

## Istiḥālah and Ḍarūrah Theory Approach to the Law on the Use of Vaccines for AstraZeneca Products

Abdul Wahid Haddade<sup>1\*</sup>, Khaerul Anam<sup>2</sup>, Khaerul Anwar<sup>3</sup>

<sup>1</sup>Ikatan Alumni Cendekiawan Alumni Timur Tengah, Indonesia. E-mail: [ibnuhaddade@gmail.com](mailto:ibnuhaddade@gmail.com)

<sup>2</sup>Universitas Islam Negeri Alauddin Makassar, Indonesia. E-mail: [anamhaerul383@gmail.com](mailto:anamhaerul383@gmail.com)

<sup>3</sup>Centre for Advanced Studies on Islam, Science, and Civilisation (CASIS), University Teknologi Malaysia. E-mail:

\*Corresponding Author

### How to Cite

Haddade, Abdul Wahid, Khaerul Anam, and Khaerul Anwar. "Istiḥālah and Ḍarūrah Theory Approach to the Law on the Use of Vaccines for AstraZeneca Products". *Parewa Saraq: Journal of Islamic Law and Fatwa Review* 1, no. 1 (May 30, 2022). <https://ejournal.sulsemui.com/index.php/PS/article/view/6>.

---

---

### Abstract

This study aims to describe and analyze the legal review of istiḥālah and Ḍarūrah on the Indonesian Ulema Council Fatwa Number 14 of 2021 concerning the use of the AstraZeneca vaccine. A library study was conducted on some literature using a qualitative descriptive approach. The results showed that the limited supply of vaccines hindered the success of vaccination. Furthermore, the insufficient availability of the lawful and holy Covid-19 vaccine was also a problem encountered, hence the Fatwa Commission of the Indonesian Ulema Council (MUI) issued fatwa Number 14 of 2021. The Central MUI decision allowed the use of the AstraZeneca vaccine based on emergency conditions. They used the rules of istiḥālah and istiḥlāk narrowly and were not enforced because the Astrazeneca vaccine was not made from pork but used pork-derived ingredients. Furthermore, the fatwa was determined using the istinbāt rules used as guidelines, which included three methods, namely, the bayānī, ta'līlī, and istilāḥī. The adopted methodology in issuing this fatwa was the istiḥlāḥī method or maṣlaḥah mursalah. Regarding the Astrazenecase vaccine, the final decision was the same and allowed. However, according to the Central MUI, the permissibility of the Astrazeneca vaccine was an emergency.

**Keywords:** Theory Approach; Istiḥālah; Ḍarūrah; AstraZeneca Products

### Abstrak

Penelitian ini bertujuan untuk mendeskripsikan dan menganalisis tinjauan hukum istiḥālah dan Ḍarūrah pada Fatwa Majelis Ulama Indonesia Nomor 14 Tahun 2021 tentang penggunaan vaksin AstraZeneca. Penelitian kepustakaan dilakukan pada beberapa literatur dengan menggunakan pendekatan deskriptif kualitatif. Hasil penelitian menunjukkan bahwa pasokan vaksin yang terbatas menghambat keberhasilan vaksinasi. Selain itu, ketersediaan vaksin Covid-19 yang halal dan suci juga menjadi masalah yang dihadapi, oleh karena itu Komisi Fatwa Majelis Ulama Indonesia (MUI) mengeluarkan fatwa Nomor 14 Tahun 2021. Keputusan MUI Pusat mengizinkan penggunaan vaksin AstraZeneca berdasarkan kondisi darurat. Mereka menggunakan aturan istiḥālah dan istiḥlāk secara sempit dan tidak ditegakkan karena vaksin Astrazeneca tidak terbuat dari daging babi tetapi menggunakan bahan-bahan yang berasal dari daging babi. Selanjutnya, fatwa tersebut ditetapkan dengan menggunakan kaidah istinbāt yang digunakan sebagai pedoman, yang meliputi tiga metode, yaitu, bayānī, ta'līlī, dan istilāḥī. Metodologi yang diadopsi dalam mengeluarkan fatwa ini adalah metode istiḥlāḥī atau maṣlaḥah mursalah. Mengenai vaksin Astrazenecase, keputusan akhir sama dan diizinkan. Namun, menurut MUI Pusat, diizinkan vaksin Astrazeneca adalah keadaan darurat.

**Kata Kunci:** Pendekatan Teori; Istiḥālah; Ḍarūrah; Produk AstraZeneca

## 1. Introduction

The new virus outbreak at the end of 2019 shocked the world. This virus is often called Covid-19, an infectious disease caused by the SARS-CoV-2 virus. The outbreak of the Corona virus (Covid-19) was detected in Wuhan, China, in December 2019. Covid-19 is a large family of contagious viruses and can cause minor illnesses such as colds to serious illnesses such as MERS and SARS (Genecraft, 2020). World Health Organization (WHO) states that Covid-19 is transmitted through people infected with the Corona virus.

