

## REGULATING THE COVID-19 PANDEMIC: FATWAS, LAW, AND POLICY IN AUSTRALIA

Ann Black\*

Associate Professor, School of Law, University of Queensland

### Abstract

*The COVID-19 pandemic tested governments, health systems, and religious communities. Australia prioritised health and community safety over freedom of religion which impacted on religious communal activities, which for Muslims were significant. Unlike Indonesia and other Muslim majority countries, where there is a respected well-established role for ulama, either collectively or individually, giving guidance and rulings (fatwas) to governments and Muslims, in a secular nation, like Australia, it is less established. This paper evaluates the ways by which the three main Islamic organisations in Australia aided their communities during the pandemic and to extent to which they supported their government in implementation of a regulatory raft of isolation and social distancing policies as well as the vaccine mandate. This is done by analysis of fatwas issued during the pandemic. It concludes that by working with, not in opposition to the government regulations, they provided optimal outcomes for the Muslim community and Australia.*

**Keywords:** COVID-19, pandemic, fatwa, vaccine, Australia, Syariah

### A. Background

The virus SARS-CoV-2 (coronavirus) which causes the disease COVID-19 most likely entered the human population sometime in November 2019 in Wuhan, China.<sup>1</sup> SARS-CoV-2, is a new viral strain, a sub-type, with no known cure, and is highly transmissible between people. It spread widely and rapidly across the world.<sup>2</sup> Cases outside China were detected in Europe, America, and Asia early in 2020. It did not discriminate between the first and third world. Australia's federal Minister of Health reported the first diagnosed case in Australia, a traveller from Wuhan, on 25<sup>th</sup> January 2020.<sup>3</sup> Recognising human coronavirus had pandemic potential the Australian government immediately implemented a series of legislative measures including listing human coronavirus as a 'Human Disease' under the *Biosecurity Act 2015* (Cth). This enabled lawful use of border closure measures which from mid-March 2020 closed Australia's international borders with exemptions only for Australian citizens, permanent residents

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\* a.black@law.uq.edu.au

<sup>1</sup> Helen Davidson, "First Covid-19 Case Happened in November, China Government Records Show - Report," *The Guardian*, 2020, <https://www.theguardian.com/world/2020/mar/13/first-covid-19-case-happened-in-november-china-government-records-show-report>.

<sup>2</sup> Adam Felman, "What to Know About Pandemics," *MedicalNewsToday*, 2020, <https://www.medicalnewstoday.com/articles/148945>.

<sup>3</sup> Australian Government Department of Health, "Coronavirus (COVID-19) Case Numbers and Statistics," Australian Government Department of Health, 2020, <https://www.health.gov.au/health-alerts/covid-19/case-numbers-and-statistics>.

and their immediate family, who were required to isolate in a government facility for 14 days.

Australia notified the World Health Organisation (WHO) of early cases in January, and in March WHO officially labelled the COVID-19 a pandemic.<sup>4</sup> On 2<sup>nd</sup> March 2020, Indonesian President Joko Widodo confirmed the first two cases of the disease in the country,<sup>5</sup> amongst underlying concerns of a possible already existing "silent epidemic" of COVID-19.<sup>6</sup> Indonesia, Australia and every nation implemented laws, regulations and policies to manage, limit, and even to eradicate the disease. The many COVID-19 mutations that followed made eradication difficult and the final tally of COVID-19's deaths, and infections is incalculable. However, the grim statistics of deaths, disability and contagion, which necessitated a whole of government response led to impacts beyond health to community, economy, education, employment and for religions. Management and regulation of this disease remains an ongoing 21<sup>st</sup> century concern.

The aim of the paper is not to analyse nor compare death or infection rates between nations or people, or to evaluate effectiveness of government policy and regulations in meeting stated health objectives in its COVID-19 management. Instead, this paper will evaluate the role played by religious authorities in support for, or rejection of, government regulations dealing with COVID-19 as it impacted on people of faith. The case study for this is Australia and the role Muslim leaders and Islamic organisations played in their communities' understanding of the virus and what was required of them as citizens and Muslims. Did the Muslim scholars and leaders prioritise Islamic duties and practice to defy government and health department orders, or did they work to explain the formal legal regulations through reasoning based on Syariah which allowed for Islamic adaptations?

This is an important question for analysis. The unprecedented nature of this pandemic as a public health crisis - one not encountered in the lifetime of most national leaders, health workers, or religious communities meant the response from each sector was crucial to outcome. It was over 100 years since the last pandemic which was the influenza (H1N1 virus) that spread worldwide in 1918-1919. Colloquially known as the Spanish Flu about 500 million people, or one third of the world's population, were infected and 50 million people died. The hope was that modern scientific

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<sup>4</sup> World Health Organization, "WHO Director-General's Opening Remarks at the Media Briefing on COVID-19," World Health Organization, 2020, <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>.

<sup>5</sup> Marchio Irfan Gorbiano, "BREAKING: Jokowi Announces Indonesia's First Two Confirmed COVID-19 Cases," TheJakartaPost, 2020, <https://www.thejakartapost.com/news/2020/03/02/breaking-jokowi-announces-indonesias-first-two-confirmed-covid-19-cases.html>.

