

Islam and Medicine: A Study on The Fatwa of Indonesian Ulama Council on Vaccines

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Abstract

This study aims to obtain the rationale of *fiqhiyyah* principles used by Indonesia Ulama Council (Majelis Ulama Indonesia, MUI) related to contemporary medical and health sciences, especially vaccines.. This research is a qualitative library research with primary source the fatwa of Indonesian Ulama Council.. The data and document are reviewed through content analysis techniques using descriptive-analytical and interpretative methods. The approach in this study uses the Principles of Islamic Jurisprudence (*usul al-fiqh*) and Islamic legal maxims (*qawa'id fiqhiyyah*) approach. . The conclusion of the study is the permissibility and prohibition of using vaccines are based on the ingredient of the vaccines. If the ingredient is extracted from allowed materials (halal), the vaccines are accepted. On the contrary, if it is contaminated by illegal materials, the vaccines are rejected. However, in the urgent situations, all vaccines can be accepted based on the logics of emergency and need.

Keywords: Medicine Rules; Medical Issue; Emergency; Indonesian Ulama Council

Abstrak

Penelitian ini bertujuan untuk mendapatkan dasar pemikiran dari prinsip-prinsip *fiqhiyyah* yang digunakan oleh Majelis Ulama Indonesia (MUI) terkait dengan ilmu kedokteran dan

kesehatan kontemporer, khususnya vaksin. Penelitian ini merupakan penelitian pustaka kualitatif dengan sumber utama fatwa ulama Indonesia. Data dan dokumen ditinjau melalui teknik analisis isi dengan menggunakan metode deskriptif-analitis dan interpretatif. Pendekatan dalam penelitian ini menggunakan pendekatan Prinsip Fikih (*ushul al-fiqh*) dan maksim Hukum Islam (*qawa'id fiqhiyyah*). . Kesimpulan dari studi ini adalah diperbolehkannya penggunaan vaksin dan pelarangannya didasarkan pada kandungan bahan vaksin tersebut. Jika bahan diekstrak dari bahan yang diperbolehkan (halal), maka vaksin diterima. Sebaliknya, jika terkontaminasi bahan ilegal, vaksin ditolak. Namun, dalam situasi mendesak, semua vaksin dapat diterima berdasarkan logika darurat dan kebutuhan.

Kata Kunci: Kaidah Kedokteran, Isu Kesehatan, Kedaruratan, Majelis Ulama Indonesia

Introduction

Islamic law regulates how a person relates to his God and fellow humans. Human relations are regulated in many fields, one of which is the issue of contemporary medicine. Likewise problems related to the needs of society, where there are often considerations of medical science that must be done as a medical effort to cure a disease, even though it has never been done by previous classical jurists, but the medical effort itself must be carried out at this time due to factors need (desire) for healthy life.¹

Previous studies on Islam and medicine tend only to conclude the significance and definition as well as classification of medical studies for Muslims. Classical literatures do not explore in detail. For examples: according to Ibn al-Ikhwat (d.729 Hijriyya) that medical science is a practical theoretical science that is allowed by Islamic law to study it because it emphasizes maintaining health and avoiding disease.² Imam Syafii (150-204 H) divides knowledge based on the order of priority into two categories, namely religion and physical science or medicine.³ He stated, that there is no best knowledge after the issue of halal-haram (*'ilm al-fiqh*) to be studied by Muslims except

¹ Mahjuddin, *Masailul Fiqhiyyah: Berbagai Kasus Yang Dihadapi Hukum Islam Masa Kini*, 4th ed. (Jakarta: Kalam Mulia, 2003), hal. 1

² Muhammad al-Mukhtar, *Abkam Al-Jirabat al-Tibbiyyat Wa al-Atsar al-Mutarattibat 'alaiba* (Thaif: Maktabat al-Shiddiiq, 1993), hal 7

³ al-Dhahabi dalam al-Dhahabi, *Al-Thibb al-Nabawi* (Kairo: Muassasat al-Halabi Syarikat, 1990), hal. 118

medicine.⁴ In line with that, among Syiite who quoted Ali bin Abi Thalib stated, there are four (very important) sciences, namely the science of Islamic law, physical health, language, and astronomy to determine the rotation of the seasons.⁵ This study tries to contribute a new and further finding: a clear and normative arguments of Indonesian ulama in accepting or refusing polio and meningitis vaccines.

This research departs from the formulation of the main problem, namely how to implement fiqh principles in responding to contemporary medical issues that are developing today. This major question is elaborated into two minor questions: How is the reason for the *istinbat al-ahkam* of MUI and how does the logic of fiqhyyah principles used by MUI in the fatwa on polio and meningitis vaccines.

In order to have a concise research, the writers will describe the function of MUI in the first step. The following description and will elaborate the main essence and ingredients of polio and meningitis vaccines and their variants, as it was informed by the medical experts from the recognized institutions. Then the research focuses to potential problems of the vaccines in accordance to the logics and arguments of Islamic law and ulama and how were the fatwas drafted. The research is ended by conclusion and recommendation for future studies.

The use of vaccines is basic need and necessity to achieve a healthy life. However, due to its various products and ingredients, not all vaccines can be accepted legally by Islam. In the study of Islamic law. the authority to regulate everything is in God's hands, but God also gives authority to humans to exercise security, use thought and contemplate everything deeply. With these references, Islam combines eternal and permanent principles with an evolving interpretation of its main teachings, which is called as hard logical thinking (*ijtihad*).⁶ With the era of actual (new) issues (such as the issue of using vaccines), more use of *ijtihad* is recommended. The *ijtihad* method referred to in this discussion is problems that are not stipulated in the text. The *istinbath* method is the maximum effort to extract a legal provision from the existing texts, from both Islamic scriptures (*Alquran and Hadith*).⁷

⁴ Muwaffiq al-Din, *Al-Thibb Min al-Kitab Wa al-Sunnat* (Beirut: Dar al-Ma'rifat, 1986), hal. 187

⁵ Zuhroni, "Respon Ulama Indonesia Terhadap Isu- Isu Kedokteran Dan Kesehatan Modern," Disertasi Sekolah Pascasarjana Universitas Islam Negeri Syarif Hidayatullah (Jakarta, 2007), hal 29.