The Covid-19 pandemic has caused many victims. As of August 2020, COVID-19 cases have reached 153,535 cases. While the death toll was 6,680 people, it was not certain whether the body died from Covid-19 or was suspected of being infected with a contagious virus. This requires steps according to health protocols to prevent the spread to medical personnel, mortuary officers, families, and the general public. Therefore, it is necessary to formulate a health protocol for managing deceased bodies in the community and health facilities. It must comply with the security and safety of officers and the provisions of *Syara'* to fulfill the rights of the corpse (A. S. A. Syatar et al., 2020). Within 11 days after the announcement of the first case, the number of positive cases reached 69 people (Jaya, 2021). After this pandemic has been running for a year, the number of infected cases has increased. On March 2, 2021, there were 1,341,314 people. The government has made various efforts to prevent an increase in positive cases of Covid-19, including the implementation of social distancing for all forms of activity, Large-Scale Social Restrictions (LSSR), health quarantine, the implementation of Community Activities Restrictions Enforcement (CARE), as well as the government's current effort, namely the vaccination program.

The Covid-19 vaccination program in Indonesia began to be carried out by the government on January 13, 2021. At the beginning of the program, the type of Covid-19 vaccine given to the community in stages was Sinovac. However, over time the government added other types of vaccines in order to achieve the target number of the population being vaccinated. One of several types of vaccine used is AstraZeneca.

The AstraZeneca vaccine is a Covid-19 vaccine made by a British pharmaceutical company. The AstraZeneca vaccine has undergone clinical trials and is proven to have an efficacy value (protective effect against Covid-19) of 63.09%. This vaccine is derived from genetic engineering (viral vector), which stimulates or triggers the body to form antibodies that can fight infection with the SARS-Cov-2 virus. This type of vaccine has been shown to reduce the symptoms of COVID-19 that often occur in people infected with Covid-19 (Zullies, 2021).

Even though it has been proven to reduce the symptoms of Covid-19, the distribution of the AstraZeneca vaccine in Indonesia was suspended and stopped at the CTMAV547 batch (production group) to test the toxicity and sterility of the Indonesian Food and Drug Supervisory Agency. However, based on data from the National Commission for Post-Immunization Associations, there has never been a death incident due to the COVID-19

vaccine in Indonesia. Therefore, the Ministry of Health of the Republic of Indonesia has stated the safety of the AstraZeneca vaccine and will continue the vaccination process using this type of vaccine.

During the implementation of the AstraZeneca vaccination program, there was a polemic among the Indonesian people; the majority are Muslim. This is related to the indication that the AstraZeneca vaccine production process uses pork trypsin media. Based on information circulating, AstraZeneca's production utilizes pork trypsin in the vaccine production process. Trypsin is produced from the pancreas of the animal. This information was strengthened after the issuance of the Indonesian Ulema Council (IUC) fatwa No. 14 of 2021 concerning the Covid-19 vaccination, which stated that the Astrazeneca vaccine is classified as an unclean object and should not be consumed. The impurity of this vaccine is even categorized as severe najis (*mughallazah*) because it comes into contact with elements of pigs during the production process. However, the production of the vaccine uses unclean materials. However, currently, it is permissible because there is a condition of compulsion (*dharurat syar'iyah*), so if conditions return to normal, the law is again prohibited from using the Covid-19 vaccine produced by AstraZeneca.

This polemic becomes wider when an inverse statement is made by the Chairman of the Indonesian Ulema Council (IUC) of East Java, K.H. Moh. Hasan Mutawakkil Alallah confirms that the vaccine is developed by the University of Oxford AstraZeneca Plc. This is *halalan thayyiban*, or lawful and good. This is conveyed by Kyai Mutawakkil after the AstraZeneca vaccine is injected and witnessed directly by President Jokowi. In addition to the Chairman of the Indonesian Ulema Council (IUC) of East Java, some religious leaders in East Java have also been injected with the Astrazeneca vaccine. The law regarding the lawfulness of the AstraZeneca vaccine is also supported by the Bahtsul Masa'il Institute, Nahdlatul Ulama Executive Board (PBNU), and the Nahdlatul Ulama Regional Board (PWNU) of East Java (Kurniawan, 2021). Therefore, several parties regret the decision of the Indonesian Ulema Council (IUC) of East Java to justify the AstraZeneca vaccine.

One of them is KH. Asep Syaefuddin Chalim, General Chairman of Nahdlatul Ulama Teachers Association (PERGUNU), firmly rejects the AstraZeneca vaccine because it contains pork enzymes. He strongly criticizes the decision of the Indonesian Ulema Council (IUC) of East Java which is not in line with the Central IUC. According to Kiai Asep, the Indonesian Ulema Council (IUC) of East Java fatwa, scientific and academic studies are considered poor. This includes when the Indonesian Ulema Council (IUC) of East Java issues a fatwa for the AstraZeneca vaccine to be lawful and holy on the grounds of *istihalah* (changed from prohibited to lawful due to the change in terminology) and is sentenced to *Halalan Toyyiban* (allowed with good qualifications). According to him, *istihalah* cannot make the law of pork prohibited to be lawful, and inserting the element of pork in the body of a Muslim can result in not accepting the prayer asked (Taufiq, 2021).

