

## EVALUATING THE PREVENTIVE MEASURES VIS-A-VIS COVID-19 PANDEMIC OUTBREAK VIA *SIYĀSAH SYAR'YYAH* (ISLAMIC PUBLIC POLICY)



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### ABSTRACT

The COVID-19 virus was discovered in Wuhan, China in December 2019 and has spread to hundreds of countries. As a result of the COVID-19 pandemic in Malaysia, thousands have died which warrant multiple preventative measures to be taken. This study will analyze recent literature studies and focusing on controls in Malaysia, and worldwide. It will further examine the Islamic jurisprudential approach of previous Muslim governments. Since public interest and the common good are protected under Shariah principle, the key sources addressing this issue were reviewed in light of *maqasid syariyyah* and Islamic public policy approaches. It will also examine the rationale for making decisions disease outbreaks based on the Quran and Hadith of Rasulullah. The findings reveal that, using Shari'ah policies is essential to making the right decision during catastrophe crisis. Malaysia's preventative measures and enforcement policies in line with the Islamic law's mandate to combat against this fatal outbreak.

**Contribution/ Originality:** This study contributes to the existing literature by identifying the jurisprudential approaches of previous Muslim governments in addressing the pandemics, using their spirit to illustrate Malaysian government decision-making. This paper also emphasizes the importance of Islamic public policy in promoting public interest.

## 1. INTRODUCTION

The world is shocked by a deadly viral pandemic known as *Novel Coronavirus* which infected and affected the respiratory tract system, spreading from Wuhan region in China at the end of December 2019 (Wu, Wu, Liu, & Yang, 2020; Xu et al., 2020). The *Coronavirus Disease* (COVID-19) was announced by World Health Organization (WHO) on 11th February 2020 (Berita Harian, 2020) as the official name of the pandemic and its spread has been confirmed to reach Malaysia on 25th January 2020 (Berita Harian Online, 2020; Joseph Sipalan, 2020). Until 27<sup>th</sup> June 2022, there are 4.56M cases with 35,754 death reported in Malaysia (Ministry of Health Malaysia, 2020). The increase in total cases of infection was very worrying, that the government through its National Security Council imposed Restriction of Movement Order (*Perintah Kawalan Pergerakan*) under Prevention and Control of Infectious

Diseases Act 1988 (Act 342) dan Police Act 1967 (Act 334). This order was enforced on 18th March until 31st March 2020<sup>1</sup> (Ministry of Health Malaysia, 2020).

Following the enforcement of the order, Mufti Departments all over the country directed that every activities involving public assembly in the mosque and surau such as congregational prayer, religious classes, religious talks and Jumu'ah prayer must be suspended during the enforcement period of the RMO. The action has invited all kinds of public reactions, whereas in spite of people's acquiescence there are groups that continue to question its rationality, bringing forth various Islamic legal evidences and authorities. Based on the above scenario, this study is conducted to assess how far is the validity of the actions taken by the government to control COVID-19 through RMO. The conceptual approach of *siyāsah shar'iyah* led by *waliyyul amr* (the ruler) in demonstrating integral wisdom through three important jurisprudential processes, i.e. *fiqh al-nuṣūṣ* (understanding naṣṣ), *fiqh al-waqī'* (understanding reality) and *fiqh al-tanzīl* (understanding application), as well as the conditions for their application will be debated and elaborated because it is an important mechanism in governing the administration of the country. For that purpose, preventive control measures that had been put into place by previous Muslim vicegerents to handle epidemic of diseases are to be analyzed in detail through the method of analysis of findings (*content analysis*) from highly regarded classical tomes on Islamic law. In addition, the basic principles of divine law contained in the primary sources (Quran and Ḥadīth of Rasulullah PBUH) as well as the principles and methodologies of Islamic jurisprudence will also be identified and elaborated with regard to its application to the issue at hand. The result of the analysis, consistent with the holistic perspective of *siyāsah shar'iyah*, is very important in evaluating and ensuring that the preventive measures taken by the government in handling current social affairs is compliant with the concept of *maqāṣid* to safeguard religion, life, intellect, lineage and property. Considering that the duties carried by government leaders are more challenging while directly facing the reality of dynamic social life, the policies that have been developed by the government and its institutions are deemed to be authoritative upon the public. Hence, based on Article 3 of the Federal Constitution that places Islam as the religion of the Federation, this study is highly significant to ensure that every action and decision made by the authoritative bodies in the course of preventing the epidemic from spreading in the community is not contradicting the core principles of Islam and Islamic law.