⁶ Pardi Syamsuddin, *Problematika Hukum Islam Kontemporer: Hukum Transfusi Dan Menjual Darah Kepentingan Transfusi Darah Mneurut Syari'at Islam*, I (Jakarta: PT Pustaka Firdaus, 1995), hal. 47

⁷ Mahjudiin, *Masailul Fiqhiyyah: Berbagai Kasus Yang Dihadapi Hukum Islam Masa Kini...* hal 2

Therefore, as a product of *ijtihad*, in the Islamic legal system, *fatwa* (jurist's legal opinion) has a significant role in providing religious legal considerations to the community, even though they are considered to have no binding legal force (*ghoir mulzimah*). In the context of Indonesian society, the fatwa status of religious institutions, including the fatwa of the Indonesian Ulema Council (Majelis Ulama Indonesia), has significant effect.⁸

According to Ibn Manzur, as quoted by Syamsul Anwar, that a fatwa is an explanation of problematic legal issues. Derived from the word al-fata which means young people who are just growing and strong. This definition of etymology reflects as if the fatwa is an explanation for a problem that has just arisen and there is no law regarding it before.⁹ Then in terms of fatwa is an official answer to questions or important issues relating to dogma or law, which is given by someone who has the authority to do so.¹⁰ This authority can then be held by someone who is commonly referred to as a mufti.¹¹ Yusuf al-Qaradawi reveals that ifta (giving a fatwa) is an explanation of shari'ah law about a problem in response to a questioner's request, both clear and vague, individual or collective.¹²

Fatwas mark the relationship between Islamic law sharia and the concrete world of humans as well as being a meeting point between law and reality. Fatwas are not an answer to an imaginative question made up by the muftis.¹³ Fatwas are a product of a certain and concrete reality of a society. Fatwa assists Islamic community to have a religious worldview. Hallaq shows eleven (11) indicators that explain this, including the first that each conventional fatwa starts with a question from the mustafti himself which is then tied with an answer from the mufti, the second is that almost all fatwas are closely related to individuals or groups in certain conditions and places, the third fatwa is often given to answer relevant issues, but nevertheless these fatwas emerge from the real or real world, then the fourth are many fatwas in response to disputes over one particular type of contract. The existence of this dispute marks a phenomenon that occurs between two or more people who are at odds.¹⁴

⁸Asrorun Ni'am, "Sadd Al-Dzari'ah Dan Aplikasinya Dalam Fatwa Majelis Ulama Indonesia," Disertasi Sekolah Pascasarjana Universitas Islam Negeri Syarif Hidayatullah (Jakarta, 2008), 1.

⁹Syamsul Anwar, *Studi Hukum Islam Kontemporer* (Jakarta: RM Book, 2007), hal. 300

¹⁰ MB Hooker, *Indonesia Islam: Social Change Through Contemporary Fatwa* (Hawai: University of Hawai Press, 2003), hal. 1

¹¹ Nico J.G Kaptein, "Fatwa in Indonesia," *Journal Islamic Law and Society* 12, no. No. 1 (n.d.): 1.

¹² Yusuf al-Qardhawi, *Al-Fatwa Bayna al-Indhibit Wa al-Tayyub* (Kairo: Dar al-Shahwah li al-Nasyr wa al-Tawzi, 1998), hal. 11

¹³Anwar, *Studi Hukum Islam Kontemporer...* hal. 307-308

¹⁴ Wael B. Hallaq, "From Fatwas to Furu': Growth and Change in Islamic Substantive Law," *Journal Islamic Law and Society* Vol. 1, no. No. 1 (n.d.): 1994, 32-39

Many researches on the fatwas of MUI have been done. But those are not discussing on the specific issue of vaccination. The distinctive result of this research is providing a complete picture of the logics of the MUI in responding the specific vaccination problem. In its recent development, it is the collective fatwa on vaccines of the MUI prefer to answer the Indonesian religious problems. This is quite reasonable. There are at least two things that underlie it. First, there is an accumulation of religious authority in collective fatwas. For some Indonesian Muslims, a fatwa is given through a process that involves more experts. Then secondly, this collective *ijtihad* is a process of the realization of a collective fatwa which is considered the best form of *ijtihad* today. As stated by several scholars, collective *ijtihad* is a solution to the crisis of thought that has plagued the Islamic world since contemporary and complex problems demand resolution not only from an Islamic perspective, but also from the perspective of other disciplines.¹⁵

The approach method to be used is a *fiqh* approach (normative legalistic approach) based on the conceptual discourse of Islamic legal philosophy of norms and values. Hence, it requires conceptual legalistic thinking. The issue being studied (the use of vaccines), apart from medical issues, has a strong relevance to Islamic legal concept that need to be explained. The main result of normative approach is to determine the legal status of a certain action, whether it is obligatory (*wajib*), prohibited (*haram*), recommended (*sunnah*), permissible (*mubah*) or more towards prevention (*makruh*).¹⁶

This study is a literature study, so the data sources are fatwas of MUI (primary), especially fatwas number 05/2009, 04/2016, 14/2017, 33/2018 which have discussions on vaccination, works or writings related to Islamic medicine and its *al-fiqh* studies, especially relate to the theory of emergency and need (*al-darurah* and *al-hajah*) and principles of defining legal status. The writings are in the form of books, theses, dissertations, and journals. To analyze the data that has been generated, in this study, researchers used the types of methods from Milles and Huberman. Namely with several steps, namely collecting, displaying data, then verifying the data, which culminates in the last step, data analyses and conclusion.¹⁷

¹⁵ Niki Alma Febriana Fauzi, "Fatwa Indonesia : Perubahan Sosial, Perkembangan, Dan Keberagaman," *Jurnal Hukum Novelty* Vol. 8, no. No. 1 (n.d.): 117.