The problems arising from polemics about the lawful or not of the AstraZeneca vaccine have created a commotion in the community between the pro and contra groups. In addition, allowing the uncertainty of the legal status of the vaccine results in delays in the vaccination process and is counter-productive to the expectations of the government and the wider community, who really hope to get out of the pandemic situation soon.

From the Islamic perspective, several alternatives can be applied to help solve the problem of lawful and prohibited (Nizam & Asti, 2021). The alternative uses *mashallah*, *darurah* or alternative methods such as *istihalah* and *istihlak* (A. Syatar & Mundzir, 2021). Many classical fiqh works mention the application of the *istihalah* and *istihlak* concepts. *Istihalah* is a legal change from one thing to another. While *istihlak* is the mixing of unclean objects with other holy and lawful objects in greater numbers, thereby eliminating the unclean nature and prohibition of previously unclean objects. If these two theories cannot solve the problem, then one theory that remains is the emergency theory. The *ushul fiqh* expert, Abu Zahrah, defines an emergency as a condition that compels one to consume something prohibited but is carried out to preserve one's life. In the use of the emergency law theory, the origin is prohibited. However, the prohibited law can be changed to lawful or permissible in an emergency.

Based on the thoughts and assumptions above, it is necessary to conduct a more in-depth study to clarify the legal status of vaccines whose processes are in contact with unclean elements, so the researcher is interested in conducting a study entitled "Istihalah and Emergency Theory Approach to the Law on the Use of Vaccines for AstraZeneca Products; An Analysis of the Indonesian Ulema Council (IUC) Fatwa Number 14 of 2021".

Based on this background, the main problem is described into three sub-problems, namely: 1) How is the background for the emergence of the Indonesian Ulema Council (IUC) fatwa Number 14 of 2021 concerning the use of the AstraZeneca vaccine? 2) How is the application of *Istihalah* and Emergency theory using the AstraZeneca vaccine?; and 3) How is the Indonesian Ulema Council (IUC) fatwa methodology analysis on the AstraZeneca vaccine?

## 2. Research Methods

This study employed quantitative research and was included in the library research category. The researcher examined books that had to do with *fasakh*. This study was library research using a theological-normative approach or a *syari'* approach and a philosophical approach (Salenda et al., 2020). One of this study's characteristics was collecting several sources or documents related to and focusing on research. The research approach used was a study or scientific approach, namely a normative theology (*syar'i*) approach. The data collection method was by using library research techniques, namely reading various literature books related to the discussion of this undergraduate thesis. Based on the research questions, the purposes of this study were; a) to find out the background for the emergence of the Indonesian Ulema Council (IUC) fatwa Number 14 of 2021 concerning the use of the

AstraZeneca vaccine; b) to find out the application of *Istihalah* and Emergency theory using the AstraZeneca vaccine; and c) to find out the Indonesian Ulema Council (IUC) fatwa methodology analysis on the AstraZeneca vaccine.

### 3. Discussion

#### 3.1. The Background for the Emergence of the Indonesian Ulema Council (IUC) Fatwa Number 14 of 2021 concerning the Use of the AstraZeneca vaccine

Covid-19 (Corona Virus) is an infectious disease caused by severe acute respiratory syndrome Corona virus 2 (SARS-CoV-2). SARS-CoV-2 is a new type of coronavirus that has never been previously identified in humans. There are at least two types of corona virus known to cause diseases that can cause severe symptoms, such as Middle East Respiratory Syndrome (MERS) and Severe Acute Respiratory Syndrome (SARS). Common signs and symptoms of Covid-19 infection include symptoms of acute respiratory distress such as fever, cough, and shortness of breath. The average incubation period is 5-6 days, with the longest incubation period being 14 days. In severe cases of Covid-19, it can cause pneumonia, acute respiratory syndrome, kidney failure, and even death.

On December 31, 2019, the WHO China Country Office reported a case of pneumonia of unknown etiology in Wuhan City, Hubei Province, China. On January 7, 2020, China identified the case as a new type of coronavirus. On January 30, 2020, WHO declared the incident a Public Health Emergency of International Concern (PHEIC), and on March 11, 2020, WHO declared Covid-19 a pandemic (Kementerian Kesehatan Republik Indonesia, 2020a).

Several symptoms of Covid-19 were found, namely fever, dry cough (a small portion of phlegm), and difficulty breathing or shortness of breath. However, that fever may be absent in some circumstances, particularly in the geriatric age or in those who are immunocompromised. Additional symptoms include headache, muscle aches, weakness, diarrhea, and coughing up blood. In some conditions, signs, and symptoms of Severe Acute Respiratory Infection (SARI) may occur. The definition of SARI is an acute respiratory infection with a history of fever characterized by a temperature exceeding 37°C and a cough within the last ten days and requiring hospitalization. The absence of fever does not exclude viral infection (Burhan et al., 2020).

The presence of the Covid-19 pandemic has brought changes to the world with various challenges that are never imagined before. The total number of global Covid-19 confirmed cases as of May 16, 2021, was 162,177,376 cases, with 3,364,178 deaths in 222 infected countries and 193 local transmitting countries. In Indonesia, Covid-19 has infected more than 1,739,750 people since the first case was announced in March 2020; at least 48,093 as of May 16, 2021 people have died (Kementerian Kesehatan Republik Indonesia, 2020b).