## 2. PLAGUE PANDEMIC IN THE HISTORY OF ISLAM: A HIGHLIGHT

Islamic history recorded some incidence of pandemic outbreak within Islamic territories, such as cholera outbreak and other infectious diseases, and how they handled the situation. Ibn Qutaybah (1996) reported that among the pandemic that had spread among the Muslims were the plague of *Amarwas* (18 H/693M), *al-Jarīf* (69 H / 688 M), *Fatayat* or *al-Ashraf* (87H /705 M), *Adiy bin Arta'ah* (100 H), *Ghurab* (127 H) and *Muslim bin Qutaybah* (131 H/748M). The plague of *Amarwas* was an endemic that spread in Sham during the reign of Khalifah 'Umar ibn al-Khattab RA during 18th Hijri year. It was known as *Amarwas* because the area where it started was a village known as Amawas, situated between Bayt al-Maqdis and the town of Ramallah in Palestine. The pandemic then spread across Sham (Syria-Palestine-Lebanon-Jordan) after the war between the armies of Muslim and Rome. The battle killed many lives to the extent that piles of decaying corpses eventually spread the outbreak by wind that blew towards Sham. According to the records of Muslim historians, the pandemic took away the lives of many Companions and eminent men, such as the chief commanders of Islam themselves like Abu Ubaidah bin al-Jarrah, Mu'az bin Jabal, Yazid bin Abi Sufyan, al Harith bin al-Hisyam, Suhail bin Amru, and Utbah bin Suhail (Al-Tabari, 1966; Ibn Al-Imad, 1986; Ibn Al-Wardi, 1996).

In 69 Hijri year, the plague pandemic of *al-Jarīf* swept through the city of Basrah during the ruling period of Abdullah ibn Zubayr. The plague was dubbed as *al-Jarīf* which means 'to sweep', because the effects of the pandemic had swept (inflicted death) as many as 214,000 lives out of the people, even though the plague was

<sup>1</sup>This order was extended until 14th April 2020.

spreading in the community only for three days (Ibn Kathir, 1988). Ibn Kathir reported that on the first day alone, a total of 70,000 were dead and during the second day the total mortalities reached 71,000. While on the third day, the cumulative death had reached 73,000 victims. Then, in the year 87 Hijri, another pandemic known as the plague of *Fatayat* swept through Iraq and Sham. *Fatayat* means teenage girls, because in the beginning the victims of this plague were among the women and teenage girls, before finally infecting men. This plague is also known as the plague of *al-Asyraf* (nobilities) because many victims who died were from among this group. After that, another Muslim plague inflicted the reign of Bani Umayyah in 131 Hijri. The plague was named after Muslim ibn Qutaibah, the first victim to die because of its infection. This plague ravaged the city of Basrah, Iraq for three months during Ramadan until it causes so many deaths, with the number of mortalities reaching one thousand victims per day (Al-Sallabi, 2020).

Several centuries later, the Islamic world was once again infected by a series of plague pandemic. Among them, the city of Baghdad fought a plague pandemic that continued for forty days in 656 Hijri. The pandemic happened as an aftermath of the attack by Tatar (Mongolian) army that destroyed the capital of the Abbasid empire, to the extent that daily prayers and Jumu'ah prayer were reportedly suspended for several months due to the spread of the plague pandemic. Baghdad turned into an abandoned field whereby only those who were mentally unfit could be seen loitering around. Total mortalities increased abruptly until the situation could no longer be handled efficiently. Consequently, corpses were left strewn about all over the corners of the land and when rain fell, once again the wind brought the plague pandemic until it reaches the region of Sham (Ibn Kathir, 1988).

Later during the reign of Mamalik in 784 Hijri, the plague of al-A'zam or the Great Plague ravaged the region of Sham and it was so terrible and spread to big cities such as Aleppo, Damshiq to Bayt al-Maqdis in Palestine, not excluding the coastal areas. In 795 Hijri, the city of Aleppo was once again ravaged by a disease known as *al-fanā' al-'azīma* that had inflicted death upon 150 thousand victims in the city and its surrounding areas. Other Muslim countries around Maghribi and Andalus were also not spared from the pandemic outbreak, just like the areas of Sham, Palestine, Basrah and Baghdad before this. In 571 Hijri, a plague pandemic had spread to Maghribi and Andalus, and inflicted death upon so many people until it reached a significant 190 thousand victims. Among those who died were four siblings of Khalifah Yusuf ibn Yaakub himself, who was the ruler of Almoravid empire (Al-Sallabi, 2020).

