful.

2. QS. Al-An'am: (145)

قُلْ لَا أَجِدُ فِي مَا أُوحِيَ إِلَيَّ مُحَرَّمًا عَلَى طَاعِمٍ يَطْعَمُهُ إِلَّا أَنْ يَكُونَ مَيْتَةً أَوْ دَمًا مَسْفُوحًا أَوْ لَحْمَ خِنْزِيرٍ فَإِنَّهُ رِجْسٌ أَوْ فِسْقًا أُهْلِيَ لَعَنَ اللَّهُ بِهِ فَمَنْ اضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَإِنَّ رَبَّكَ غَفُورٌ رَحِيمٌ وَمَا لَكُمْ أَلَّا تَأْكُلُوا مِمَّا ذُكِرَ اسْمُ اللَّهِ عَلَيْهِ وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ إِلَّا مَا اضْطُرَّرْتُمُ إِلَيْهِ وَإِنْ كَثُرَ الْبُضُلُونَ بِأَهْوَائِهِمْ يَعْزِبُ عَلَيْهِمْ إِنَّ رَبَّكَ هُوَ أَعْلَمُ بِالْمُعْتَدِينَ

3. He said, "I have nothing in revelation revealed to me, anything forbidden to those who want to eat it, unless it is a carcass, or blood flowing or pork because it is filthy or an animal slaughtered in the name of anything other than Allah. Whoever is in a state of commute, while he does not want it and does not exceed the limit, then surely your Lord is Merciful again." He said, "I have nothing in revelation revealed to me, anything forbidden to those who want to eat it, unless it is a carcass, or blood flowing or pork because it is filthy or an animal slaughtered in the name of anything other than Allah. Whoever is in a state of commute, while he does not want it and does not exceed the limit, then surely your Lord is Merciful again." He said, "I have nothing in revelation revealed to me, anything forbidden to those who want to eat it, unless it is a carcass, or blood flowing or pork because it is filthy or an animal slaughtered in the name of anything other than Allah. Whoever is in a state of commute, while he does not want it and does not exceed the limit, then surely your Lord is Merciful again

."QS. Al-Nahl: (115).

إِنَّمَا حَرَّمَ عَلَيْكُمُ الْمَيْتَةَ وَالدَّمَ وَلَحْمَ الْخِنْزِيرِ وَمَا أُهْلِيَ لَعَنَ اللَّهُ بِهِ فَمَنْ اضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ

b. Allah only forbids you (eating) carcasses, blood, pork and what is slaughtered by saying a name other than Allah; But whoever is forced to eat it without persecution or not beyond the limits, Allah is merciful.

Rukhsah

Understanding rukhsan in language among others means البسر والسهولة or ease and relief, as understood in this statement ^{xix} رخص لنا الشارع في كذا ترخيصا. Sementara secara istilah terdapat beberapa definisi yang diberikan oleh ulama usul, antara lain definisi yang dikemukakan oleh Wahbah Zuhaily dalam kitabnya yang berjudul "Ushul al-Fiqh al-Islamy", yaitu While in terms there are several definitions given by scholars of the proposal, among others the definition put forward by Wahbah Zuhaily in his book entitled "Ushul al-Fiqh al-Islamy", namely:^{xx}

هي الحكم الثابت على خلاف الدليل لعذر

While the definition put forward by Imam al-Thufi, as in the book "al-Rakhshu al-Shari'yyah wa Istbatuha bi al-Qiyas" by Abdul Karim bin Ali bin Muhammad al-Namlah is described as barikut While the definition put forward by Imam al-Thufi, as in the book "al-Rakhshu al-Shari'yyah wa Istbatuha bi al-Qiyas" by Abdul Karim bin Ali bin Muhammad al-Namlah is described as;^{xxi}

ما ثبت على خلاف دليل شرعي لمعارض راجح

Both defenisi indicate that rukhsah is a legal provision that is contrary to the legal provisions that have been established in a kulli that apply to all mukalaf without exception, such as prayer and fasting that are generally accepted regardless of the situation and conditions experienced by an mukalaf. Similarly, the prohibition of carcasses, and pork in all conditions..^{xxii} Therefore, rukhsah means more exclusion from the laws that are appointed by kulli and generally applicable. In the Qur'an the word rukhsah is not mentioned directly but the Qur'an uses another term with the same meaningful emphasis that is the lightening or ability of a person to leave difficult circumstances or circumstances that cause the emergence of mudarat. Here are some of the arguments as the basis of this rukhsah law.