The Covid-19 pandemic not only has an impact on public health but also affects the economic conditions, education, and social life of the global community, including Indonesia. The existence of this outbreak necessitates the emergence of several government policies,

including Large-Scale Social Restrictions (LSSR) to lockdowns which have implications for restrictions on community activities, including economic activities, educational activities, and other social activities. Therefore, all aspects of social life are negatively impacted, which is relatively serious, so it presents a world that is different from what humans have known before (Afif & Sohrah, 2021).

In addition to implementing strict regulations, especially social distancing arrangements, further to control the rate of the spread of Covid-19, the government has implemented vaccinations in stages for all Indonesian people. As for the vaccines that will be used in Indonesia, Minister of Health Budi Gunadi Sadikin, in this case, has determined seven types of Covid-19 vaccines that will be used for the implementation of vaccinations in the country. This decision is stated in the Decree of the Minister of Health Number HK.01.07/Menkes/12758/2020, which was signed on Monday (12/28/2020).

Vaccines are biological products that contain antigens, when given to a person, will actively produce specific immunity against certain diseases. The product/substance is inserted (injection/oral) into the body to stimulate the body's immune system (Hasbi, 2021).

The Covid-19 vaccination is one of the Indonesian government's efforts to deal with the Covid-19 problem. The Covid-19 vaccination aims to create herd immunity so that people can be productive in carrying out their daily activities in the midst of the Covid-19 pandemic. Vaccines are known as forming immunity to prevent the transmission of Covid-19.

Giving the Covid-19 vaccine has many benefits, one of them is to increase immunity from exposure to Covid-19 and prevent new mutations from Covid-19. The Ministry of Health of the Republic of Indonesia stated that the Covid-19 vaccine is useful for providing protection to the body from being exposed to Covid-19 by generating or stimulating specific immunity in the body by providing vaccines (Ministry of Health 2021).

Since the emergence of Covid-19 in Indonesia, the government has made various prevention and control efforts. One of the procedures carried out by the government is the implementation of vaccination. The government has taken a policy with the issuance of Presidential Decree 99 of 2020 concerning the procurement of vaccines and the implementation of vaccinations in the context of dealing with the Covid-19 pandemic, which was signed by President Joko Widodo on October 5, 2019, in Jakarta (Farisa, 2021).

On January 13, 2021, the government began to carry out the Covid-19 vaccination program in Indonesia. The success of the Covid-19 vaccination is influenced by many factors, including the adequacy of vaccine availability, the speed at which the vaccine is administered to the target, and how many targets are vaccinated. However, the success of this vaccination has encountered obstacles because the availability of vaccines is still very limited, so it is being contested in various countries. The availability of a lawful and holy COVID-19 vaccine is not sufficient for the implementation of COVID-19 vaccination in an effort to achieve herd immunity and efforts to distribute vaccinations throughout Indonesia, the Fatwa Commission of the Indonesian Ulema Council (IUC issued Fatwa number 14 of 2021 concerning the use of

the legal status AstraZeneca vaccine, whose legal status was that its initial use was prohibited from becoming permissible.

The member of the Fatwa Commission of the Indonesian Ulema Council (IUC), K.H. Hamdan Rasyid, said that currently, the Institute for the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council had conducted an assessment of the AstraZeneca vaccine. It is confirmed that the Fatwa Commission of IUC will soon hold a plenary meeting to determine the law for the use of the British vaccine (Hafil, 2021).

The Fatwa Commission of IUC held a plenary meeting on March 8, 2021, by presenting various parties starting from the Ministry of Health of the Republic of Indonesia, the President Director of PT Biofarma, the Head of the Indonesian Food and Drug Supervisory Agency and reports and explanations from the Institute for the Study of Food, Drugs, and Cosmetics of the IUC auditor team. From the results of the plenary meeting of the Fatwa Commission of IUC, the IUC Fatwa Number 14 of 2021 was determined. The IUC emphasized that the fatwa needed to be fully explained in its editorial so that it could be accepted by the public.

Based on a study by the Institute for the Study of Food, Drugs, and Cosmetics of the IUC submitted by the Chairman of the Fatwa Commission of IUC, he noted that in its production, AstraZeneca vaccines use prohibited elements, so they cannot be certified lawful. However, the current fact, based on competent and credible experts, there is an urgency to implement an immunization program because otherwise, it will cause harm to public health. In conclusion, the use of the AstraZeneca product vaccine, which is the Covid-19 vaccine produced by AstraZeneca at SK Co. Ltd., Andong, South Korea, for the vaccination program is allowed for several reasons; namely, the provisions of *syar'iyah dharurat*, the availability of a lawful and holy vaccine has not been sufficient, there is competent expert information about the dangers that can be caused, there is a guarantee of safety for use, and the government does not have the flexibility in choosing vaccines. However, this permissibility does not apply if, in the future, a lawful and holy vaccine is found (Indonesia, 2021).