Based on the course of above events, pandemic or infectious disease is not anything new in human civilization because all people had encountered it as recorded in the annals of history. History has also shown that in 165 AD, five million lives were lost due to *Antonine Plague*, an infectious disease that spread in Egypt, Greece, and Italy. This disease was said to be carried through land by the Roman armies after the battle against the Mesopotamian government (Christer, 2007; Elliott, 2016). Similarly, *The Black Death* pandemic (an infectious disease originating from the rat and germ carried by commercial ships through the sea) also ravaged the continents of Europe, Africa and Asia between 1346-1353, causing the loss of 75 millions souls (Bos et al., 2011; Haensch et al., 2010; Norman, 2014). In fact, world modern history also recorded various dangerous diseases and viruses that spread among humans such as *EBOLA*, *SARS*, *Rabies*, *Dengue*, *Influenza*, *Smallpox*, *AIDS*, *HIV* and others.

### 3. CHRONOLOGY OF COVID-19 PANDEMIC IN MALAYSIA: PREVENTIVE CONTROL AND MEASURES

On 25th January 2020, Ministry of Health Malaysia reported 3 positive cases of coronavirus infection in Malaysia involving Chinese citizens who had close contact with patients tested positive for coronavirus in Singapore on 24th January 2020. Apropos, tourist visa and visa-free facilities for those who want to enter Malaysia from Wuhan and Hubei Province, China were suspended from 27th February 2020 (Latif, 2020). On 30th January 2020, a special committee for humanitarian mission was formed to bring back Malaysian citizens from Hubei Province, China. The committee was later coordinated with National Disaster Management Agency (NDMA)

alongside other ministries such as Foreign Ministry, Health Ministry, Malaysian Armed Forces (MAF) and Malaysian National Security Council (NSC).

Not so long after WHO declares coronavirus a global health emergency on 31st January 2020, Ministry of Health Malaysia placed 80 temperature scanning devices at entry points of the country starting 12th February. The test results of 550 close contacts and those who were symptomatic, which had been conducted at 18 initial laboratories, confirmed that a total of 18 persons were positive for COVID-19. Until 16th March, the cumulative total rose to 553 cases where 95 out of 125 new cases were connected to the tabligh assembly cluster at Sri Petaling Mosque. Seeing that the situation had become more worrying, Prime Minister, Tan Sri Muhyiddin Yaasin announced the Federal Government Gazette, Prevention and Control of Infectious Diseases (Measures within the Infected Local Areas) Regulations 2020 under Prevention and Control of Infectious Diseases Act 1988 (Act 342), that enforced Restriction of Movement Order (RMO) for 14 days beginning 18th March until 31st March (Daily News Online, 2020). According to the gazette, those who contravene any provision of these regulations can be fined not more than RM1,000, or imprisoned for not more than six months, or both (Azyyati, 2020).

An analysis of various other academic research found that some developing countries similarly infected by COVID-19 virus have implemented effective control measures by enforcing *Screening Test* on every tourist who want to enter their countries, to prevent new infection that might be brought by the foreign tourists into other areas which are yet infection-free (Gostic, Gomez, Mummah, Kucharski, & Lloyd-Smith, 2020; Zhicheng & Kun, 2020). The government also enforced travel restriction to citizens and permanent residents of Malaysia from travelling overseas and restricted entry of all tourists and foreign visitors into the country. For citizen and permanent resident who returned from overseas, they are allowed entry but should undergo health check and *Screening Test*, as well as quarantine themselves for 14 days. At the same time, all Malaysian citizens from the Peninsular are not allowed to fly to Sabah and Sarawak, and the opposite applies to inhabitants of Sabah and Sarawak as well. In a special media conference on 29th March 2020, Prime Minister informed that a total of 997 road blocks had been set up, more than 300,000 vehicles had been checked, 3223 premises had been inspected and some of them had been ordered to close, while non-governmental organizations (NGOs) were not allowed to deliver aid and relief directly to targeted groups to protect their members from the risk of COVID-19 infection.