<sup>6</sup> Dyna Rochmyaningsih, "Indonesia Finally Reports Two Coronavirus Cases. Scientists Worry It Has Many More," Science, 2020, <https://www.science.org/content/article/indonesia-finally-reports-two-coronavirus-cases-scientists-worry-it-has-many-more>.

and medical advances, better communication, and international coordination would not replicate the same toll for COVID-19. It was clear that working together, not in opposition, was needed for optimal outcomes. Although it was the same virus causing COVID-19 worldwide, nations did respond differently. One point of difference was the value a nation accorded to religion vis a vis health. Mazurkiewicz surveyed 19 European nations to find high restrictions on public religious gatherings and services in the United Kingdom, comparatively moderate restrictions in Austria, whilst Spain and Hungary had few or low restrictions.<sup>7</sup> Noting that viral transmission was the same, the divergence in state responses, he argued, equated with the place each society accorded to religion. Mazurkiewicz concluded that in secular societies, ‘health and physical life appear to be the most important values,’ in part because ‘medicine has become a substitute for religion’.<sup>8</sup> This may not be the case in Indonesia and other Muslim-majority nations but in liberal secular Australia, health priorities superseded human rights protections including freedom of religion and of association, although, on occasions, the right to protest was maintained.<sup>9</sup> The general position in secular states was that when situations of necessity and emergency arise, other rights become secondary. Arguably as freedom of religion does not sit at the top of Australia’s hierarchy of rights, evidenced by recent failure to pass the *Religious Discrimination Bill* 2019 into federal law and to not have a Religious Discrimination Commissioner at the Human Rights Commission.<sup>10</sup> The result was communal religious prayer, worship and ceremonies were seen as not essential during the pandemic. It meant that people of faith, either individually or collectively, could either accept and modify their practices in accordance with state pandemic regulations essentially forming a partnership with government, or defy the orders risking punitive consequences or challenge their legality or constitutionality in a court of law.<sup>11</sup>

## B. Identified Problems

The Australian and each State and Territory government required all citizens to adhere to its COVID-19 policies detailed in legislation and in executive orders. These were enforced by police, at times the army, and fines for breaches adjudicated in the courts of law. The policy did change

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<sup>7</sup> Piotr Mazurkiewicz, “Religious Freedom in the Time of the Pandemic,” *Religions* 12, no. 2 (2021): 1–21, <https://doi.org/10.3390/rel12020103>.

<sup>8</sup> *Ibid.*, P. 11.

<sup>9</sup> Greg Martin, “Protest, Policing and Law During COVID-19: On the Legality of Mass Gatherings in a Health Crisis,” *Alternative Law Journal* 46, no. 4 (2021): 275–81, <https://doi.org/10.1177/1037969X211029963>.

<sup>10</sup> Judith Ireland, “What Are the New Religious Discrimination Laws About?,” *The Sydney Morning Herald*, 2019, <https://www.smh.com.au/politics/federal/what-are-the-new-religious-discrimination-laws-about-20190829-p52m1z.html>.

<sup>11</sup> On the different responses around the world see, Ann Black, “In the time of the COVID-19: law, religious freedom and the secular state” in *Religious Freedom in Secular States*, eds. Jahid Bhuiyan & Ann Black Leiden: Brill, 2022, forthcoming.

according to the health advice given to each government by its Chief Health Officer which meant variations especially at the state level. The toll on people of faith was significant. The government's policy impacted in five ways. First, for most of 2020, churches, mosques, and temples were closed, or could open with numerical and distance limitations on in-person worship. 'Stay-at-home' orders, or 'lockdowns' restricted citizens from leaving their homes to attend all but 'essential places', with compliance ensured by police and on occasions armed forces. As with all religious venues, attending a mosque was deemed not essential. When mosques did re-open, the numbers who could be present were limited by four metre distancing and mask mandates. Second, holy days traditionally shared with family and like believers whether Easter for Christians or Ramadan and Eid for Muslims, Diwali for Hindus, were curtailed. During Ramadan the *iftar* dinners after the day's fast traditionally shared with extended family and friends, along with the evening congregational prayer (*tarawih*), were only for an immediate household or family. Visas to leave and return to Australia for a pilgrimage to Mecca for *haji* (a pillar of Islam) and *umrah* were not granted. Third, the coming together of believers for communal services of worship integral to all faiths, such as the eucharist for Christians, and the obligatory Friday *jummah* and daily prayers for Muslims were initially stopped, then modified and limited. Disallowed was lining up in rows with shoulders touching which gave a sense of being close with other believers. Ozalp noted that ceasing Friday prayers on such a global scale had not occurred since it was introduced by the Prophet Mohammad in 622.<sup>12</sup> Fourth, life and death events imbued with religious blessing and meanings including marriage, *aqiqah*, blessings, burials, and funeral services curtailed, and numbers limited to a handful of attendees. Fifth, the essential religious tasks of aid to the ill, elderly, infirmed, those in financial, spiritual, and emotional need were adversely affected.