## **3.2. The Application of *Istihalah* and Emergency Theory Using the AstraZeneca Vaccine**

### **3.2.1. Analysis of *Istihalah* Theory**

Etymologically, *istihalah* is an Arabic word that comes from the root word (حل) ح ل ل which means to change. The word *istihalah* is a word published by استحل-استحالة يستحل. It has the same meaning as the word (حل) which means to bring about change (انقلاب) and change (تغير) (Al-Razi, 1997).

From the point of view of the term *syara'*, basically, the scholars define *istihalah* as a change of one thing to something else where it involves a total change of the case from one form of state to another. In a more specific context, *istihalah* refers to the change from something unclean to something holy, such as changes in the substance and nature of unclean wine and *khinzir* through certain processes such as burning, curing, or changes that occur by

mixing something unclean in a holy material, such as the elements of *khinzir* mixed with salt so that it becomes salt (Wakaf & Kuwait, 1983).

According to the book *al-fiqh al-Muyassar*, it is stated that *istihalah* is a change in the nature of an unclean object into an object that has different names, characteristics, and characteristics. In scientific terms, it is referred to as a chemical reaction that converts one substance into another compound, such as changing oils and fats from various materials into soap and dissolving substances into their various components, such as the breakdown of oils and fats into fatty acids and glycerin (Nuryani & Kashim, 2014).

The development of term theory does not stop there. The scholars developed another adjacent rule, namely *Istihlak*. In the same book, *Istihlak* is defined as the mixing of prohibited objects with lawful objects, which according to sharia, the characteristics of impurity and prohibited are gone. This rule is used to explain how the position of a prohibited object when mixed with a lawful object (or vice versa). What is the position of the mixed objects? In what circumstances is a lawful object considered dominant so that the object is still given a lawful even though it has been mixed with prohibited objects? Or conversely, what is considered to be the dominant prohibited object so that it will be given a prohibited law even though it has been mixed with lawful objects? In its development, this rule is also used to explain the law and the position of an object which, in the process of its manufacture, uses prohibited objects as media or aids, but in the final result, no trace of the media is found (Abubakar & Abubakar, 2021).

The Indonesian Ulema Council (IUC) has issued Fatwa Number 14 of 2021 concerning the law on the use of the Covid-19 Vaccine AstraZeneca Products produced at SK Bioscience Co. Ltd, Andong, South Korea. IUC stated that the use of the vaccine is harmless because it uses pork and its derivatives. In this fatwa, IUC uses the term "Utilizing and Using" which needs to be reviewed and paid special attention (Indonesia, 2021).

Based on the explanation given by the Ministry of Health, the term used by IUC is containing. Meanwhile, the Institute for the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council (IUC) conveyed to the IUC Fatwa Commission that the AstraZeneca vaccine utilizes (not contains) prohibited elements, so it cannot be given prohibited certification. Because of this, the permissibility of using the Astrazeneca vaccine as intended does not apply if, in the future, a lawful and holy Covid-19 vaccine is found. The term containing used by the IUC can be concluded that the Astrazeneca vaccine derived from pork trypsin is the basic ingredient, so if there is a change, the change can be considered as a change through the *Istihalah* process. While the term "Utilizing" can be interpreted that the material being examined is not basic material but other materials added or used as media so that it can be considered as a change through the *istihlak* process (Pratama, 2022).

The IUC stipulates that the AstraZeneca vaccine is prohibited because it does not accept absolute terms, except for pigs and their derivatives. The reference is the *Shafi'iyah madzhab* which holds the principle of caution (*ikhtiyath*) and gets out of polemics (*khuruj*



*minal khilaf*). With this principle, for IUC to use materials from pork is prohibited. Regardless at the end of the process whether the pig is still there or not. Lawful standards have been applied by the Central IUC in a number of cases, so that the IUC gave the AstraZeneca vaccine prohibited status because the initial stages of the process using ingredients from pigs were not a new *istinbath* method and did not only occur in the case of the AstraZeneca vaccine. Therefore, the final result issued by the IUC fatwa is the AstraZeneca vaccine; although it is prohibited, the use is permissible.

The legal status issued by the Central IUC is prohibited but allowed. However, in contrast to the Central IUC fatwa, the IUC of East Java Provincial has stated that the legal status of the AstraZeneca vaccine is lawful. It doesn't just stop at issuing lawful and holy fatwas; even the Nahdlatul Ulama Regional Board (PWNU) of East Java and Indonesian Ulema Council (IUC) of East Java became the pioneers of the first national AstraZeneca vaccine injection, which was held in East Java for Kyai Caretakers of Islamic boarding schools to convince the public of the sanctity and lawfulness of the AstraZeneca vaccine. The difference between the results of the legal status of the AstraZeneca vaccine between the Central IUC and the IUC of East Java, which is supported by the PWNU of East Java, stems from a different perspective (*manhaj*) and legal principles. The Central IUC is guided by the results of the Ijtima Ulama Fatwa Commission throughout Indonesia in 2015, which stated that any material made from pork and its derivatives is forbidden to be used to make food, beverages, medicines, cosmetics, and goods, whether used as raw materials, additives and auxiliary materials. This provision is guided by the Central IUC that any product containing pork (*intifa'ul khinzir*) is prohibited and does not need to be processed further, either by *istihalah* (changed material or the nature of an unclean object into a new and holy object) or *istihlak* (destroyed and removed the nature and content of the unclean object by mixing more holy and prohibited objects so that it becomes holy).