God's Word QS. Al Baqarah/2: 185.

يُرِيدُ اللَّهُ بِكُمُ الْيُسْرَ وَلَا يُرِيدُ بِكُمُ الْعُسْرَ

He said, "God wants you to have ease, and he does not want you to endure difficulties."^{xxiii}

God's Word QS. Al Baqarah/2: 286. (2

God does not burden a person except according to his ability...^{xxiv}

يُرِيدُ اللَّهُ أَنْ يُخَفِّفَ عَنْكُمْ...

God wants to give you light...^{xxv}

1) The above verses explain that Allah wants leniency for his servants and does not want the distress behind the shari'ah that Allah imposes on His servant, Allah will not be able to burden a servant beyond the limits of the servant's ability. As for the legitimacy of hadith against the existence of rukhsah in the expression of worship, among others, described in several hadiths of the prophet, namely;

إِنَّ الدِّينَ يُسْرٌ.. Şaḥīḥ al Bukhārī hadith to 39

This religion is easy....^{xxvi}

2) Şaḥīḥ al Bukhārī hadis ke 2873

يَسْرٌ وَلَا تُعَسِّرُ وَبَشِيرٌ وَلَا تُنْفِرُ

This religion is easy....^{xxvii}

The mention of rukhsah in the hadith proves that the gift of rukhsah has actually been imposed by the Prophet Muhammad (peace be upon him), but the use of rukhsah in the early generations that is in the time of companions has not been given a clear understanding of the meaning of rukhsah. But in the period after the difference arises then rukhsah means light, easy or easy. These obstacles may be understood considering that scientific codification is still not running let alone the discourse that develops only

limited to standard things because the interaction of science and social problems has not arisen.

The types of waivers granted by sharia, generally divided into two, namely; First, *التخفيف الأصلي* That is the light that already existed when this shari'ah was revealed. For example, it is easy for man that the origin of all things is permissible. Second *التخفيف الطارئ* That is the new ease that arises after the presence of *uzur* from the condition of *mukallif* which is different types. This second type of lightening consists of several types: *تخفيف الإسقاط* rukhṣah with the meaning of abortion obligations, such as friday prayers, Hajj, Umrah, and jihad. If all this work cannot be done due to the existence of *udzur* with the provisions, then the Shari'ah tolerates by removing these obligations. For Friday prayers are replaced with *zhuhur* prayers as on a normal day. Other examples such as not praying for women who are menstruating or postpartum. *تخفيف التنقيص* rukhṣah with a reduction in the quantity of work, as allowed to make a sacrifice for the traveler, before becoming a traveler he must perform the prayer *duhur* or *ashar* as much as four rakaat, but after he is on the way, then the obligation of the four rakaat is reduced to two rakaat by means of *dīqāṣar*. *تخفيف الإبدال* rukhṣah with replacement, for example, bathing and ablution can be replaced with *tayamun*. The obligation of standing in prayer can be replaced by sitting, sitting in prayer can be replaced by lying down prayer, and lying down can be replaced with a gesture. Likewise, the obligation to free slaves in *karafat* can be replaced by fasting 2 months, or replacing the obligation of fasting by feeding sixty poor people. All of the above forms of "replacement" can be done if we experience *udzur*. *تخفيف التقديم* rukhṣah with precedence. For example in *jama' takdim*, *ashar* prayer can take precedence at the time of *huhur*, *shlat isya'* can be done at the time of *maghrib* prayer when on the way or in a state of heavy rain.