Other than conducting *Screening Test*, a research carried out by Tsang and Bajpai (2020) has suggested that the requirement of *social distancing* between individuals, healthy lifestyle complemented with light exercising, eating balanced and nutritious diet, wearing mask at public places, and maintaining optimum hands and self-cleanliness, are among early prevention measures taken to avoid and break the chain of COVID-19 virus infection. Similar recommendations and ideas were raised in other studies (Chen, Tian, Li, & Li, 2020; Lai, Tang, Chau, Fung, & Li, 2020).

A study by Tracy (2020) classified the preventive measures of COVID-19 pandemic into three methods; 1) Administrative Control, including 14-days Quarantine for anyone who has the symptoms and tested positive for COVID-19 virus; 2) Environmental Care, including frequent disinfection process of public equipment and donning 3D face protector, measuring body temperature to detect any symptom; 3) Wearing face *mask*, ensuring hands cleanliness and wearing personal protective equipment (*PPE*). The method of controlling COVID-19 pandemic as they are implemented in other countries that have seen infection, also applies in Malaysia. In fact, recommendations and enforcement of disease control are also monitored from time to time. However, close collaboration and strong and continuous discipline from every walks of life are highly necessary to break the chain of COVID-19 infection from spreading further. In Malaysia, the practice of *social distancing* at home as suggested by the government are through: 1) Hand-wash frequently with soap and water; 2) Disinfect all surfaces that are frequently touched as often as possible; 3) Keep the house windows open to allow for air ventilation; 4) Practice proper etiquette during coughing and sneezing.

To ensure the success of these measures, Minister at the Prime Minister's Department (Religious Affairs) urged that Jumu'ah prayer should not be held until 31st March to break the chain of infection of the pandemic, asserting that the matter is compliant with the enforcement of Restriction of Movement Order (Daily News Online, 2020). All mosque and surau activities including congregational prayer were recommended to be suspended until the end of Restriction of Movement Order (RMO). Muzakarah Committee of the National Council for Religious Affairs Malaysia on 20th March 2020 agreed to adopt resolution that the suspension of all mosque and surau activities including Jumu'ah and congregational prayers were extended until 31st March 2020 or following any decision made by the government from time to time (Hafidzul, 2020). Subsequently, the resolution of the Muzakarah Committee of the National Council was followed by all Mufti departments nationwide.

#### 4. OBSERVATION ON THE BASIC OF SHARĪ'AH AND JURISPRUDENTIAL METHODS IN FACING THE PANDEMIC OF DANGEROUS DISEASE

Islam is a set of teachings that seek to safeguard the sustainability of human life. This statement can be established through one of the important features of Islamic legal ruling, that is by promoting ease (*taysīr*) and rejecting various elements that can bring difficulties (*raf' al-harj*). This is evident in many Quranic verses and ḥadīth of Rasulullah PBUH either in general or specific terms, prohibiting all types of harms and at the same time, ordaining avoidance of harmful situation that may threaten the maqāṣid of safeguarding life (*hiḏ al-naḑs*).

Among the Quranic verses are verse 185 surah al-Baqarah and verse 78 surah al-Hajj:

*"(And with that resolution) Allah intends every facility for you, He does not want to put you to difficulties"* (Al-Baqarah : 185).

In another quranic verse, Allah SWT stress that: *"...and strive in His cause as ye ought to strive, (with sincerity and under discipline); He has chosen you and has imposed no difficulties in you on religion..."* (Al-Hajj : 78).

There are various ḥadīths that display prohibition from inflicting harm (*ḏarar*) toward others or retaliating similar harm upon others (Al-Zarqa, 1989; Al-Zarqa, 1998). Among them:

One of the well known hadith highlights; *"Do not cause harm, nor respond to harm with harm (toward others). Those who harm (others), Allah will harm him and those who cause difficulties (upon other people's dealings), Allah will cause difficulties upon his (dealings)."*

(HR al-Hakim, in al-Mustadrak ʿala al-Sahihayn, ḥadīth no. 2345, considered ṣaḥīḥ by al-Albānī).