According to the Institute for the Study of Food, Drugs, and Cosmetics of the Indonesian Ulema Council (IUC) report submitted to the IUC Fatwa Commission, at the stage of preparing the AstraZeneca vaccine virus-host, there are ingredients used from pigs in the form of trypsin derived from pig pancreas. This material is used to separate the host cell from its microcarrier. Then, at the stage of preparing the recombinant vaccine seeds for production, trypsin from pigs was also used as a component of the media used to grow *E.coli* with the aim of regenerating the transfection of the p5713 p-DEST ChAdOx1 nCov-19 plasmid. Therefore, it can be concluded that the Covid-19 vaccine from AstraZeneca is prohibited because, in the production process, it used trypsin from the pig pancreas (Muzammil, 2021).

Based on the literature search, the AstraZeneca vaccine was produced in South Korea by utilizing trypsin derived from pigs in the initial manufacturing process. Trypsin in pigs creates vaccines that work as a medium in triggering certain biochemical reactions. In this case, the AstraZeneca vaccine uses trypsin as a medium for growing viruses in the form of

proteins or enzymes. After the process of planting, the trypsin is grown and then separated cleanly, and the results obtained are that there are no more pig components contained in the vaccine (Darwis, 2022).

Syafruddin Syarif's explanation as the Syuriah head of the PWNU of East Java said the fatwa for the lawfulness of the AstraZeneca vaccine was taken after going through a debate among scholars. From the information received by his institution, Syafruddin explained that the pig element in the AstraZeneca vaccine is only needed in the breeding process, and the unclean elements are not mixed.

Based on the explanation above, the IUC of East Java and PWNU of East Java still adhere to the final result of vaccine manufacture, not the process. If there is no or visible element of pork, the law is holy and lawful. This is in accordance with the provisions of *fiqh*, *nahnu nahkumu bid dlawahir wa Allah yatawalla bis sara-ir*. Shari'a does not demand to investigate more deeply and in detail how the origin and process are important, the end result is that there are no unclean and haram elements, so the law is holy and lawful. Like someone buying a mango through a legal and lawful sale and purchase transaction, the buyer does not need to ask the seller where this mango came from. Whether it is planted on disputed land or given unclean fertilizer and so on.

### **3.2.2. Analysis of Emergency Theory**

The meaning of emergency comes from the word "ضرار" which means something that goes down with no one to hold it down. The definition of emergency in the sense of shari'ah, according to the scholars of fiqh, has almost the same meaning.

All *hujjah* and emergency theories are important to discuss because emergency reasons are often used as the final argument for legal permissibility for the sake of pretext (easiness) in achieving benefit. Even though it must violate the general provisions of the prohibition, which are explicitly stated in the texts, both the Al-Qur'an and Hadith. The reason for the emergency is also used by IUC in its fatwa when explaining the legal permissibility of using the AstraZeneca Covid-19 vaccine. Even though the process of making it uses prohibited ingredients because it contains pork trypsin, it is allowed with emergency considerations and a number of other reasons.

لا ضرر ولا ضرار

*"It must not harm oneself and others." Dharar and dhirar according to public opinion (mashur), dharar is giving absolute danger to others, while dhirar is giving danger to others in a contradictory way (muqabalah) (Ade Rian, 2021).*

Emergency is the arrival of dangerous conditions or very severe difficulties for humans, which makes them worry that there will be damage (*dharar*) or something that hurts the soul, limbs, honor, mind, property, and those related to it. At that time, it is permissible or impossible not to have to do what is prohibited, leave what is required, or delay the time of its implementation in order to avoid harm that is thought to befall him as long as it does not come out of the conditions determined by *syara'* (Az-Zuhaili, n.d.).

The analysis of IUC Fatwa Number 14 of 2021 uses the concept of *al-darurah*, which requires understanding and knowledge of whether the need for vaccinations aimed at preventing unwanted diseases can be considered as *al-darurah* need or not. If this is categorized as *al-darurah*, the law on the use of the Covid-19 vaccine from AstraZeneca products is allowed even though some of the ingredients come from pigs. It is from this *al-darurah* concept that the IUC fatwa allows the use of AstraZeneca product vaccines on the grounds of urgent need (*al-hajjah al-syariyah*), which occupies the position of *al-darurah al-syar'iyah* and categorized as *al-darurah* as a form of treatment (Jamaluddin et al., 2022).

The AstraZeneca type of Covid-19 vaccine is also compatible with *Dawabit al Darurah*. This means that the emergency really occurs instantly without waiting for a deliberate emergency; there is no other solution except to violate the prohibition, and based on reliable expert testimony that there is no medicine other than that which is prohibited.