Given the isolation, anxiety, and economic disruption wrought by the pandemic, the restrictions outlined above arose at a time when, arguably, human contact was most needed. Research indicates that practicing one's faith increases morale, a sense of belonging, reduces.<sup>13</sup> Through attending communal services and prayers a supportive social network develops which in-turn increases well-being. Whilst each restriction struck equally at all religions, the impact on religious minorities was keenly felt especially for Australian Muslims. In a secular land, tight-knit large extended Muslim families are the norm and their faith community is central to identity, support, and well-being. Not able to visit elderly and close family members was described as a heartbreaking. Social distancing restrictions on the Muslim customs of hand-shaking and embracing took adjustment.

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<sup>12</sup> Mehmet Ozalp, "How COVID-19 Is Impacting Muslims Throughout the World," Charles Sturt University, 2020, <https://news.csu.edu.au/opinion/how-covid-19-is-impacting-muslims-throughout-the-world>.

<sup>13</sup> Ram A. Cnaan, Robert J. Wineburg, and Stephanie C. Boddie, *The Newer Deal: Social Work and Religion in Partnership* (New York: Columbia University Press, 1999).

## 1. Role for Ulama in Australia

In Muslim majority nations there is a well-established relationship between government, its Muslim population and Islamic *ulama*. In some there is a government appointed state (Grand) Mufti, as in Brunei, Malaysia, and Oman. In other Muslim majority nations including Indonesia, religious authority is separate from the state. It resides in large scholarly councils of ulama, such as Muhammadiyah, Majelis Ulama Indonesia (MUI), and Nahdlatul Ulama (NU). Each has religious gravitas with a recognised and valued role of issuing fatwas to guide Indonesians in life's ethical choices. Hosen identifies the voluntary nature of fatwas as the defining feature for Indonesia where Indonesian Muslims 'esteem their ulama principally as religious patrons, whose advice and exemplary lives are to be followed'.<sup>14</sup>

Australia is different. Unlike Muslim majority Indonesia which for centuries has been informed by Islam, and where Syariah (as well as custom) is a recognised source of law, Islam in Australia is comparatively recent and Syariah is not a formally recognised source of law in either the courts or more broadly in society. Since federation in 1900, Australia has been secular but British colonisation meant it was founded on Christian tenets with a common law legal system. Whilst Syariah is not a source of law, nor is the religious law of any other religion (Christian, Jewish, Hindu). For Australia's Muslims this at times presents a challenge,<sup>15</sup> but Muslims can adhere to Syariah as an informal code of conduct in all aspects of their lives, unless it amounts to a breach of Australian laws (such as underage marriage or female circumcision). Without state regulation of religion, Muslims reside in a country which gives them choices on how to practice Islam and how to manifest their level of Islamic devotion. Muslims are a small but growing percentage of the population and after Christian denominations and 'no religion', Islam is now Australia's second largest religion. According to demographic projections by the Pew Research Centre, by the middle of this century the number of Muslims will increase to 1.4 million, constituting 5% of the Australian population. However, on the current data from the 2016 census (2021 census is not yet available) there are 604,200 Muslims or 2.6% of the total population of 23.4 million. One distinguishing feature of the Muslim population is its composition. Almost 37% are Australian born with 63%

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<sup>14</sup> Nadirsyah Hosen, "Behind the Scenes: Fatwas of Majelis Ulama Indonesia (1975-1998)," *Journal of Islamic Studies* 15, no. 2 (2004): 147-79.

<sup>15</sup> Ann Black and Kerrie Sadiq, "Good and Bad Sharia: Australia's Mixed Response to Islamic Law," *University of New South Wales Law Journal* 34, no. 1 (2011): 383-412.

recent immigrants or refugees who are ethnically and linguistically diverse. The census showed Muslims in Australia come from over 150 different nations (Afghanistan Bangladesh, Indonesia, Iran, Iraq, Lebanon, India, Pakistan, Turkey, Fiji, Egypt, Bosnia, Somalia, Malaysia etc). Their lived experiences are different too as is their relationship to Islam. A survey by Raine et al found the majority said they were Sunni (63.6%), followed by 34% who answered they were ‘just Muslim’ (34.0%).<sup>16</sup> Some fled religious oppression in their home countries whilst others valued their governments using Syariah as the foundation of all laws and religious practice.

Amid such diversity, how did Islamic leaders explain, guide and support Australian Muslims during the Covid-19 pandemic? Did they accept and work with the government to implement its COVID-19 strategy and policy, or defy, or challenge it in the courts of law?