¹⁶ 'Ali Haidar, *Durar Al-Hukkam Syarb Majallat al-Ibkam* (Beirut: Dar al-Kutub al-'Ilmiyyat, t.th), hal. 14

¹⁷ Sugiyono, *Metode Penelitian Pendidikan* (Bandung: Alfabeta, 2010), hal. 337

Discussion

The existence of the Indonesian Ulama Council

The establishment of the MUI was motivated by the collective awareness of the Muslim leadership that the Indonesian State needed a solid foundation for the development of an advanced and moral consciousness. Therefore, the existence of this organization of Muslim scholars, leaders, (*şuama*) and intellectuals is a logical consequence and a prerequisite for the development of a harmonious relationship between various potentials for the benefit of all Indonesian people.¹⁸ The establishment of MUI was a form of accumulation of ulama authority whose existence was formally considered important and urgent in Indonesian society. Soeharto, who was then president, frankly put forward two reasons why the MUI was needed. First, the government's wish for the Muslims to unite. Second, the emergence of government awareness that the problems facing the Indonesian nation cannot be resolved without involving the role of the ulama.¹⁹ The fact that the establishment of the MUI was inseparable from the interference of the authorities pushed MUI to become a tool for legitimating the government policy as well as bridging a fair commitment within Islamic society. Historically, Fatwas of the MUI have played a significant role in order to build social and national trust and unite Indonesian Muslim views.

From the social aspect, MUI has a significant role in the midst of the plurality of the Indonesian Islamic community. The plurality and diversity of Muslims in their religious mindsets, social organizations, and political trends and aspirations can not only be a strengthened, but also often become a weakness and a source of conflict among Muslims themselves. As a result, Muslims are trapped into excessive group egoism and miss opportunities to develop themselves into groups that are not only large in number but also superior in quality. Therefore, the existence of a collective Muslim institution which serves as a forum for spiritual and organizational relationship (*silaturrahim*) is an urgent need for the unity, integrity and togetherness of Muslims. Furthermore, the fatwas of MUI lead Indonesian Muslims to have a religious solution for their contemporary problems. As stated in the MUI documents, in its steps (*khidmah*), the vision of the MUI organization is the creation of good virtues for social, national and state living conditions, obtaining the pleasure and forgiveness of Allah SWT (*baladh thayyibah wa rabb ghafur*) towards a qualified society (khair

¹⁸Ni'am, "Sadd Al-Dzari'ah Dan Aplikasinya Dalam Fatwa Majelis Ulama Indonesia.", hal. 75

¹⁹Niki Alma Febriana Fauzi, "Fatwa Indonesia : Perubahan Sosial, Perkembangan, Dan Keberagaman.", hal. 110

ummah), under the umbrella of the Unitary State of the Republic of Indonesia as a manifestation of mercy for all nature (*rahmah li al-'a lamin*).²⁰

Fatwa +on the Use of Oral Polio Vaccine (OPV) +and +Vaksin +Polio +Khusus (Inactivated Polio Vaccine)

Polio is also known in medical terms as poliomyelitis.²¹ *Poliomyelitis is also known as acute anterior poliomyelitis infantile paralysis, also known as Heine and Medin's disease.*²² Etymologically, poliomyelitis comes from Latin, namely polio which means gray and myelon which means marrow.²³ Poliomyelitis is a contagious disease that can cause irreversible paralysis and death in children.²⁴ Predilection of the polio virus in the anterior horn cells of the spinal cord, the motor nucleus of the brain stem and the motor area of the brain cortex, causing paralysis and muscle atrophy.²⁵ Since this disease causes paralysis, polio is one of the most important diseases to eradicate globally. The world is very lucky to find an effective vaccine to prevent polio. There are two types of polio vaccines, namely oral polio vaccines (OPV) and inactivated polio vaccines (IPV).²⁶

According to Martin Edward "polio is an infectious disease of the central nervous system caused by three closely related but different viruses. Attack of one type of virus will provide lifelong immunity only for that type of virus".²⁷ Meanwhile, according to Sudrajat Suraatmaja "poliomyelitis is an acute infiral disease caused by polio virus infection types I, II, III and this disease often affects children aged 1 to 2 years".²⁸

According to Soedarto, "poliomyelitis, also called infantile paralysis, is an inflammation of the spinal cord cells caused by a poliovirus and causes acute disease". In humans, polio is a primary infection of the digestive tract and sometimes causes nerve disorders. The polo virus is found in the saliva and feces of people with polio, and this virus is transmitted through direct contact or contamination from feces through swimming pools, toys or food, either

²⁰ Ni'am, "Sadd Al-Dzari'ah Dan Aplikasinya Dalam Fatwa Majelis Ulama Indonesia.", hal. 80

²¹ Martin Edward, *Penyakit Anak Sehari-Hari Dan Tindakan Darurat* (Jakarta: PT Alek Media Komputindo, 2000), hal. 192

²² T.H Rampegann dan I.R Laurent, *Penyakit Infeksi Tropik Pada Anak* (Jakarta: EGC, 1993), hal. 117

²³ I.G.N Ranuh, et. al, *Buku Imunisasi Di Indonesia* (Jakarta: Satgas Imunisasi-Ikatan Dokter Anak Indonesia, 2001), hal. 95

²⁴ Bhutta ZA, Orienstein wa, "Scientific Declaration on Polio Eradication (On Behalf of Scientific Experts Against Polio)," *Vaccine* 31 (n.d.).

²⁵ Soedarmo Gama H, Hadinegoro, Satari HI, *Poliomieliits, Dalam Buku Ajar Infeksi Dan Pediatri Tropis* (Jakarta: Abdan Penerbit IDAI, 2008), hal. 182-194

²⁶ Miyamura T., "Ten Years After Polio Eradication From The WPRO Region: Current Status and Future Problem" 30, no. 1406-8 (n.d.).

²⁷ Edward, *Penyakit Anak Sehari-Hari Dan Tindakan Darurat*, hal. 192

²⁸ Sudrajat Suraatmaja, *Petunjuk Praktis Imunisasi* (Jakarta: Arcan, 1992), hal. 31

directly or indirectly and also through the patient's saliva.²⁹ Transmission of this disease can also be through various insects such as cockroaches, flies and others.³⁰

Etymologically, inactivated comes from English, namely inactive comes from the word in which means not to inside. Active means active, do, act, act. Meanwhile, inactive is making inactive.³¹ +The English vaccine is vaccine, which means suspension from living germs, but has been weakened or turned off to cause immunity in the body.³² + According to the term vaccine is a microorganism or toxoid that is changed in such a way that the pathogenicity (germs) or toxicity (poisonous substances) is lost but still contains antigenicity (substances that stimulate the formation of anti-substances).³³