### **3.2.3. Analysis of IUC's Fatwa Methodology on AstraZeneca Vaccine**

Etymologically, fatwa is derived from the Arabic language, namely *affa*. Then, it is pluralized into *fatawa* which means advice and answers to legal questions. Meanwhile, in terminology, a fatwa is defined as an opinion about the rule of law in Islamic teachings in the form of responses and answers to questions posed by someone who asks for a fatwa, and the answer does not have binding power for the requester of the fatwa, both individuals, institutions, and the wider community (Sofyan & Rahman, 2021). Thus, it is more complex, especially in Indonesia itself (Wijaya, 2019).

The Legal *Istinbath* Method of the Indonesian Ulema Council in Collective Ijtihad

The results of the plenary session of the IUC on January 18, 1986, established the basis for giving fatwas within the IUC, namely:

- a. Every fatwa decision must have a basis on the book of Allah and the Sunnah of the Prophet, which is *mu'tabarah*, and does not conflict with the problems of the people.
- b. If it is not contained in the Book of Allah and the Sunnah of the Prophet, the decision of the Fatwa should not conflict with *ijma'*, *qiyas* and *mu'tabar* as well as other legal arguments, such as *istihsan*, *masalih al mursalah*, and *sadd al-zari'ah*.
- c. Before making a fatwa decision, the opinions of legal experts, as well as those related to the arguments used by different parties, should be reviewed.
- d. The views of experts in the field of matter for which the fatwa decision will be made.

The IUC fatwa commission conducts *ijtihad* if there is a *khilafiyah* among *mazhab* by:

#### *a. Al-Jam'u wa al-taufiq*

The use of *the al-jam'u wa al-taufiq* method is to transfer the meaning of each proposition to another meaning so that there is no more resistance (Mukhtar Yahya, 2007).

#### *b. Using Ilhaq*

The problem is not found in the legal opinion among *mazhab*, which means that one of the methods of the IUC fatwa is to use *ilhaq*. *Ihaqi* is a legal opinion that exists among

*mazhab* by equating a problem that occurs with a case that is equivalent in *al-kutub al-mu'tabarah*.

c. Doing *ijtihad jam'i* (collective)

The next step is to do *ijtihad jam'i* (collective) by:(Ka'bah, 1999).

- 1) Using the *bayani* method by paying attention to the use of *al-uslub* (language style) in Arabic and how to designate the *lafaz nas* to its meaning or the *qawa'id al-lugawiyah* approach, including: *dilalah lafziyah*, *mafhum al-mukhalafah*, clear *dilalah nas*, less clear *dilalah nas*, *lafaz musytarak*, *lafaz 'am* and *lafaz khas*.
- 2) Using the *ta'lili* method by relying on reasoning, including *qiyasi*, *istihsani*, *ilhaqi Qiyasi*, namely connecting or enforcing legal provisions. The problem already has accuracy in the *nash* to a new issue that is not mentioned by the *nash* because both have the same *'illat*. *Istihsani* is leaving the real *qiyas (jalliy)* to carry out *qiyas* that is not real (vague/*khafiy*), or leaving the *kulli* law to carry out *istisna'i* law (exceptions) because there are arguments that according to reason/logic justify it. Or looking for the best alternative to the two *Ilhaqi* arguments, namely issuing the law from the *'ibarah* of the opinion of the scholars or establishing the law on *kulli* (general) problems because the law has been set on most of the *juz'i* (special) issues.
- 3) *Istislahi* is a method used to seek and find *maslahah mursalah* (the principle of benefit and harm). While *maslahah mursalah* means benefits that are not prescribed by the shari'a law to be determined. *Maslahah mursalah* is a benefit that is not supported by certain *syar'i nas*. This term was introduced by Imam Haramain al-Juwaini (d. 478 H) in the book of al-Burhan, and by Imam al-Gazalli used this word in the book of al-Mustasfa. According to Muhammad Abu Zahra, three conditions for the acceptance of *istislahi/maslahah mursalah*, namely the compatibility between the main sources of *maslahah* and the objectives of the Shari'a (*maqasid al-syari'ah*), must be reasonable, and be able to eliminate difficulties (*raf'u haraj* common).
- 4) *Sadd al-zari'ah* is negating or closing the road that leads to/intermediaries (*wasilah*) forbidden acts.
- 5) *Maslahah 'ammah*  
The IUC fatwa always pays attention to the public benefit (*maslahah 'ammah*) or the public interest. The benefits sought are actually not mere conjectures, for the people, not for groups or individuals, not contradicting the *nash*, *ijma* or *qiyas*.

#### 4. Conclusion

The IUC fatwa concerning the use of AstraZeneca's Covid-19 vaccine for reasons of urgent need, which occupies the position of *al-darūrah* can be categorized as *al-darūrah* for treatment. The Covid-19 vaccine of AstraZeneca product is in accordance with *awābiṭ al-darūrah*, namely, first, *al-darūrah* is correct - actually happens instantly, does not wait for an intentional *al-darūrah*; secondly, there is no other solution except to violate the prohibition;