### C. Research Methods

To answer the question on the role Islamic scholars and community leaders played in policy acceptance or rejection during the COVID-19 pandemic, this paper focuses on the three leading Islamic organisations and the fatwas (religious opinions) issued by them during the first two years of the pandemic. Of course, Muslims received information and guidance during this time from a range of sources. A pre-pandemic survey of just over 1000 Australian Muslims found the most influential sources for their understanding of Islam ‘to be the Qur’an (82.5%), followed by hadith (66.4%), scholarly books (41.2%), imams, sheikhs and ulema (29.9%), family (28.4%), academic scholars (22.2%), mosque and madrassa classes (21.3%), internet (16.7%), friends (12.3%), social media (9.5%), school (8.6%), and university (6.4%).<sup>17</sup> When it came to trust for Islamic organisations, highest trust was for Islamic schools and colleges (52.3%), the national board of imams (48.9%), state board of imams (49.4%), and state Islamic councils (46.1%), followed by the Australian Federation of Islamic Councils (42.3%).<sup>18</sup>

However, during times of crises including this pandemic there is evidence internationally to show that the rulings of imams have ‘greater moral authority than the appeals of politicians and doctors’.<sup>19</sup> WHO recognised this stating that ‘religious leaders, faith-based organizations, and faith communities can play a major role in saving lives and reducing illness

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<sup>16</sup> Halim Rane et al., “Islam in Australia: A National Survey of Muslim Australian Citizens and Permanent Residents,” *Religions* 11, no. 8 (2020): 1–39, <https://doi.org/10.3390/rel11080419>.

<sup>17</sup> *Ibid.*, P. 10.

<sup>18</sup> *Ibid.*

<sup>19</sup> Aldona Maria Piwko, “Islam and the COVID-19 Pandemic: Between Religious Practice and Health Protection,” *Journal of Religion and Health* 60, no. 5 (2021): 3291–3308, <https://doi.org/10.1007/s10943-021-01346-y>.

related to COVID-19'.<sup>20</sup> Australian Muslims would have also accessed and considered fatwas from many online sites, including international Islamic bodies such as the International Islamic Fiqh Academy of the Organization of Islamic Cooperation (IIFA) and the European Council for Fatwa and Research (ECFR). It is most likely many turned to information from their 'countries of origin'. Muslims with families in Indonesia are likely to read fatwas accessed online from Indonesia, or Lebanese from Lebanon and so forth. Some would have turned to what may seem as the great centres of Sunni or Shia scholarship and leadership in Saudi Arabia, Egypt or Iran respectively, or accessed cyber-muftis with mass popular appeal.

Earlier research undertaken with Dr Nadir Hosen found that online sites such as Islam On-line, Islam Q&A, Ask the Imam, received many questions from Australia with domain reports showing widespread access from 'au'.<sup>21</sup> It supports Caerio's conclusion that demand for fatwas in the West from such sites appears greater than in Muslim countries.<sup>22</sup>

However, in times of crisis when the federal and state governments enacted laws and regulations which restricted many liberties of its citizens including when they could leave their homes, where they could work, the distance they could travel, who they could have contact with, if, and then how, communal prayer and events could occur, with mask and vaccine mandates, that Australian Muslims would have also turned to fatwas from their own country's leaders. The pandemic would be a time to trust Australian authoritative sources.

There are three main Islamic organisations in Australia which take on both leadership and an *ifta* role. They hold themselves out as having the scholarly expertise to issue fatwas and did so during the pandemic. These are the Australian Federation of Islamic Councils (AFIC), Australian National Imams Council (ANIC) and Darulfatwa Islamic High Council of Australia (Darulfatwa). The approach and rulings of each will be analysed in Part D.

1. **Australia's Sources of Islamic religious authority**
  - a. **Australian Federation of Islamic Councils**

By way of background, AFIC is the nation's oldest representative Muslim body and describes itself as the peak body for Australia's Muslims. Since 1964, it has been an umbrella organisation overseeing eight state and territory Islamic Councils, including one on Christmas Island. Its elected president is Dr Rateb Jneid. He is a co-signatory to

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<sup>20</sup> World Health Organization, "Practical Considerations and Recommendations for Religious Leaders and Faith-Based Communities in the Context of COVID-19" (Jenewa, 2020).

<sup>21</sup> Ann Black and Nadirsyah Hosen, "FATWAS: Their Role in Contemporary Secular Australia," *Griffith Law Review* 18, no. 2 (2009): 405–27, <https://doi.org/http://dx.doi.org/10.1080/10383441.2009.10854648>.

<sup>22</sup> Alexandre Caerio, "Transnational Ulama, European Fatwas, and Islamic Authority: A Case Study of the European Council for Fatwa and Research," in *Producing Islamic Knowledge: Transmission and Dissemination in Western Europe* (London: Routledge, 2010), 37.

fatwas AFIC issues through its National Sharia Board's Dar-Al-Ifta site.<sup>23</sup> It designates Imam Mohammad Trad its *da'wah* and *ifta* manager. In addition, AFIC's Grand Mufti has an 'Ask the Mufti' site to answer individual questioners.<sup>24</sup>

**b. Grand Muftis**

The position of Grand Mufti has been mired in controversy. In 1988, AFIC appointed Egyptian-born Taj el-Din al-Hilali as Australia's first Grand Mufti. It proved a contentious appointment and the Sheikh stood down in 2007. With the subsequent creation of a second national Islamic authority, ANIC, this new body assumed the role of appointing Australia's Grand Mufti and designated Lebanon-born Fehmi Naji Grand Mufti. He served until 2011; succeeded by the election of Egyptian-born scholar Dr Ibrahim Abu Mohamed. However, a decade later in 2021, and again controversially, AFIC once again appointed its own Grand Mufti, Imam Abdul Quddos al-Azhari. The result is Australia currently has two Grand Mufti's from two rival Sunni organisations. Each claims to represent the Muslim community in Australia and to have the exclusive right to appoint a Mufti.<sup>25</sup> In 2021, AFIC's Grand Mufti Abdul Quddos al-Azhari. issued a fatwa in response to the question "why there should be two Grand Mufti's in Australia?"<sup>26</sup> which highlights the division between the two bodies.