The fatwa on the use of the special polio vaccine (IPV) explains the law of using vaccines that contain unclean objects or are exposed to unclean, where in the process of making the vaccine there is contact or compounding (*ikhtilath*) between unclean porcine and the media used for virus or vaccine culture. On the other hand, there is no purification treaty that is justified by the shari'ah (al-Tathhir syar'an). Thus, causing the media and viruses to be exposed to unclean (mutanajis).³⁴ Meanwhile, in a number of religious arguments (*adillah al-Diniyyah*), namely: the Koran, hadith, and *qawaidh fiqhiiyyah*, as well as the opinion of the scholars it is taught that all diseases and disabilities caused by disease are *dharar* (danger) that must be prevented. (to be avoided) and eliminated (through the process of treatment) in a way that does not violate the Shari'a and with holy and lawful medicine. Furthermore, every new mother, in principle, is obliged to give her first milk (colostrum/*al-liba'*) to her child and should breastfeed until the age of two. This, according to health experts, can provide immunity or strength to children.³⁵

Based on the explanation stated in the Letter of the Minister of Health of the Republic of Indonesia Number 1192/MENKES/IX/2002, dated September 24, 2002, as well as the explanation of the Director General for the Eradication of Infectious Diseases in the Residential Environment of the Ministry of Health, Director of the Bureau of Farma, POM, LPPOM-MUI, at the Fatwa Commission meeting, Tuesday, 1 Sha'ban 1423 H/8 October 2002, namely:

²⁹Soedarto, *Penyakit-Penyakit Infeksi Di Indonesia* (Jakarta: Widya Medika, 1992), hal. 127

³⁰Rampegann dan I.R Laurent, *Penyakit Infeksi Tropik Pada Anak...* hal 119

³¹“Kamus Kedokteran,” n.d, hal. 198

³²“Kamus Kedokteran.”

³³Ranuh, et. al, *Buku Imunisasi Di Indonesia*, hal. 9

³⁴Tim Penyusun, “Himpunan Fatwa MUI Bidang POM Dan IPTEK,” n.d, hal. 130

³⁵Tim Penyusun, “Himpunan Fatwa MUI Bidang POM Dan IPTEK,” n.d, hal. 129-

1. The government is trying to implement a program to eradicate polio from the community simultaneously throughout Indonesia through the National Immunization Week (PIN) program by administering two drops of oral polio vaccine (through the digestive tract).
2. The polio virus (disease), if not handled properly will cause physical disabilities (lame legs) in children who suffer from the disease.
3. There are a number of children under five who suffer from immunocompromise (immune system disorders) who need a special vaccine by injection.
4. If a child with immunocompromise does not immunize, he will develop polio and there is a concern that he will become a source of the spread of the virus..
5. The special vaccine (IPV) in the manufacturing process uses an enzyme derived from porcine (pork), but in the final result there are no trace elements of pork..
6. There has not been any other type of IPV that can replace the vaccine. If it is produced alone, it will require huge capital or costs while the need is limited.³⁶

Therefore, the legal provisions of the MUI fatwa regarding the use of the special polio vaccine (IPV), namely: 1, the use of drugs, including vaccines, which come from objects containing unclean or deemed unclean are haram. 2, giving IPV vaccine to children who suffer from immunocompromise, when other types of IPV that are pure and lawful are not found, it is permissible. Furthermore, the recommendation (taushiyah) of this fatwa is that the government should campaign for every mother to provide adequate breastfeeding, especially colostrum until the age of two. The government should make every effort, as well as through WHO and Muslim-populated countries, to pay attention to the interests of Muslims in terms of the need for sacred and halal medicines.³⁷

The fatwa regarding the use of the oral polio vaccine (OPV) is derailed by the notion that the disease poliomyelitis (polio), which is caused by the wild polio virus, has spread widely at an alarming rate and has attacked especially in children which can cause permanent paralysis throughout life and can cause permanent paralysis. give birth to a weak generation (dhu'afa ') in the future. That the prevention of polio in an effective and efficient manner is only possible through immunization with the polio vaccine, because drugs and other methods have not been found that can be used to prevent the disease. Whereas all polio vaccines that are produced, both domestically and internationally, still

³⁶ Tim Penyusun, "Himpunan Fatwa MUI Bidang POM Dan IPTEK," n.d, hal. 128-129.

³⁷ Tim Penyusun, "Himpunan Fatwa MUI Bidang POM Dan IPTEK," n.d, hal. 130-131.

use media and processes that are not fully compliant with Islamic law, among others by using the monkey kidney tissue media..³⁸

Based on the explanation stated in the Letter of the Minister of Health of the Republic of Indonesia Number 1048 / MENKES / VII / 2005, dated July 13, 2005, as well as the explanation of the Director General of Environmental Infectious Disease Eradication in Human Settlements, Ministry of Health, Director of the Farma Bureau, POM Agency, LPPOM-MUI, at the Fatwa Commission meeting , Monday, 18 Jumadil Akhir 1426 H / 25 July 2005, arrived at the conclusions, among others:

1. The government is promoting the eradication of polio from the community simultaneously throughout Indonesia through the National Immunization Week (PIN) program by administering two drops of oral polio vaccine (completing the digestive tract).
2. The polio (viral) disease, if not treated, will cause permanent paralysis in those who suffer from it.³⁹

Therefore, in relation to the use of oral polio vaccine (OPV), the legal provisions of the MUI fatwa are 1) the use of drugs, including vaccines, which come from objects containing unclean or deemed unclean are haram. 2) giving OPV vaccine to all children under five, when there is no other type of OPV whose production uses media and processes according to Islamic law is allowed. While the MUI recommendation in this fatwa is that the government should make every effort, together with WHO and Islamic countries and / or Muslim populations, to produce polio vaccines that are in accordance with Islamic law.⁴⁰

Fatwa on the Use of Meningitis Vaccines for Haj and Umrah I and II Pilgrims and Meningitis Vaccine Products from Beijing Luzhu Biopharmaceutical Co. Ltd

Meningitis is a disease caused by a virus or germ, which attacks the inflammation of the membranes that protect the human brain and spinal cord.⁴¹This disease has an impact on disability and can result in death. This is a strong reason for the Government of Saudi Arabia to oblige every prospective pilgrim to carry out a meningitis vaccination. However, the problem is that the vaccine is produced from porcine pancreatic enzymes (khinzir). As it is known that pigs are dirty and dirty animals, so all agree that it is forbidden. Then the controversy is how it is possible for the haram element to be used for the purposes of the main Muslim worship, namely Haj.