In another ḥadīth, a story was related about a companion named Samurah ibn Jundab, who owned a palm date tree in the garden of an Ansar man who lived there with his family. Every time when Samurah went to check his palm date tree, the man felt uncomfortable. He suggested that Samurah sell or transfer its right of ownership to him. However, the offer was rejected by Samurah. The man complained about the matter to Rasulullah PBUH. Rasulullah PBUH made the same offer again to Samurah. But he still refused to accept it. Finally, Rasulullah PBUH said to Samurah "You are someone *muḏarr* (who causes harm to another)" and instruct the Ansar to pull out the palm date tree from his garden (Abu Dawud, *Kitab al-Uqdiyah Abwab min al-qada'*, ḥadīth no. 3636).

The above ḥadīths demonstrated that every harmful action against people's life and property are prohibited. A Muslim is forbidden from using his speech, action and other causes that can bring harm to people at large, notwithstanding whether the result of the harms brings him gains for himself or not. This prohibited harm covers all types of actions, behaviors, cultures and norms being practiced in the realms of muamalat, finance, social and politics (Al-Sadlan, 1996).

Similarly, there are many authentic ḥadīths that clearly reported that Rasulullah PBUH has taken actions to prevent dangerous outbreak by implementing quarantine measures (Al-Nawawi, 2002; Al-Othaimeen, 2007) correcting misunderstanding about the spread of certain epidemic as the will of Allah SWT, while urging the

Muslims to act by the principle of “*cause and effect*” by avoiding every proven source that may cause dangerous diseases.

For example, Allah SWT in His word states to the effect that “*When any of you heard that an epidemic has spread at a place, then you should not enter it. When it breaks out at the place where you are at, then do not take flight therefrom*” (Al-Bukhari, *Bab Ma Yuzkar fi al-Ta’un*, Ḥadīth. no. 5729, daripada Abd al-Rahman bin Auf).

The above verse further strengthened by another Hadith Rasulullah SAW: “*There is no ‘adwā [contagion, transmission of infectious disease without the permission of Allah], no ṭiyārah [superstitious belief in bird omens according to direction it flies], no hāmah [an owl], and no Safar [the month of Safar was regarded as “unlucky” during the Jahiliyah. Escape from the leper as you escape from the lion]*” (Al-Bukhari, *Bab al-Juzam*, Ḥadīth no. 5707, from Abu Hurairah).

Also, the above hadith has been supported by another authentic hadith which means that: “*Do not place sick animals with the healthy*” (Muslim, *Chapter Lā ‘Adwā wa Lā Ṭiyārah wa Lā Hāmah*, Ḥadīth no. 2242, from Abu Hurairah).

In addition to that, there are a number of fiqh methodology that can be a strong basis and a good argument for a Muslim scholar in supporting the application of ijtihād method in various new issues that have not been clearly mentioned by the divine laws (Al-Borno, 2000; Al-Sadlan, 1996). In preventing infectious disease, relevant methodologies to be considered are *al-ḍarār yuzāl* (harm must be eliminated), *dar’ al-mafāsīd awlā min jalb al-maṣāliḥ* (dismissing harm is more important than inviting good), *irtikāb akhaff al-ḍarārayn* (applying the lesser harm), *idhā ta’arāḍat mafṣadatan ru’iya a’ḍahumā ḍarāran bī irtikāb akhaffīfa* (When there is a clash between two *mafsadah*, priority is given to the *mafsadah* of greater degree by applying *mafsadah* of lesser degree). These methodologies demonstrate some important summary points such as:

- i. Prohibition of action that can cause harm upon self and others.
- ii. Prioritizing avoids the effects of harm (*mafsadah*) rather than obtaining the effects of good (*maṣlaḥah*) when there is a clash between the two.
- iii. Prioritizing by choosing the lesser degree of harm to avoid harm of greater degree takes place when facing two harms.

Consequently, this research also discovers fiqh methodologies that justify the authority of government in applying ijtihād, developing policies that all parties must comply with such as the principles of *taṣarruf al-imām ‘ala al-ra’iyah manūṭ bi al-maṣlaḥah* (the act of the government is subject to public interest), *amr al-imām yarfa’ al-khilāf* (the order of a ruler lifts disagreement) and *ḥukm al-ḥakīm yarfa’ al-khilāf* (judge's ruling lifts disagreement). These methodological principles demonstrate that in a decision made by ijtihād, the opinion and policies opted by the government has higher authority, to the extent that an ijtihād by a person or non-governmental entities must be put aside for the sake of public interest and unity in the community.