تخفيف التأخير that is, the ease of leniency in a way that is served, such as; Pay ramadan fasting for the sick in another month, perform *jama' ta'khir* prayer for people who travel because they bring *masyaqqah* on their journey. *تخفيف الترخيص*, That is, leniency because of rukhṣah, such as eating and drinking that is forbidden in a state of force, because otherwise it can bring death. *تخفيف التغيير* that is, relief in the form of changing the way it is done, such as praying at the time of *khauf* (worry), for example at the time of war.^{xxviii}

While in the case of ease the scholars have also mentioned the reasons that cause the existence of facilities or rukhsah, among others are:

a. Traveling (*سَفَرٌ*), For example, it is permissible to leave fasting for those who are traveling, it is permissible to pray *qāṣar* and make two prayers while traveling.

b. Sick conditions (*الْمَرَضُ*), allowed to do *tayammum* when it was difficult to use water because of illness, *fardhu* prayer while sitting, breaking the fast in Ramadan with the obligation to make up after being healthy. It is permissible to leave Friday prayers in congregation when you are sick.

c. Forget (*النِّسْيَانُ*), ie someone who forgets to eat and drink during fasting.

d. A state of compulsion (*الْأَعْرَاضُ*), namely someone who is threatened by another person to break the fast of Ramadan, thereby endangering his life, or a person who is

forced to say a sentence of kufr because his life is threatened.

e. Ignorance (الْجَهْلُ), namely someone who has just converted to Islam trades with the practice of usury because of his ignorance.

f. Common difficulties (عُمُومُ الْبَلَوَى), such as dust flying on the roads, make it impossible for people to avoid them.

g. Inability to act legally (النَّفَقُصْنُ), that is, insane people and small children are not obliged to pray, fast, pay zakat and perform Hajj because of their inability.

The rules related to the law of rukhsah, among others, are

إِذَا ضَلَّقَ الْأَمْرُ اتَّسَعَ وَإِذَا تَسَّعَ الْأَمْرُ ضَلَّقَ، وَإِذَا تَعَذَّرَ الْأَصْلُ يَصَارُ إِلَى اللَّبْدَلِ، مَا جَازَ لِعَذْرِ بَطْلِ بَزْوَالِهِ

Analysis of the Validity of fatwa Covid 19 through the rule ad-Dharar Yuzalu Understanding and Nature of Fatwa Covid 19 Origin of the word fatwa comes from the Arabic namely al-fatwa, with the plural form fatawa, which means advice, advice, answer to legal questions, opinions in the field of law.^{xxix} While in Hans Wehr as quoted Rifyal Ka'bah in A. Dictionary of Modern Written Arabic, that fatwa is interpreted as "official legal opinion" or opinion in the field of law.^{xxx} In terminology fatwa is interpreted as an opinion about a law in Islam which is a response or answer to a question asked by the fatwa requester and does not have the binding power.^{xxxi}

The general understanding of the word fatwa can be understood as a legal opinion based on sharia rules on issues raised by a person or group whose nature does not have binding power. This understanding is the conclusion of various definitions that have been put forward by Islamic jurists. For example; Yusuf Qardhawi interprets a fatwa in a syara' way as to explain syara' law in a problem as an answer to a question from an individual or a collective whose identity is clear or not. According to al-Jurjani, fatwa comes from al-fatwa or al-futya. which means the answer to a problem (musykil) in the field of law. Zamakhsyari argues that terminologically a fatwa is an explanation of syara' law about a problem to a person or group's question. According to ash-Syatibi, fatwa in the sense of al-ifta means information about sharia law which is not binding to be followed.^{xxxii} In the science of jurisprudent proposal, fatwa means the opinion expressed by a mujtahid or fakih as an answer proposed by the fatwa caller in a case that is not binding.^{xxxiii}

From this understanding, there are two natures of fatwa that are characteristic in fatwas, namely; 1) Fatwa is responsive, which is a fatwa issued as a legal opinion on a question or fatwa request (based on demand). 2. in terms of the power of law, the nature of this fatwa as a legal answer that is not binding on people who ask for fatwas (mustafti), both individuals, institutions, and the wider community does not have to follow the contents or laws given to him. This is because fatwas are not binding as the court ruled (qadha). It could be that a mufti's fatwa somewhere is different from another mufti's fatwa in the same place. If this fatwa is adopted into a court decision then then it has binding legal force especially if it is adopted into a positive law.^{xxxiv}