³⁸Tim Penyusun, "Himpunan Fatwa MUI Bidang POM Dan IPTEK," n.d, hal. 138-139.

³⁹Tim Penyusun, "Himpunan Fatwa MUI Bidang POM Dan IPTEK," n.d, hal. 143.

⁴⁰Tim Penyusun, "Himpunan Fatwa MUI Bidang POM Dan IPTEK," n.d, hal. 144.

⁴¹J.B. Suharjo B. Cahyono, *Vaksinasi* (Yogyakarta: Kanisius, 2010), hal. 140

Meningitis is an inflammation that occurs in the meninges, which is the membrane or membrane that covers the brain and supporting nerves.⁴² Meningitis can be caused by various organisms such as viruses, bacteria or fungi that spread into the blood and move into the brain fluids.⁴³ +The term meningitis, which is the full term for meningococcal meningitis, is infectious meningitis of the membrane that covers the brain and spinal cord.⁴⁴ Inflammation of the lining of the brain and spinal cord by involving the motor and mental systems. Can be caused by some bacteria, viruses, or other microorganisms. The very serious form is caused by an organism called meningococcus.⁴⁵

These bacteria can appear in the human body without causing any effect or disease, or they can cause serious illness. When the meningococcus reaches the brain or spinal cord, serious inflammation or meningitis develops. If left untreated, this disease will be fatal. In existing cases, if you survive death, you will become disabled, such as deafness and paralysis.⁴⁶ + Meningitis disease is mostly found in Africa which is known as the "meningitis belt" and Saudi Arabia. This area stretches from Senegal in the west to Ethiopia in the east. In 1996, there was an epidemic of meningitis which killed 25,000 of them. More than half of cases occurred at age 1-10 years and most occurred at less than 2 years of age. The incidence increases again at the age of 15-24 years. Over the age of 45, the incidence is less than 10%.⁴⁷ The spread of this disease is very fast so that it can lead to endemic events (the incidence is always there every year even though in small numbers).

The MUI fatwa regarding the use of the meningitis vaccine for Haj and Umrah pilgrims (I) the general provisions are:

1. Meningitis vaccine is a vaccine that has the production name Mencevax™ ACW135Y produced by Glaxo Smith Kline Beecham Pharmaceutical-Belgium, which can be used to prevent meningitis..
2. Meningitis is a disease that originates from microorganisms, such as viruses and bacteria that spreads in the blood and causes inflammation of the lining of the brain so that it can cause movement control damage, thought, and even death, which is a contagious disease.

⁴²Atikah Proverawati dan Citra wi Andini, *Imunisasi Dan Vaksinasi* (Yogyakarta: Nuha Offset, 2010), hal. 19

⁴³J.B. Suharjo B. Cahyono, *Vaksinasi* (Yogyakarta: Kanisius, 2010), hal. 141.

⁴⁴Husamah, *Kamus Penyakit Pada Manusia* (Yogyakarta: C. Abadi Offset, 2012), hal. 62

⁴⁵Arum Gayatri, *Kamus Kesehatan* (Jakarta: Arcan, 1995), hal. 141

⁴⁶Arum Gayatri, *Kamus Kesehatan* (Jakarta: Arcan, 1995), hal. 141

⁴⁷J.B. Suharjo B. Cahyono, *Vaksinasi* (Yogyakarta: Kanisius, 2010), hal. 136.

3. Compulsory Hajj is the first pilgrimage performed by mukallaf or vows. While Umrah Wahib is Umrah because of vows.⁴⁸

The Government of the Kingdom of Saudi Arabia still enforces a policy requiring visitors to Saudi Arabia to use the meningitis vaccine. Based on the Mufti 'Am statement from the Kingdom of Saudi Arabia in a meeting with the MUI delegation on July 13, 2009 at the Haiah Kibar al-Ulama Office in Thaif, the government of the Kingdom of Saudi Arabia still obliges pilgrims to haj and Umrah to use the meningitis vaccine. Information from Glaxo Smith Kline Beecham Pharmaceutical Belgium which is the producer of Mencefax™ ACW135Y at the Ministry of Health Office on May 22, 2009 that the active ingredient of the Mencefax™ ACW135Y meningitis vaccine comes from bacterial colonies bred or grown on media containing enzymes and lard. Further information, was conveyed by Anna P. Roswien that in the process of making the vaccine there had been contact or contact with media material made with enzymes from pork pancreas and glycerol from lard..⁴⁹

Regarding the meningitis vaccine for Haj and Umrah (I) pilgrims, the legal provisions of the MUI fatwa are:

1. The use of meningitis vaccine that uses ingredients from pigs and / or in the manufacturing process contact / contact with pork ingredients is haram.
2. The use of meningitis vaccine that uses ingredients from pigs and / or in the manufacturing process there has been contact / contact with pork ingredients, especially for mandatory hajj and umrah pilgrims, the law is permissible, if there is an urgent need (li al-Hajah).
3. The provision of being allowed to use the haram meningitis vaccine is only temporary as long as there is no halal meningitis vaccine found or the government of the Kingdom of Saudi Arabia still requires the use of the vaccine for Hajj and Umrah pilgrims..⁵⁰

The recommendations in the MUI fatwa regarding the use of the meningitis vaccine for Hajj and Umrah pilgrims are:

1. The government must immediately produce / provide a halal meningitis vaccine so that it can be used by pilgrims.
2. After vaccination, it is necessary to immediately carry out syar'i cleansing at the injection site.
3. Muslims should always be careful in consuming anything that is doubtful or forbidden by religion.⁵¹

⁴⁸Tim Penyusun, "Himpunan Fatwa MUI Bidang POM Dan IPTEK," n.d, hal. 164-165.

⁴⁹Tim Penyusun, "Himpunan Fatwa MUI Bidang POM Dan IPTEK," n.d, hal. 163-164.

⁵⁰Tim Penyusun, "Himpunan Fatwa MUI Bidang POM Dan IPTEK," n.d, hal. 165.

⁵¹Tim Penyusun, "Himpunan Fatwa MUI Bidang POM Dan IPTEK," n.d, hal. 165..