## 5. THE APPLICATION OF THE CONCEPT OF SIYĀSAH SHARĪYYAH IN THE DEVELOPMENT OF GOVERNMENT POLICY

The term *siyāsah* is derived from the root word *sāsas yasūsu siyāsah* which means to govern and handle a matter, work and such, in a proper manner (Al-Fayyumi, 1994). It covers the handling of matters involving human, animal and all types of occupations (Ibn Manzur, 1993). The word *syar’iyyah* literally refers to something which is legal in the eyes of the divine law, or legality, which means an act or other that is legal and consistent, and not contrary to the promulgated law (Noresah, 2013). *Siyāsah* that is based on sharī’ah can be understood literally as politics and governance, with sharī’ah values at its core and in every aspect of its implementation.

Conceptually, *siyāsah shar’iyyah* can be understood as a mechanism of decision-making that applies the principles of ijtihād, guided by the objectives (*maqāṣid*) of sharī’ah, ijtihād methodology and other main principles

of sharī'ah. This approach of *siyāsah shar'īyyah* is supported by Taj (1995); Khallaf (1988) and Muhammad Na'im Yasin (Shukeri, 1994). It was also supported by other Muslim scholars such as Al-Derini (1986) and Al-Hasari (1988).

When seen from its applicational approach, *siyāsah shar'īyyah* is in reality the result of ijtihād by government leaders in developing government policy and rules. The authority of ijtihād includes all government institutions like ministries, government agencies, departments and its machineries. This means that *siyāsah shar'īyyah* is also applicable in matters related to legal, judiciary, executive, education, finance, commerce, social, home and foreign politics, and other matters that are relevant to the administration of a country. From implementation aspect, *siyāsah shar'īyyah* has two main areas. Firstly, current issues that necessitate latest ijtihād. Secondly, in the issues of legal rulings that have been provided by the divine law. In the second context, *siyāsah shar'īyyah* plays the role of ijtihād *fī al-taṭbīq*, that is, looking for a proper approach to ensure that the implementation of Islamic legal rulings will fulfil its authentic spirit, safeguarding the interest of human beings (Mohd, 2001).

Public interest (*maṣlahah ammah*) is the main objective of *siyāsah shar'īyyah* application that must be kept alive in every policy and measure taken by the government. Due to the nature of *maṣlahah* that is global and dynamic, it does not arise only in terms of legal fairness, in fact *maṣlahah* is also evident in aspects such as economy, health, social and others, compared to matters pertaining solely to qīṣāṣ, ḥudūd and ta'zīr. According to Taj (1995) every decision that is guided by *siyāsah shar'īyyah* should comply with these two following conditions;

- i. Fulfils the objectives (*maqāṣid*) of sharī'ah and applies proper methodologies and principles pertaining to legal rulings.
- ii. Not obviously contrary to the established legal rules found in the divine law that have become norms among people.

## 6. DISCUSSION: EXAMINATION OF GOVERNMENT MEASURES IN CONTROLLING THE OUTBREAK OF COVID-19 ACCORDING TO THE PERSPECTIVES OF SIYĀSAH SHAR'ĪYYAH

When all orders made during RMO were examined, the authors found that all of them fulfilled the mechanism of *Siyāsah Shar'īyyah* application from the aspects of safeguarding the *maqāṣid* of life (*hiḍḍ al-naḥs*), dismissing harm and prioritizing of *maḥsadah* element over *maṣlahah*. RMO's order that prohibit the public from entering and leaving the country including Sabah and Sarawak is the most effective way to restrict entry of COVID-19 carriers from overseas, especially from ground zero like China and other critical countries in the main list of WHO like United States of America, Italy and Spain. This restriction is capable of becoming an effective step to safeguard the lives of Malaysians at greater scale.