**c. Australian National Imams Council**

ANIC was established in 2008, partially in response to concerns many imams had regarding pronouncements of the then AFIC Grand Mufti Taj El-Din Hilaly. ANIC's stated purpose is to 'unite the Imams of Australia under one umbrella body'. It is comprised of 200 imams from across Australia with an executive committee of 20 imams and a president: currently Shady Alsuleiman. Members of its state-based Imam Councils are listed. ANIC's Fatwa Council was established in 2019. It issues fatwas, described as 'Islamic Verdicts' and undertakes 'research on contemporary issues and matters pertaining to Australian Muslims, spiritual guidance and preservation of

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<sup>23</sup> Australian Federation of Islamic Councils, "AFIC National Sharia Board," Australian Federation of Islamic Councils, 2017, <https://afic.com.au/ansb/>.

<sup>24</sup> National Grand Mufti of Australia, "Ask the Mufti," National Grand Mufti of Australia, 2022, <https://grandmufti.com.au/ask-the-mufti/>.

<sup>25</sup> Tiffanie Turnbull, "Surprise Over Australia's Two Grand Muftis," The Canberra Times, 2021, <https://www.canberratimes.com.au/story/7202891/surprise-over-australias-two-grand-muftis/>.

<sup>26</sup> Australian Federation of Islamic Councils, "AFIC National Sharia Board."

the Islamic Identity'. The eleven Fatwa Councils members were chosen from the 200 affiliated imams for their qualifications, experience and competency. They are under the leadership of ANIC's Grand Mufti of Australia and Chairman Dr Ibrahim Abu Mohamad. Fatwas are issued collectively as a Council ruling with attribution to the Grand Mufti.

**d. Darulfatwa Islamic High Council of Australia**

Darulfatwa was established in 2004 by the Association of Islamic Charitable Projects. Its website states that it is the 'largest religious institution in Australia, and embodies many Muslim organizations, associations, mosques, Imams and Islamic offices of diverse linguistic and cultural backgrounds'. In addition to its *ifta* role it disseminates information to Muslims in Australia through radio broadcasts in languages other than English. Its stated aim is to provide an 'independent and moderate' voice for Islam in Australia by opposing all forms of extremism. Lebanon-born Prof. Sheikh Salim Alwan Al-Husayni, is Darulfatwa's Grand Chairman and is a member of the General Secretariat for Fatwa Authorities Worldwide.

**2. Fatwa Analysis**

From these three ifta organisations, there were three dimensions to the fatwa analysis for COVID-19 with the findings discussed below in D: Research Findings. These were:

- a. Why did the pandemic occur? From the outset, Muslims like other people of faith sought answers as to why this affliction was happening in the world. Was the answer in science alone or was the pandemic a message or a warning from Allah?
- b. What guidance was given to Muslims in response to government preventative mechanisms? Should Muslims respond to government decrees for isolation and travel restrictions when these were seemingly at odds with Syariah requirements for communal prayer, for shared holy events, and ministering to their family' and communities' needs?
- c. Are COVID-19 vaccinations halal? There were many claims and counterclaims about vaccinations and if they were ruled permissible, what was the reasoning for this?

**D. Research Findings and Discussions**

**1. Why did the pandemic occur?**

Given the fear, anxiety and powerlessness generated by

pandemics and plagues, it is natural for believers to ponder the reasons why their God - Allah for Muslims - allowed such a disastrous phenomenon to occur. Philips found that across the world people sought explanations in supernatural forces 'whether divine, malevolent, or ancestral'.<sup>27</sup> Muslims, like Christians and other believers, reflected on why an all-powerful, all-knowing, but compassionate God would do this to them. Writing on the virus in light of the Quran and hadith, Helal and others captured how in Islam, pandemics are understood as expressions of God's singular power: 'Allah is the owner of our life and death. He is our Creator and Sustainer. Everything in the world is His creation. He can do whatever He wants. There is no end to His power'.<sup>28</sup>

The Quran 2:59 says: 'We sent on the transgressors a plague from heaven, for that they infringed (Our command) repeatedly'. It raised questions as to whether COVID-19 was a warning or a punishment for earthy sins, or, was it to guide believers back to a divinely ordained path?<sup>29</sup> The Grand Mufti of Brunei Darussalam warned that sins such as zina, sodomy, bisexuality and transsexuality would cause 'malediction and misfortune to descend'<sup>30</sup> on humankind drawing on the punishment Allah wrought on the people of Lut for their disobedience. Some early fatwas suggested the virus was in China as retribution for mistreatment of Muslim Uighers or for decline in hejab wearing by Muslim women.<sup>31</sup> Another view was that pandemics are source of mercy for believers, as disease and suffering in this world can obliterate sins. Hadiths indicate that if Muslims die due to a pandemic, they die as martyrs,<sup>32</sup> closer to Allah both in this world and in the hereafter.<sup>33</sup>

All three of Australia's fatwa organisations did not tread far into the causes or theological reasons in their rulings. This was perhaps surprising as western centres such as the North America Fiqh Council (NAFC) and the European Council of Fatwa and Research (ECFR) did cover this in some detail. In response to the question: 'Are the viruses such as Coronavirus (COVID-19) and catastrophes a punishment from

<sup>27</sup> Howard Phillips, "'17, '18, '19: Religion and Science in Three Pandemics, 1817, 1918, and 2019," *Journal of Global History* 15, no. 3 (2020): 434-43, <https://doi.org/10.1017/S1740022820000315>.