The general provisions of the fatwa regarding the use of meningitis vaccine for pilgrims for Haj and Umrah (II) are as follows:

1. Mencevax™ ACW135Y vaccine is a meningitis vaccine produced by Glaxo Smith Kline Beecham Pharmaceutical Belgium.
2. Menveo Meningococcal Vaccine is a vaccine that has the production name Menveo Meningococcal Group A, C, W 135 and Y Conugate Vaccine produced by Novartis Vaccine and Diagnostics S.r.i
3. Meningococcal vaccine is a vaccine that has the production name Meningococcal Vaccine produced by Zheijiang Tianyuan Bio Pharmaceutical Co. Ltd.⁵²

Reports and explanations on the results of audits of the LPPOM MUI Auditor team to three meningitis vaccine companies, namely:

1. The auditor team from Glaxo Smith Kline Beecham Pharmaceutical-Belgium stated that during the production process of the vaccine at this company, they had contact with ingredients that were contaminated with pork.
2. The Novartis Vaccine and Diagnostics S.r.i team of auditors stated that the vaccine production process in this company did not come into contact with pigs or materials contaminated with pigs and had gone through a purification process.
3. The auditor team of Zheijiang Tianyuan Bio Pharmaceutical Co. Ltd, stated that the vaccine production process at this company did not come into contact with pigs or materials contaminated with pigs and had gone through the process of washing.⁵³

The results of the Fatwa Commission meeting on 10 June 2010, 12 June 2010, 16 June 2010, 22 June 2010, 24 June 2010, 30 June 2010, 9 July 2010, and 16 July 2010 are as follows:

1. Whereas vaccine products which in the production process have come into contact with materials contaminated by pigs are stated to have used pork (intifa ') of pigs.
2. That the vaccine product in its production process does not come into contact with pork or pig contaminated materials but contact with unclean substances other than pork can be purified again.
3. Washing in vaccine production in the companies of Novartis Vaccine and Diagnostics S.r.i and Zheijian Tianyuan Bio Pharmaceutical Co. Ltd is deemed to have met the provisions of sanctification in syara '(tathir syar'an).

The legal provisions in this MUI fatwa are::

⁵²Tim Penyusun, "Himpunan Fatwa MUI Bidang POM Dan IPTEK," n.d, hal. 256.

⁵³Tim Penyusun, "Himpunan Fatwa MUI Bidang POM Dan IPTEK," n.d, hal. 255.

1. The Mencevax™ ACW135Y vaccine is haram.
2. Menveo Meningococcal vaccine and Meningococcal vaccine are lawful.
3. The only vaccines that can be used are halal meningitis vaccines.
4. The provisions in the MUI fatwa Number 5 of 2009 which states that for people who perform compulsory Hajj or Umrah must be allowed to use haram meningitis vaccine because al-hajah (urgent need) is declared no longer valid.⁵⁴

Furthermore, the general provisions of the MUI fatwa on meningitis vaccine products from Beijing Luzhu Biopharmaceutical Co. Ltd is a group A, C, Y, W125 Meningococcal Polysaccharides Vaccines (MENVAC) vaccine.⁵⁵ The considerations made by the MUI in issuing a fatwa regarding this vaccine are as follows:

1. That meningitis is still a threat to health, especially for pilgrims for Hajj and Umrah, where to prevent transmission of this dangerous disease, it can only be done by means of meningitis vaccination.
2. That medicinal products to be consumed by Muslims must be considered and believed in their sanctity and halalness.
3. That in order to guarantee this halalness, MUI issues a Halal Certificate for every product that has met certain requirements and must be renewed every two years.
4. That there is an application for halal certification from Beijing Luzhu Biopharmaceutical Co. Ltd. for meningitis vaccine products.
5. That for this purpose, the MUI Fatwa Commission together with LPPOM MUI carried out an audit in accordance with the Guidelines for Obtaining the MUI Halal Certificate whose audit results were reported in the MUI Fatwa Commission meeting to determine the legal status.
6. That for this reason, the MUI Fatwa Commission considers it necessary to stipulate a fatwa on meningitis vaccine products from Beijing Luzhu Biopharmaceutical Co. Ltd as a guideline for the government, Muslims and other parties who need it.⁵⁶

The report and explanation of the audit results of the LPPOM MUI Auditor Team to Beijing Luzhu Biopharmaceutical Co. Ltd are as follows:

1. Biang (Neisseria Meningitis Y (CMCC290551) has never been exposed to ingredients from pork, but is strongly suspected of being exposed to unclean substances, so mutanajjis is punished.
2. Breeding process +(*Culture* +1st +and +*Culture* +2nd), + through a medium where one of the ingredients comes from blood. This process further strengthens the conclusion above, that the products produced from this

⁵⁴Tim Penyusun, "Himpunan Fatwa MUI Bidang POM Dan IPTEK," n.d, hal. 256.

⁵⁵Tim Penyusun, "Himpunan Fatwa MUI Bidang POM Dan IPTEK," n.d, hal. 424.

⁵⁶Tim Penyusun, "Himpunan Fatwa MUI Bidang POM Dan IPTEK," n.d, hal. 415-416.

breeding process are punished with *mutanajjis* (items subject to uncleanness).

3. The fermentation process is carried out by mixing the product (which is a very small amount) with 873 liters of pure water (more than two *kulah*). This process is considered sufficient as a process of product purification in *syar'i*, so that the product which is originally *mutantnajis* becomes holy.
4. All tools and bottles / ampoules have been washed according to the law.⁵⁷

Furthermore, a conclusion was agreed at the Fatwa Commission meeting on 24 July 2013 and 3 August 2013, that:

1. Vaccine products in the production process do not come into contact with pigs or materials that are contaminated with pigs, but with materials derived from halal animals whose methods of slaughter are not known and blood.
2. Purification in the process of vaccine production at Beijing Luzhu Biopharmaceutical Co. Ltd is deemed to have met the provisions of sanctification in *syara '(tathhir syar'an)*.⁵⁸

Furthermore, related to the vaccine product of the Beijing Luzhu Biopharmaceutical Co. company. Ltd MUI in its fatwa decides the following legal provisions:

1. Group A, C, Y, W135 Meningococcal Polysaccharides Vaccines (MENVAC) Vaccines manufactured by Beijing Luzhu Biopharmaceutical Co. Ltd is holy and lawful.
2. Group A, C, Y, W135 Meningococcal Polysaccharides Vaccines (MENVAC) Vaccines manufactured by Beijing Luzhu Biopharmaceutical Co. Ltd may be used by Muslims.⁵⁹

MUI Legal Methods and Conclusions in the Fatwa of Vaccines

In general, the approach method used by MUI in the process of determining fatwas is examining the *nas qath'i*, *qauli*, and *manbaji* approaches (textual and contextual approach) by exploring answers to legal problems that arise based on the study of the texts which are the sources of Islamic law. It includes also by referring to the opinions (*aqwal*) of the previous scholars in standard books (*kutub mu'tabarab*).⁶⁰ +

Indeed theoretically, the determination of fatwa through the text approach alone is not sufficient because the text is very limited in nature, while the various problems that occur continue to develop. Likewise, it is impossible to just stick to the texts (*aqwal*) that is inside the recognized (*mu'tabarab*) pole

⁵⁷Tim Penyusun, "Himpunan Fatwa MUI Bidang POM Dan IPTEK," n.d, hal. 423.

⁵⁸Tim Penyusun, "Himpunan Fatwa MUI Bidang POM Dan IPTEK," n.d, hal. 423-424.

⁵⁹Tim Penyusun, "Himpunan Fatwa MUI Bidang POM Dan IPTEK," n.d, hal. 424.

⁶⁰Some references that are considered as legitimate sources.

because the writing has stopped since about a hundred years ago, even though the problems that arise continue. Various problems that have developed have actually been responded to by previous scholars through texts and actual practices (*aqwal, af'al, and tasharrufat*). However, after their period, new problems continue to emerge and develop which must be addressed. Leaving various problems without answers is not justified, in the tradition of Islamic jurisprudence. Therefore, there are needs to be another approach that can be used as a reference to solve these new problems so that there is no accumulation of unanswered problems.⁶¹ For this reason, the MUI Fatwa Commission itself uses the innovative (*manhaji*) approach, apart from the *nash* and *qauli* approaches above. The *manhaji* approach is carried out by using the main principles (*al-qawa'id al-usuliyah*) and the methodology developed by the imam mazhab and carried out through collective *ijtihad (ijtihad jam'i)*, by bringing together opinions which is different (*al-jam'u wa al-taufiq*), chooses an opinion that is more accurate in its arguments (*tarjih*), analogizes the problems that arise with the problems that have been determined by the law in fiqh books done through the method of analogy, preferring the strongest arguments as well as preventive theories.⁶² In every fatwa stipulation, it must also pay attention to the objectives of Islamic law itself and also pay attention to its general benefit.

In the guidebook for determining the fatwa which was established based on the decree of the MUI leadership board on October 2, 1997, there are at least four things that become the general basis for determining a fatwa. First, every fatwa decision must be based on the book of Allah and not against the benefit of the people. Thus, all the edicts of the fatwa rely on the main sources, namely the Qur'an and the Sunnah, and are in line with the general benefit.

Second, if the legal provisions are not found in both Quran and sunnah, then the fatwa decision should not contradict social consensus (*ijma*). Third, prior to the decision making of the fatwa, a data search was carried out by referring to the opinions of the ulama of the previous schools of thought, both those related to legal arguments and those related to the arguments used by parties with different opinions. It seems, through this provision, that the MUI fatwa should be parallel to the opinion of the imam of the mazhab. If not materially, it could also be through analogy to the material laws that have been established by the scholars of the school if the same legal reasoning (*'illat*) is found. If it is not found, at least methodologically, it can be adopted as an analytical instrument in solving problems.

⁶¹Ni'am, "Sadd Al-Dzari'ah Dan Aplikasinya Dalam Fatwa Majelis Ulama Indonesia", hal 133

⁶²Muhammad Yusuf, *Modernitas Dan Keindonesiaan Fatwa Majelis Ulama Indonesia* (Jakarta: DIsertasi Sekolah Pascasarjana Universitas Islam Negeri Syarif Hidayatullah, 2016), hal. 103

Fourth, the views of experts in the problem areas for which the fatwa decision will be taken are considered. This is very evident in the process of determining fatwas on contemporary issues, especially related to the dynamics of science and technology, such as the stipulation of cloning laws, abortion, female circumcision, organ transplants, vaccinations, and the establishment of fatwas on halal food and drinks.

However, furthermore, there were methodological interactions between the jurisprudence schools. Even within certain limits, there is also the use of an eclectic method (*talfiq*), by adopting a cross sectional method that is in accordance with the principle of benefit.⁶³

As a grace of God, we are not only allowed to choose. MUI prioritizes the comparison of schools to examine the opinion of which schools have strong arguments and are supported by the principle of benefit for the Indonesian people. If there is an opinion whose arguments are not strong, but whose benefit stands out or is favorable, while other opinions have strong arguments but do not bring benefit, then the problem is left to the MUI Leadership Council to choose which opinion will be denounced.⁶⁴

From the discussion that has been described above that MUI in establishing a fatwa uses the methodology and arguments used by the jurists, whether the imam of the mazhab or not, then the strongest opinion is selected without having to be tied to the opinion of the imam of a particular mazhab (*tarjih*). In determining the best opinion, the fatwa commission not only pays attention to the strength of the argument in having a relationship, but also pays attention to and considers the opinion that contains the greatest problem and benefits for the people of Indonesia.⁶⁵ Today's collective *ijtihad* is more relevant and significant in line with the development of the contemporary world today.⁶⁶ According to Huzaemah, although the door to *ijtihad* remains open in public opinion in the Islamic world, it is realistic that there is very little *ijtihad* practiced by scholars. One of the factors is that socio-religious problems are caused by advances in modern science and technology which are increasingly complex and complex. Such as population science, economics, medical science, psychology and others. Meanwhile, the knowledge of scholars is only limited to their specialist fields. Individual *Ijtihad* can no longer be a solution to solving

⁶³ Ni'am, "Sadd Al-Dzari'ah Dan Aplikasinya Dalam Fatwa Majelis Ulama Indonesia.", hal 129

⁶⁴ Majelis Ulama Indonesia, *Ijtima' U;Ama Komisi Fatwa Se-Indonesia* (Jakarta: MUI, 2009).