Therefore, the formalization group of Islamic law fatwas is of the view that the structural approach will have more power that binds the covid 19 fatwa, so that the legal power against the implementation of the covid 19 fatwa is considered more effective against efforts to improve the community's living system that ignores the dangers of

covid 19. Fatwa covid 19 actually has a close relationship with the community because it has characteristics such as takamul, tasamuh and harakah that are able to maintain its existence in the community.^{xxxv}

2. Esensi Fatwa Covid 19

The Indonesian Ulema Council (MUI) issued two important points for the issuance of the COVID-19 fatwa, namely eliminating harm or danger that could threaten human life and eliminating harm or danger that could threaten offspring. Eliminating harm or danger means that by itself has realized the benefit of life for humans.^{xxxvi} Therefore, the Indonesian Ulema Council (MUI) as a fatwa institution in Indonesia has issued 7 types of fatwa covid 19 which are all intended to eliminate mudarat and realize benefits for humans that include maintaining the soul and maintaining offspring.

Protecting the Soul from the Dangers of Covid 19

Nurturing the soul in the context of maqashid al-sharia contains several notions, the word an-nafs can mean soul and can mean life. The content of meaning contained in the word an-nafs can be potential when humans strive. Actualization of an-nafs forms personality, whose development is influenced by internal and external factors..^{xxxvii} In other words, that the guarantee of the salvation of the soul is the guarantee of the salvation of the honorable and noble right to life. Included in the scope of the general understanding of this guarantee, among others, is the guarantee of the safety of life, limbs and the guarantee of humanitarian honor.

More clearly it can be said that the guarantee of the salvation of the soul is the guarantee of salvation of the honorable and noble right to life, including in the scope of the general understanding of this guarantee, is: the guarantee of the safety of life, limbs and the guarantee of human honor. About the latest, including the limitations of choosing a profession, freedom of thought or opinion, freedom of speech, freedom to choose where to live and so on..^{xxxviii}

Therefore, maintaining the soul according to the rank of its importance can be divided into three levels, namely; 1) Maintaining the soul at the daruriyat level is fulfilling all the needs and basic needs of food and drink to sustain life. If these needs and needs are not met, they can threaten human life. 2) Maintaining the soul at the level of hajj is usually exemplified by allowing the hunting of animals to then enjoy its delicious meat. If this act is ignored then it does not threaten the existence of man but will only complicate his life. 3) Nourishing the soul at the level of tahnisiyat as established by the ordinance of eating and drinking. The issue of tahniyyat actually only relates to the issue of decency and will not threaten the life of any human being or can complicate human life..^{xxxix}

Related to covid 19 which has caused many fatalities, both due to negligence and intentionality. The rule of ad-dharar yuzalu teaches parents not to commit suicide, deliberately violating health protocols on the grounds of pursuing the primacy of worship when there are children who need the protection of their parents. If a parent dies from covid 19, it is certain that the children he left behind will have difficulty in continuing their lives. That is why the prophet reminded worshipers not to be too busy

in worship but to forget social responsibility to family and others, as the prophet's hadith did;

ليس الرحيم من يرحم نفسه حفصة ولكن الرحيم من يرحم نفسه وغيره

A person who worships the dangers of covid 19 and then infected and returned to his family and infects the children of wives / husbands or other families, then negligence is the same as intentionally killing others, killing one soul likened to the Qur'an by killing many souls. Preferably, guarding yourself from the dangers of covid 19 means also taking care of the family and likened by the Qur'an to taking care of the soul as a whole, such as the affirmation of QS al-Maidah; 5/32.

مَنْ أَجَلَ ذَلِكَ كَتَبْنَا عَلَىٰ بَيْتِ إِسْرَائِيلَ أَنَّهُ مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا وَمَنْ أَحْيَاهَا فَكَأَنَّمَا أَحْيَا النَّاسَ جَمِيعًا

He said, "Whoever kills a man, not because he killed another man, or because he caused damage to the earth, it is as if he has killed all mankind." And whoever preserves the life of a man, it is as if he had preserved the life of all men.

Eliminating the youth or difficulties that can threaten offspring Keeping and maintaining offspring is a form of worldly benefit and ukhrawi benefit because maintaining and maintaining the offspring aims to ensure the survival of humans from generation to generation. That is why, Islamic sharia always gives his view of the importance of maintaining the human instinct to continue the development and regulate the maintenance of offspring. In Islam the issue of nurturing offspring and granting the rights of children and guarding their souls is a very important teaching, because the child is the beginning and the slowness of human development. Therefore, Islam encourages men and women to continue their offspring by marriage and Islam also recommends choosing the best life partner by always paying attention to his religion because living couples who always pay attention to religious values become the basis of the formation of their religion.