<sup>28</sup> Muhammad Shafiqul Alam Helal, Muhammad Eunus Mia Bhuiyan, and Iqbal Ahmed, "Virus and Covid 19 Spread: In the Light of Holy Quran and Hadith," *European Journal of Molecular & Clinical Medicine* 7, no. 3 (2020): 518-25.

<sup>29</sup> Quran 42:30.

<sup>30</sup> Awang Abdul Aziz bin Juned, *The Shari'ah Penal Code: An Introduction* (Bandar Seri Begawan: State Mufti's Office, 2013).

<sup>31</sup> Maryam Ghadyani et al., "Responses to the COVID-19 Pandemic in Syria, Iran and Pakistan," *Abdou Filali-Ansary Occasional Paper Series* 2 (2020).

<sup>32</sup> There are several hadiths of the Prophet Mohammad in support of martyrdom for those who die from plagues and pandemics. Sahih al-Bukhari - <https://sunnah.com/bukhari:2830>.

<sup>33</sup> Zohaib Ahmad and Arzoo Ahad, "COVID-19: A Study of Islamic and Scientific Perspectives," *Theology and Science* 19, no. 1 (2020): 32-41, <https://doi.org/10.1080/14746700.2020.1825192>.

Allah?’<sup>34</sup> ECFR fatwa reasoned it was not a punishment but a test, citing Quran 21:35: ‘every soul shall have a taste of death: and We test you by evil and by good by way of trial. To Us must you return’. Second, ECFR held it was a reminder to the people of the world that ‘despite their material and scientific achievements, they should not overlook the spiritual and ethical aspects, strengthen their relations with the Creator the Exalted, and abide by the fundamental values e.g. social justice, peaceful coexistence, respecting human rights, and cooperation with all in good and righteousness’.<sup>35</sup> Third, the ECFR fatwa emphasised the pandemic was not revenge as ‘Allah is always merciful.’ However, it was time to turn to Allah in ‘prayer and submission’ and to repent from immorality and sins which perpetrate inequality, unethical activities and wars’.<sup>36</sup> Similarly in the NAFC 2020 fatwa: Islamic Guidance pertaining to the spread of Covid-19<sup>37</sup> Shaykh Mustafa Umar’s also adopted the test rationale: ‘Tests are a natural, albeit difficult, part of life and should not be surprising for any Muslim when they occur. Allah says, ‘We shall certainly test you with fear and hunger, and loss of property, lives, and crops. But [Prophet], give good news to those who are steadfast’ (Quran 2:155).

ANIC affirmed that, ‘Life and death are absolutely within the decree of Allah alone, exalted be He. This is a reality, no matter what the secondary causes appear to be’ which included illnesses. The AFIC fatwa, drawing on a range of hadith as examples, opined that ‘adversity should be endured patiently, and that benefit can come from adversity’. Darulfatwa called on Muslims to demonstrate ‘our Islamic values and manners, by helping one another and by increasing our supplication to Allah the exalted to alleviate this pandemic and calamity within our society’.

## 2. What guidance was given to Muslims in response to government preventative mechanisms?

Fatwas from the three Australian *ifta* organisations aligned with the government’s policy for preventative measures. Their reasoning supported a suspension of all Friday and congregational prayers at mosques and large prayer centres and isolation measures.

Three months prior to the pandemic, in December 2019, ANIC’s Fatwa Council issued a fatwa that stated it was an Islamic obligation for every Muslim male adult to attend the midday Friday congregational prayer (*jumma salat*). This changed with COVID-19’s onset, as ANIC’s fatwa on 15<sup>th</sup> March 2020, decreed a legal exemption from this obligation and granted a further exemption from attending

<sup>34</sup> The Faith, “Is Coronavirus (COVID-19) a Punishment from Allah?,” The Faith, 2020, <https://www.the-faith.com/islamic-creed/is-coronavirus-covid-19-a-punishment-from-Allah/>.

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

<sup>37</sup> Mustafa Umar, “Fiqh Council of North America: Islamic Guidance Pertaining to the Spread of Covid-19,” Colby, 2020, <https://web.colby.edu/coronaguidance/2020/03/17/fcna-spread/>.

daily congregational prayers. The exemptions were necessary ‘in order to curb the spread of coronavirus during a time of worldwide transmission’ and drew on the ‘principle from among the purposes of our holistic Islamic Legal Framework (*shari’ah*) as the protection of human life (*nafs*)’. This was demonstrated by Prophetic example, collected in Sahih al-Bukhari and Sahih Muslim, on the authority of Ibn ‘Abbas and Ibn ‘Umar who said that during nights where there was rain, wind and cold, the Messenger of Allah used to instruct the Caller to Prayer (*mu’adhin*) to announce during the Call to Prayer (*adhan*): ‘Lo, pray in your dwellings! Lo, pray in your dwellings!’ Interestingly, government policy would inform the prayer exemption as the fatwas noted it remained ‘dependent on the announcement from the state and/or national Department of Health in relation to the scope of self-isolation measures and mass gathering restrictions’.