⁶⁵ Yusuf, *Modernitas Dan Keindonesiaan Fatwa Majelis Ulama Indonesia*, hal 107

⁶⁶ Moh Anuar Ramli dan Mohammad Aizar Jamaluddin, "Aplikasi Ijtihad Kontemporari Dalam Menangani Isu-Isu Halal Semasa," n.d., www.academia.edu/4217432/Aplikasi_Ijtihad_Kontemporari_Dalam_Mennagani_Isu-isu_Halal_Semasa_Sembelihan-alkohol-al-Jalallah.

problems of emerging modernity. Therefore, a collective ijtihad institution consisting of scientists from various disciplines is indispensable. So in this way, a legal case can be viewed from various aspects of science, so that the essence of a problem can be seen in the collectivity of scholars. However, there should also be no restrictions on those who are able to perform ijtihad individually, if the results are different from what has been agreed upon. In addition, it must be aware of irresponsible ijtihad products so as not to cause confusion to the public.⁶⁷

It can be concluded that the cycle of life of society in every is getting more and more complex, on the basis of excessive influence in science and technology, lest it make Islamic law do nothing to answer various contemporary phenomena today. Islamic law must be able to respond to contemporary challenges by contextualizing the *ushul of fiqh* and *fiqh* and their rules through the concept of benefit and benefit to society in general.

The Indonesian Ulema Council has examined at least 8 (eight) types of vaccines, namely: the special polio vaccine (IPV), the oral polio vaccine (OPV), the meningitis vaccine for haj and umrah pilgrims (I), the meningitis vaccine for pilgrims and Umrah pilgrims (II), immunization, MR (Measles Rubella) vaccine, meningitis vaccine from Beijing Luzhu Biopharmaceutical CO., Ltd and influenza vaccine manufactured by Hualan Biological Bacterian Co. Ltd. Xianxiang China.⁶⁸ The fatwa of the Indonesian Ulema Council on vaccines is a "response" to the development of contemporary health products on the one hand, however, it contains problems related to the materials used to make these vaccines on the other.

The fatwa format of the Indonesian Ulema Council consists of 4 (four) parts, namely: considering, remembering, paying attention and deciding. "Considering" is a material that contains something that is the consideration of a fatwa issued. For example, there is a need to issue a fatwa on the use of the IPV vaccine to serve as a guideline for the government, Muslims and other parties who need it and special considerations related to the fatwa, for example the consideration to demonstrate the importance of using IPV vaccine because many children under five are infected with immunocompromise (immune system disorders. body). "Remembering" is a part that describes the arguments used as a legal basis, including: al-Qur'an, hadith, ijma 'ulama', fiqhiyah rules and fuqaha 'opinions relating to the issues being studied.

"Pay attention", contains information on the existence of an MUI plenary meeting at a certain time and in certain fatwa cases put up by the party requesting the fatwa (mustafti). "To decide", contains legal fatwas on the issues

⁶⁷Huzaemah Tahido Yanggo, *Pengantar Perbandingan Mazhab* (Jakarta: Logos Wacana Ilmu, 1997), hal. 45

⁶⁸Tim Penyusun, "Himpunan Fatwa MUI Bidang POM Dan IPTEK," n.d, hal. .

being studied and the technical operation of administering vaccines in accordance with the provisions of Islamic law. The legal basis used by the MUI in issuing a fatwa is the al-Qur'an, hadith, and the fiqhiyah rules.

Conclusion

In its opinion related to vaccines, Indonesian Ulama Council uses the *al-dharar* (emergency) principle, which tends to eliminate harm. All forms of harm, whether small or large, must be eliminated. The reason for eliminating wickedness is because it oppresses and suffers. Therefore, the harm that occurs must be eliminated immediately. Furthermore, the recommendation (*taushiyah*) of this fatwa is that the government should campaign for every mother to provide adequate breastfeeding, especially colostrum until the age of two. The government should make every effort, as well as through WHO and Muslim-populated countries, to pay attention to the interests of Muslims in terms of the need for sacred and halal medicines. The use of meningitis vaccine that uses ingredients from pigs and / or in the process of making contact with pork ingredients, especially for mandatory hajj and umrah pilgrims, the law is permissible, if there is an urgent need (*li al-Hajah*). The provisions in the MUI fatwa Number 5 of 2009 which states that people who perform the obligatory pilgrimage or umrah must be allowed to use the prohibited (*haram*) meningitis vaccine because *al-hajah* (urgent need) is declared no longer valid. Immunization with vaccines that are unclean are not permitted unless: used in *al-dharurat* or \neg *al-hajat* conditions, no halal vaccine ingredients have been found (there is valid information from competent medical personnel and it is believed that there is no halal vaccine). The use of MR vaccine products from the Serum Institute of India (SII), is allowed because there is a condition of compulsion (*dharurat syar'iyah*), there is no MR vaccine that is halal. The use of the MR vaccine produced by SII for the implementation of MR immunization has met the criteria of *dharurat syar'iyah* considering the dangers that arise if immunization is not carried out, no more effective alternative ways to prevent measles and rubella. Related to the vaccine product of the Beijing Luzhu Biopharmaceutical Co. company. Ltd, MUI in its fatwa decided on the following legal provisions: Group A, C, Y, W135 Meningococcal Polysaccharides Vaccines (MENVAC) Vaccines produced by Beijing Luzhu Biopharmaceutical Co. Ltd is lawful, Vaccines Group A, C, Y, W135 Meningococcal Polysaccharides Vaccines (MENVAC) produced by Beijing Luzhu Biopharmaceutical Co. Ltd may be used by Muslims. As a practical recommendation, for those who work in medical sectors, this study proves that the fatwas of MUI deserve to be referred as basic guidelines in dealing with Muslim patients. The humanistic and comprehensive communication and approach between doctors and patients will ease and pave the best way of medical treatment. While for the researchers, this result of research may explain basically and deeply the interrelation between theories of Islamic jurisprudence and contemporary legal reality, especially

concerning the acceptance and refusal of using vaccines by Muslims and their Islamic legal arguments. However, due to rapid challenge and development of vaccines, further study on the essence and ingredients of contemporary vaccines (such as vaccines for Covid-19) as well as the fatwas on the case are still necessary.

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