Likewise, the fetus in the womb of a mother has rights that must be considered by parents during this pandemic, namely by protecting the fetus from various things that can endanger and threaten the safety of the mother from the dangers of transmission of covid 19. During pregnancy, a mother must be careful Be careful in breastfeeding your child because it is feared that the mother can be infected with covid 19, even though during the pandemic a mother must still try to breastfeed her child for two years, parents only take care of the mental and psychological health of a child by diligently cleaning the environment to avoid the danger of spreading covid 19 , in this pandemic period, parents must continue to provide the best education to their children by not allowing them to take offline lessons but directing their children to take online lessons for the safety of the child. And the most important obligation of parents during this pandemic is to pay attention to getting along with the surrounding environment while still not neglecting the health and safety of these children.

Therefore, the principle of keeping offspring contained in the rule of ad-dharar yuzalu teaches that our offspring are the next generation of parents, so that children must get care and supervision from the dangers of covid 19, a husband / wife must maintain health protocols by ensuring he is safe if he wants to fulfill obligations to his partner.

Even the Qur'an educates every parent not to be afraid of the dark in this pandemic period by still convinced and trying that there is always a way from Allah to give reski to humans, as in QS al-An'am/6151.

وَلَا تَقْتُلُوا أَوْلَادَكُمْ مِنْ إِفْلَاقٍ نَحْنُ نَرْزُقُكُمْ وَإِنَّهُمْ

And do not kill your children for fear of poverty; We will give you and to them. Meanwhile, it is well realized that the covid 19 fatwa that uses the application of the rule ad-dharar yuzalu which emphasizes the importance of eliminating mudarat or dangers that can be life-threatening and threatening to children requires parents and children to stay at home, as a result of which the family's economic life is in decline because parents can no longer make a living outside the home. Thus, there are two young people who face each other, namely staying at home to find safe from the dangers of covid 19 on one side and on the other hand can threaten the lives of parents and children due to hunger, then in this case used rules *إذا تعارض مفسدتان رعى أعظمهما ضررا بارتكاب أحقهما*, That is, when we are faced with two choices where both have their youthful side, then we must choose one whose youth value is smaller and lighter and parents can be creative in trying to make a living to maintain their lives.

However, in this new era, the Indonesian Ulema Council (MUI) has again issued a COVID-19 fatwa by allowing worshiping in mosques to return to work and allowing them to return to work outside the home by emphasizing the importance of maintaining distance, washing hands and wearing masks. These three efforts are believed to be the best way to maintain religion and protect property but protect the soul but become a priority in worship and work, that's why the application of health protocols in worship by keeping a safe distance, wearing a mask in prayer is rukhsah which is justified by Islam.

In this new era, an important step taken by the government in eliminating the danger of covid 19 which threatens life and offspring is to vaccinate the community, but this vaccination policy is still have positive and negative response in the community because there are various negative assumptions about the vaccine that the vaccine can actually threaten human life because there are bodies that cannot accept and neutralize the vaccine content, there is even an assumption that the vaccine contains pork oil which can threaten the existence of religion. Therefore, the role of the Ulama Council as a fatwa institution is needed to ensure the existence of the vaccine for the safety of the human soul and the preservation of the existence of religion in human life.

CONCLUSION

Based on the description above, there are two points that can be concluded in this paper, namely; First, The ad-dharar yuzalu rule is a basic rule that emphasizes the need to eliminate harm or difficulties in the life of a servant. The ad-dharar yuzalu rule raises three interrelated terms, namely dharar or dharar, emergency and rukhsah. Second, The validity of the covid 19 fatwa can be accepted as an application for legal istinbat because the ad-dharar yuzalu rule is legitimized by the Qur'an and hadith and emphasizes the aspect of human safety where human safety is at the core of the purpose of the Shari'ah revealed by Allah SWT.