The basis of such measure adheres to the political approach taken by Caliph Umar ibn al-Khattab RA during the spread of Amawas cholera pandemic in Sham. Cholera is a dangerous disease that must be avoided. It was reported that during his journey there, when arriving at a place called Saragh, he received a report from Abu Ubaidah al-Jarrah, the leader of Muslim army, about an epidemic that has broken out there. Caliph Umar held a discussion (*mushāwarah*) with the leaders of Muhajirin and Ansar, Quraish veterans, and early Muhajirin who were involved in the conquest of Mecca. He decided that the entourage must return to Madinah. However, the decision was criticized by Abu Ubaidah, as if the Caliph did not want to accept what had been predestined by Allah. Umar explained that Allah's decree could be either good or bad, while in this situation he opted for the better one, that is leaving the place of the calamity. Soon after, Abdul Rahman bin Auf arrived and reported another ḥadīth of Rasulullah PBUH, prohibiting Muslims from entering an area where cholera is spreading and forbidding the people who are within the epidemic area to flee to another place (Al-Nawawi, 2002; Al-Qattan, 1996). Al-Qattan (1996) commented that the action of Caliph Umar can be likened to health quarantine (*al-ḥajr al-sihḥi*) to control the spread of infectious disease. While Al-Zuhayli (1997) explained that the essence of Umar's speech meant that

humans cannot escape from what Allah has decreed but at the same time, Allah orders human to be wary of every calamity by taking conscientious efforts to avoid harmful situations.

It is apparent here that the basis of Caliph Umar's *ijtihād* in prohibiting entry into the catastrophe area is due to prioritizing *maṣlahah* of safeguarding life, which in the end is consistent with the *naṣṣ* (ḥadīth) related to cholera reported by Abdul Rahman bin Auf (Al-Othaimen, 2007). The scholar also commented on the action, guided by the ḥadīths that prohibit the mingling between sick and healthy animals, demonstrating that government may impose health quarantine upon the area where an epidemic is spreading and forbid healthy people from communicating with the sick ones except for health enforcement personnels only. Additionally, there were reports documenting that Amru bin al-'As, who was the army leader after the demise of Abu Ubaidah al-Jarrah and Muaz ibn Jabal, issued an order to the people of Sham who were still not infected by the disease, to take shelter away in the hilly areas, which was still safe. His political wisdom was one of the reasons why the chain of epidemic at Amawas in Sham had been able to be broken successfully after that (Ibn Asakir, 1995).

The order to *stay at home* during RMO is not meant to curb the public absolutely from their freedom to move. In fact, it is to avoid them from being infected through unknown sources due to *mass gathering* at crowded places such as farmer's market, supermarket, mall, and grocery store, as well as school, university, restaurant, and place of worship. Being confined within a secure place especially at home that restrict freedom of movement is a lesser harm to guarantee people's health compared to greater harm that may happen from infection outside home. This situation is consistent with the meaning of the methodology of *idhā ta'arāḍat mafsadatan rū'ya a'zāmuḥā ḍarāran bi- irtikāb akhaffiha* and other similar methodologies like *yukhtār ahwān al-Sharrayn* and *akhaff al-ḍarārayn*.

In similar vein is *social distancing*, the establishment of a range between two individuals to be at least one meter from one another, seen to be consistent with the ḥadīth of the Prophet PBUH that instructed Muslims to seriously avoid the lepers, even though at its basis, an epidemic infection happened by the Will of Allah SWT. In this context, the definition of 'running from the lion' must be understood more rationally and realistically. It does not literally mean the action of running away, but creating safe limitation between the sickly and the healthy, where the motive of preventing further COVID-19 infection is achieved through *social distancing* measures, as it is recommended. Furthermore, the limit of the range has been recommended by health experts who are knowledgeable about the virus.

This study also found that the resolution arrived at by Muzakarah Committee of the National Council for Religious Affairs Malaysia on 20th March 2020 that agreed to suspend all mosque and surau activities including Jumu'ah and congregational prayers during RMO is a realistic decision to prevent *mafsadah* even though all the suspended practices are the public interest of Muslims as a whole. The resolution has been implemented collectively by all mufti departments across every state in Malaysia. Legal considerations in the above decision take into account that Jumu'ah and congregational prayers are *maṣlahah* in religion. However, the attendance of many worshippers during congregation that may turn into a potential factor for spreading COVID-19 epidemic, is also a *mafsadah*. At a time like this, methodology of *sharā'* prioritizes the avoidance of *mafsadah* over gaining *maṣlahah*. Legality of the above methodology is consistent with the standard (*mīzān*) of *sharā'* in solving a clash between what is obligatory and prohibited, by prioritizing that the prohibition must be avoided rather than performing what is obligatory. If analyzed on the basis of its long-term effects, Friday prayer can still be performed after the RMO ended. However, the outbreak of a dangerous disease that may cause death to many people, will directly deny them opportunities to worship Allah SWT completely.