ANIC detailed numerous practical measures to limit transmission; all of which were justified by a hadith: ‘The ill should not be taken to the healthy.’ Consequently, Muslims should avoid shaking hands, hugging and kissing as it was ‘unacceptable and irrational for the general customs and gestures of people to take precedence over sound, reliable and authoritative medical advice that has the purpose of prevention of harm and protection of human life’. One of the 13 practical measures outlined included ethical Islamic commercial dealings: ‘One of the severest and most abominable of actions that people must avoid during this period of tribulation is business owners and suppliers taking advantage of the situation by hoarding essential products in order to raise prices’.

A subsequent ANIC fatwa three days later on 18<sup>th</sup> March made similar points but emphasised that the ‘Islamic Sacred Law protects the life of a Muslim and facilitates the taking of means to remove hardship in one’s path.’ As COVID-19 spreads by close social interaction it threatens life, and life-protecting measures are needed. For this reason, ‘a Muslim is permitted in such a case to pray *Jumu’ah* as a normal 4 *Rak’at* Dhuhr prayer in one’s home’. The result was that ‘homes turned into mosques, the families became the prayer groups and the head of the house turned into an imam leading the prayers with their family’.<sup>38</sup> With prayer important for bringing Muslims closer to Allah, the mosque closures resulted in many Muslims turning to online and radio sources, such as ones on offer by Darulfatwa, and to apps such as *Muslim Pro*. ANIC’s Council of Fatwa rejected the use of online, radio and ‘indirect’ means of prayer. On 21<sup>st</sup> April, a fatwa ‘Prayers behind Imam Online’ reviewed ‘the authentic texts and evidence related to this matter, (and) the Fatwa Council has decided that these prayers in all their forms whether online or behind

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<sup>38</sup> May Rizk, “Muslim Leaders Confirm COVID-19 Jab Permitted During Ramadan Fast,” SBS Arabic24, 2021, <https://www.sbs.com.au/language/english/muslim-leaders-confirm-covid-19-jab-permitted-during-ramadan-fast>.

the radio, television, or any other means of indirect communication are invalid according to the Islamic rulings, and that all Fiqh organisations and Fatwa Councils worldwide have agreed on the invalidity of these ways of establishing the congregational prayers'. This contrasted with Darulfatwa. Dr. Sheikh Salim Alwan Al-Husainiyy who whilst endorsing the suspension of the 'congregational and Friday prayers and meetings in all Mosques' encouraged Muslims 'to participate with us via live streaming on our social media pages including Facebook for religious lessons, upcoming Eid and Friday speeches'.

All three *ifta* organisations ruled it was permissible to fast during Ramadan and rejected any assumption that fasting could increase susceptibility to contracting coronavirus. The latter view was held as Islamically and scientifically invalid.

### 3. Are COVID-19 vaccinations halal?

Muslim, Catholic and some other faith communities initially raised ethical concerns about vaccination programs to reduce COVID-19 deaths and health complications. All governments including Australia's wanted a vaccinated population even though effectiveness of the vaccine type and the concepts of 'herd immunity' were debated. Whilst early data from several nations showed initial lower rates of vaccination amongst religious sectors, including Muslims,<sup>39</sup> support for vaccination by religious leaders helped overcome initial distrust. This is what occurred in Australia.

A year after the onset of the pandemic, the Australian government approved vaccinations to reduce severity of COVID-19 symptoms.<sup>40</sup> These had been medically tested and vetted by the Australian Technical Advisory Group on Immunisation and included Pfizer, AstraZeneca, Novavax and Moderna. The 'rollout' commenced on 22 February 2021, with those most at risk (quarantine and border workers, frontline healthcare workers and aged or disability care residents and staff) first, then followed by people in the community with compromised health or age. Children were last in the rollout.

Two weeks prior, but in anticipation of the vaccine rollout, AFIC's National Sharia Board issued a fatwa confirming any forthcoming government approved vaccines as halal. In coming to this position, their primary guiding principle was the Quran: 5:32: 'Whoever saves a life, it is as if he has saved all humanity' applying the general rule of 'permissibility unless expressly prohibited'. All

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<sup>39</sup> Tim Fernandez and Justin Huntsdale, "Mosque Offers COVID Vaccines But Arabic Social Media 'Misinformation' Keeps People Away," ABC Illawarra, 2021, <https://www.abc.net.au/news/2021-09-02/islamic-community-fights-vaccine-misinformation/100428060>.

<sup>40</sup> Australian Government Department of Health, "First COVID-19 Vaccinations in Australia," Australian Government Department of Health, 2021, <https://www.health.gov.au/news/first-covid-19-vaccinations-in-australia>.

vaccines components, it ruled, had been transformed to be halal.