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ⁱMuhammad Mustafā al-Zuhaili, *al-Qawā'id al-Fiqhiyyah wa Tatbīqihā Fī al-Mazāhib alArba'ah*. Juz 1 (Cet II; Dimasyq: Dār al-Fikr, 2006M), h. 199.

ⁱⁱMuhammad Ruwwas Qal'ajiy dan Hamid Sādiq Qunaiby, *Mu'jam Lughah al-Fuqahā*, (t.t: Dār al-Nafais, 1408 H/ 1988 M), h. 56.

ⁱⁱⁱMuhammad Ṣidqī bin Aḥmad bin Muḥammad Al-Būrnū al-Ghuzzi, *Mausū'ah al-Qawā'id al-Fiqhiyyah*. Juz 6 (Cet I; Beirut: Muassasah al-Risalah, 2003), h. 261.

^{iv}Ali ibn Umar, *Sunan Al-Darqutni* (Cet.01; Bairut: Muassasah Al-Risalah), Jilid.04 No.3079, h. 51.

^vAbu al-Husayn Ahmad ibn Zakariyya ibn Faris, *Mu'jam Maqayis al-Lughah* (Beirut: Dar al-Fikr, 1979), h. 360.

^{vi}Ahmad Syaikhu, *Syarah Arbain An-Nawawi, Penjelasan 42 Hadis Shahih Tentang Pokokpokok Ajaran Islam*, terjemahan dari kitab Muhammad bin Ṣālih al-Uṣaimīn, *Ad-Durrah as-Salafiyah Syarh al-Arba'in al-Nawawiyah* (Cet. X, Jakarta: Darul Haq, 2016) h. 325.

^{vii}Abū al-Asybal Hasan al-Zuhairiy al-Manṣuriy al-Miṣriy, *Syarh Kitab al-Ibānah min Uṣūl alDiyānah*, Juz 34. t.t.: t.p., t.th., h. 25.

^{viii}Muhammad Abu Zahrah, *Ushul al-Fiqhi* (Mesir: Dār al-Fikr al-Arabi, 1958), h. 560.

^{ix}Shalih bin Ghanim al-Sadlan, *Al-Qawā'id al-Fiqhiyah al-Kubrā wa Mā Tafarra'a Anhā* (Riyad: Dar Balansiyah Linnasyr wa al-Tawzi, 1417), h. 506-507.

^xKementerian Agama RI, *Alquran dan Terjemahannya* (Bekasi: PT Dwi Sukses Mandiri, 2012), h. 38.

^{xi}Kementerian Agama RI, *Alquran dan Terjemahannya*, h. 38.

^{xii}Kementerian Agama RI, *Alquran dan Terjemahannya*, h. 560.

^{xiii}Kementerian Agama RI, *Alquran dan Terjemahannya*, h. 80.

^{xiv}Kementerian Agama RI, *Alquran dan Terjemahannya*, h. 205.

^{xv}Ahmad Ibn Muhammad al-Haitamiy al-Sa'diy al-Ansāriy, *al-Fathu al- Mubīn bi Syarh al-'Arba'in*, (Cet I; Juddah: Dār al-Minhāj, 2008), h. 515.

^{xvi}Ibn Manzur, *Lisan...* h. 482.

^{xvii}Wahbah al-Zuhaili, *Nazhariyah al-Dharurah al-Syari'ah: Muqaranah Ma'a al-Qanūn al-Wadh'i* (Beirut: Muassasah Risalah, 1985), h. 246-247.