Facing the decision, the authors found that a small number of Muslim scholars published their opinions on the social media, questioning why the public was more afraid of COVID-19 virus compared to Allah SWT and called them to continue their religious activities in the mosque as they normally do. Such opinion is apparently inaccurate because it fails to understand the Islamic legal considerations in the context of a clash between *mafsadah* and *maṣlahah*. In addition to that, such opinion is also sourced from a failure to understand the evidence brought by



sharā' in the manner that highlight the features of *taysīr* and *raf' al-harj* in Islamic jurisprudence. The authors also found that the observation by the public of the orders made under RMO is consistent with the methodologies of Islamic jurisprudence such as *taṣarruf al-imām 'ala al-ra'īyah manūṭ bi al-maṣlaḥah* and *amr al-imām yarfa'u al-khilāf*.

People's compliance of the government's order (*ulil amri*) in decisions involving public interest is an obligation based on the injunctions found in the Quran and Sunnah. In verse 59 surah al-Nisa', Allah decrees that all Muslims must obey Allah, His Messenger PBUH and those whose Muslim's matters are in their hands. According to [Ibn Kathir \(1999\)](#) obedience to the ruler is subject to how far the policy and law as well as the regulations are not inconsistent with the Sharī'ah principles. Similarly, Allah SWT emphasized in verse 83 of the same surah, whenever there are differences of opinion, obedience to *ulil amr* is one of the methodologies to create unity in the action of the Muslims. Obedience to a ruler's order has also been mentioned in many authentic ḥadīths, among them narrated by Abdullah bin Umar, Rasulullah PBUH said, "A Muslim has to listen to and obey (the order of his ruler) whether he likes it or not, as long as his orders involve not one in disobedience (to Allah). But if an act of disobedience (to Allah) is imposed one should not listen to it or obey it" (Al-Bukhari, *Bab al-Sam' wa al-Ta'ah li al-Imam Ma Lam Takun Ma'siyat*, Ḥadīth no. 7144). Al-Bukhari narrated from Anas ibn Malik that Rasulullah PBUH said, "You should listen to and obey, your ruler even if he was an Ethiopian (black) slave whose head looks like a raisin" (HR Bukhari, Ḥadīth no. 7142). Rasulullah PBUH emphasized that the obedience is not absolute in itself but attached to a condition, that is, as far as an order is not anything which is prohibited, unlawful and invites harm. The injunction to obey a ruler in the naṣṣ above indirectly indicates that the orders under RMO, enforced by the government of Malaysia, are authoritative and can rightfully set aside all other ijtihād and opinions. The authority is further strengthened with the methodology of *amr al-imām yarfa'u al-khilāf* (the order of a ruler lifts disagreement).

## 7. CONCLUSION

Obedying the government's (*ulil amri*) order in decisions involving public interest is an obligation that must be obeyed by the people, guided by the Quran and Sunnah. Obedience to government's order are subject to how far the policy and law as well as the regulations are not inconsistent with the injunctions in both sources. When differences of opinion occurs, obedience to government's order is a method to create unity when determining what is the proper actions for Muslim ummah.

The actions taken by government to control COVID-19 epidemic through enforcement of Restriction of Movement Order is an ijtihād and government security policy made on the basis of authoritative research. The decision must be prioritized compared to the opinions of other academics and Muslim scholars who differed. Hence, the enforcement of RMO is a decision made strictly in the light of *Siyāsah Shar'īyah* to safeguard the public interest of the people from COVID-19 infection and it is also the most successful prevention method to halt the epidemic from spreading.

Correspondingly, it is obligatory upon everyone to comply with the order as it is an injunction of sharī'ah, which is in line with the aim to safeguard religion and human life simultaneously. All parties must be held responsible in ensuring that any harm caused by this deadly virus can be halted and it is sinful for anyone to intentionally put themselves in the danger of being a carrier of the virus, spreading it to other healthy communities. Stubbornness of certain parties in complying with the order to stay at home by attending wedding ceremony, organizing tahlil event and other activities involving assembly, can cause infection of the harmful virus to many others unknowingly, and this is prohibited by shara'.

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