Given transmissibility of coronavirus and the resulting severe health consequences, the rule of ‘necessity’ also applied. The fatwa noted it was important for correct information and endorsed the government to act in the best interests of their population, However, it did conclude with a qualification: ‘While AFIC National Sharia Board stands by its findings and Fatwa, it welcomes scholarly disagreement that is backed by sounds references’.

ANIC did not disagree. It also concluded in consultation with ‘trusted Muslim doctors and medical experts, that the vaccine for the Coronavirus (COVID-19) is permissible according to the Islamic law as there is no known religious harm attributed to being vaccinated nor does it contain any forbidden substances’.<sup>41</sup> Furthermore, the vaccine would be considered necessary if there is any possible risk of harm to other humans due to non-vaccination. It specifically identified that Pfizer and AstraZeneca did not contain any prohibited substances or ingredients.

In addition, the ANIC fatwa attached a detailed written report on the justification for the vaccination program from Muslim Health Professionals of Australia which in turn had been informed by the British Board of Scholars and Imams in consultation with Muslim virologists and researchers.<sup>42</sup> It addressed concerns of Islamic scholars (noting current COVID-19 vaccines in UK and Australia did not contain gelatine, any animal products, or foetal cells, and did not affect the DNA inside human cells). It answered common questions (vaccines were amongst the safest life-saving medications ever produced, as safe as paracetamol, 90% effective, allergic reactions were few, and had not been rushed as the technology used drew on existing technologies and research). The fatwa commenced by reassuring readers that Muslims were among the first to discover and practice vaccination in the 18th century, and since the advent of modern vaccination programs, Muslim jurists worldwide have almost unanimously argued for the permissibility and importance of vaccination to safeguard life and health. It concluded by warning against conspiracy theories and unverified opinions especially on social media: calling on Muslims to use only reliable sources of knowledge.<sup>43</sup>

The result was the Muslim community in Australia was well-supported by its two main representative organisations in making informed scientific and religious decisions about COVID-19 vaccinations. AFIC also called on the government to ‘make information available in a range of languages so that minority ethnic,

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<sup>41</sup> Australian Fatwa Council, “Coronavirus (COVID-19) Vaccine Fatwa (Islamic Verdict)” (Australia, 2021).

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

cultural and linguistic communities could be better informed'. The government responded with advertisements in over 30 languages, information sheets and videos in over 60 languages with the support of SBS (the country's multicultural television channel).

ANIC also issued a fatwa this year to rule it haram to conceal or hide a positive COVID test result from the public health authorities. Muslims, the fatwa stated, had in keeping with Quran 2:19 an 'Islamic obligation to isolate for anyone who tests positive to COVID-19. If one possesses symptoms of the virus, suspects carrying the virus or is awaiting a result after testing must remain in isolation and follow the advice outlined by the health department. This will include abstaining from attending daily prayers in the Mosque and attending the Friday Jumma prayer'.<sup>44</sup>

## E. Conclusions

'Allah did not send down any disease but that he also sent its cure' Hadith of the Prophet Mohammad.<sup>45</sup>

Fulfilling Allah's design in responding to diseases and seeking cures, this hadith imports a role for scientific knowledge. From the review (above) of the approaches adopted by the three Islamic representative organisations (AFIC, ANIC and Darulfatwa) during the pandemic, a respect for science underpinned their rulings. In doing so, these Muslim leaders linked science to the exemplary hadiths of the Prophet and passages in the Quran. As a result, fatwas on lockdowns, isolation, distancing, and vaccination became trusted sources of authority for Australia's 600,000 plus Muslims throughout the pandemic. Protecting the health of the community took precedence over Islamic duties. Their rulings had greater authority than announcements of doctors and politicians which although similar in content were devoid of religious justification. To know there was an Islamic justification and legal exemption from the obligation of Friday and congregational prayers helped the community comply with the government orders. To know that the vaccines approved in Australia were halal and there was Islamic as well as scientific validation negated confusion or scepticism surrounding the vaccination program. They protected the health of their community in modifying Syariah practices. Furthermore, by debunking social media conspiracy theories in their articulated support for public health orders from the Australian federal and state governments these scholars brought a united front to the many vexed issues that arose during the pandemic. Working together by explaining and reinforcing sound policies, they influenced positive health outcomes for Australian Muslims<sup>46</sup> and the whole country.

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<sup>44</sup> Ibid.

<sup>45</sup> Narrated by Abdullah ibn Mas'ud Sunan Ibn Mājah 3438.

<sup>46</sup> Australian Fatwa Council, "Fatwa on Isolation Due to COVID-19" (Australia, 2022).



American Islamic scholar Tahirul Qadri<sup>47</sup> wrote that ‘saving lives is an act of worship’ and this is what Australia’s Muslim leaders did during the pandemic.

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<sup>47</sup> Christine Lehmann, “Faith Leaders Spread the Word: Get Vaccinated,” WebMD, 2021, <https://www.webmd.com/vaccines/covid-19-vaccine/news/20210126/faith-leaders-spread-the-word-get-vaccinated>.

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