- ^{xviii}Abd al-Qadir Audah, *Al-Tasyri al-Jinaiy al-Islâmi Muqâranan bi al-Qanûn al-Wadh'i*. vol. 1. (Kairo: Dar Nasyr al-Saqafah, 1949), h. 577.
- ^{xix}Abdul Karim bin Ali bin Muhammad al-Namlah, *Rakhshu al-Syari'yyah wa Istbatuha bi al-Qiyas* (Riyadh: Maktabah Rusyd, 2001), h. 11.
- ^{xx}Abdul Karim bin Ali bin Muhammad al-Namlah, *Rakhshu al-Syari'yyah wa Istbatuha bi al-Qiyas* (Riyadh: Maktabah Rusyd, 2001), h. 11.
- ^{xxi}Abdul Karim, *Rakhshu...*, h. 31.
- ^{xxii}Amir Syarifuddin, *Ushul Fiqh I* (Jakarta: Logos Wacana Ilmu 2000), h. 321.
- ^{xxiii}Kementrian Agama RI, *Al Qur'an dan Terjemahannya*, h. 28.
- ^{xxiv}Kementrian Agama RI, *Al Qur'an dan Terjemahannya*, h. 49.
- ^{xxv}Kementrian Agama RI, *Al Qur'an dan Terjemahannya*, h. 83.
- ^{xxvi}Muhammad Ibn Isma'il al Bukhari, *Ṣaḥīḥ al Bukhārī*, Juz 1 (Cet. I; Beirut: Dār al-Fikr), h. 16.
- ^{xxvii}Hadis ini diriwayatkan pula dalam Ṣaḥīḥ Muslim no. 1733. Lihat: Ibnu Hajar al Aṣqalānī, *Fathul Bārī Syarḥu ṣaḥīḥ al Bukhārī*, Juz X, No. 5773, h. 541.
- ^{xxviii}Muslim bin Muhammad, *Al Mumti' fi al Qawāid al Fiqhiyah*, h. 174-175.
- ^{xxix}Abdul Azis Dahlan., *et.al, Ensiklopedi Hukum Islam*, Jilid 1 (Jakarta: PT. Ichtiar Baru van Hoeve, 2000) h. 326.
- ^{xxx}Lihat Rifyal Ka'bah, *Hukum Islam di Indonesia*, (Cet. I; Jakarta: Universitas Yarsi, 1998), h. 212.
- ^{xxxi}Dewan Redaksi Ensiklopedi Islam., *ed., Ensiklopedi Islam*, Jilid 2, (Jakarta: PT. Ichtiar Baru van Hoeve, 1993), h. 2.
- ^{xxxii}Yeni Salma Barlinti, *Kedudukan Fatwa Dewan Syariah Nasional dalam Sistem Hukum Nasional di Indonesia* (Cet. I; Jakarta: Badan Litbang dan Diklat Kementerian Agama RI, 2010), h. 65.
- ^{xxxiii}Abdul Azis Dahlan, *Ensiklopedia...*, h. 326-328.
- ^{xxxiv}Yeni Salma Barlinti, *Kedudukan...*, h. 65-66.
- ^{xxxv}Abdul Manan, *Reformasi Hukum di Indoensia* (Cet 1; Jakarta: Raja Grafindo Persada, 2006), h. 94-104. Manuisawi. Bandingkan dengan Abdul Halim, *Politik Hukum Islam di Indonesia* (Cet. 1; Jakarta: Ciputat Press, 2005), h. 18-25,. Lihat lebih lanjut Yusuf Qardhāwi, *Madhal li Dirāsah al-Syariah al-Islamimiyah* diterjemahkan oleh Ade Nurdin dan Riswan dalam Judul membumikan Syari'at Islam ; keluwesan aturan Ilahi untuk manusia (Cet. 1; Bandung; Mizan, 2003), h. 94-160.
- ^{xxxvi}Terkait dengan kemaslahatan hidup manusia, maka al-Ghazaly menjelaskan bahwa yang menjadi inti pokok dari apa yang dimaksud dengan maslahat adalah segala bentuk perbuatan yang mengacu kepada terpeliharanya lima kebutuhan paling mendasar bagi manusia yaitu menjaga agama, menjaga jiwa, menjaga akal, menjaga keturunan dan menjaga harta. Al-Ghazaly, *al-Mustashfa fi Ilm al- Ushul I* (Beirut: Dar al-Kitab al-Ilmiyah, 1983), h. 286.
- ^{xxxvii}Abdul Mujib, Yusuf Mudzakir, *Nuansa-nuansa Psikologi Islam* (Jakarta: PT. Raja Grafindo Persada, 2003), h. 46
- ^{xxxviii}Muhammad Abu Zahrah, *Ushul Fiqh* (Jakarta: PT. Pustaka Firdaus, 2010), h. 425.
- ^{xxxix}Sapiudin Shidiq, *Ushul Fiqh* (Jakarta: Kharisma Putra Utama, 2011), h. 228