and third, based on reliable expert testimony that there are no drugs other than those that are prohibited. The DSN-MUI decision to allow the use of the AstraZeneca vaccine is already sharia-compliant. During this pandemic situation, the effort to protect lives (*ḥifẓ al-nafs*) is a priority. If the benefit should be based on *maqāṣid al-Syarī'ah*, then *ifẓ al-nafs* is the main thing that should not be ignored. The central IUC's view tends to use the rules of *Istihalah* and *Istihlak* narrowly on the grounds that the AstraZeneca vaccine is not made from pork but, in the process, uses ingredients derived from pork. The *Istihalah* and *Istihlak* rules are not enforced by the Central IUC because the ingredients used as additives or the media come from pork. However, the IUC of East Java follows the opinion of the scholars who use the rules of *istihalah* and *istihlak* loosely so that the vaccine is allowed and the legal status is lawful and holy even though it used pork media because of the vaccine, as the end result does not find pork elements. The *istinbath* rules are used as guidelines in determining the fatwa by conducting *ijtihad*, which includes three methods, namely the *Bayani* method, *Ta'lili* method, and *Istilahsi* method. Of the three methods, the methodology used in issuing this fatwa is the *Istilahsi* method, also known as *mashlahah mursalah*. This method is used to explore, find, and formulate syara' law by applying the *kulli* law to events whose legal provisions are not contained in the nash, have not been decided by *ijma'* and are not possible with *qiyas* or *istihsan*.

## References

- Abubakar, A., & Abubakar, A. (2021). Hukum Vaksin MR: Teori Istihalah dan Istihlak versus Fatwa MUI. *Media Syari'ah : Wahana Kajian Hukum Islam Dan Pranata Sosial*, 23(1), 1–15. <https://doi.org/10.22373/JMS.V23I1.8485>
- Ade Rian, A. A. (2021). Larangan Salat Jumat Masa Pencegahan Covid-19; Studi Analisis Fatwa MUI Nomor 14 Tahun 2020. *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab Dan Hukum*, 2(1), 1–15. <https://doi.org/10.24252/SHAUTUNA.V2I1.16918>
- Afif, F., & Sohrah, S. (2021). Penangguhan Salat Berjama'ah di Masjid Selama Pandemi Covid-19 Perspektif Maqāṣid Al-Syarī'ah. *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab Dan Hukum*, 2(1), 226–238. <https://doi.org/10.24252/SHAUTUNA.V2I1.16064>
- Al-Razi, M. bin A. B. (1997). Mukhtar al-sihah. In *Beirut: Dar al-Fikr al-Arabi*.
- Az-Zuhaili, W. (n.d.). *Konsep Darurat dalam Hukum Islam*.
- Burhan, E., Isbaniah, F., Susanto, A. D., Yoga, Y., Tjandra, A., Sugiri, T., & Tantular, R. (2020). Pneumonia COVID-19 Diagnosis & Penatalaksanaan di Indonesia. In *Jakarta: Perhimpunan Dokter Paru Indonesia*.
- Darwis, N. A. (2022). TINJAUAN YURIDIS FATWA MAJELIS ULAMA INDONESIA TERHADAP VAKSIN COVID-19. *Skripsi Universitas Hasanuddin*.
- Farisa, F. C. (2021). *Vaksinasi Covid-19: Jokowi Disuntik Pertama, Dokter yang Gemetar, hingga Sederet Penerima Vaksin Perdana*. Kompas.Com. <https://nasional.kompas.com/read/2021/01/14/08290071/vaksinasi-covid-19-jokowi-disuntik-pertama-dokter-yang-gemetar-hingga>

- Genecraft, L. (2020). *Sejarah Coronavirus : Seluk Beluk si Penyebab Wabah COVID-19*. Genecraft Labs. <https://genecraftlabs.com/id/sejarah-coronavirus-penyebab-wabah-covid-19/>
- Hafil, M. (2021). *LPPOM MUI Rampungkan Pengkajian Vaksin AstraZeneca*. *Republika.Co.Id*. <https://www.republika.co.id/berita/qq430n430/lppom-mui-rampungkan-pengkajian-vaksin-astrazeneca>
- Hasbi, U. F. (2021). *Cari Tahu apa itu Vaksin dan Vaksinasi*. Sistem Informasi Desa Mekarsari. <https://mekarsari-pacet.desa.id/artikel/2021/6/24/cari-tahu-apa-itu-vaksin-dan-vaksinasi>
- Indonesia, M. U. (2021). *Fatwa Nomor 14 Tahun 2021 tentang Hukum Penggunaan Vaksin Covid-19 Produk Astrazeneca*. *Mui.or.id*.
- Jamaluddin, Salenda, K., & Haddade, A. W. (2022). Konsep al-Darūrah Tentang Vaksin Astrazeneca Perspektif Majelis Ulama Indonesia. *NUKHBATUL 'ULUM: Jurnal Bidang Kajian Islam*, 8(1), 70–92. <https://doi.org/10.36701/NUKHBAAH.V8I1.538>
- Jaya, I. (2021). Penguatan Sistem Kesehatan dalam Pengendalian COVID-19. *Direktorat Jenderal Pencegahan Dan Pengendalian Penyakit*.
- Ka'bah, R. (1999). *Hukum Islam di Indonesia: perspektif Muhammadiyah dan NU*. Universitas Yarsi.
- Kementerian Kesehatan Republik Indonesia. (2020a). Keputusan Menteri Kesehatan Republik Indonesia Nomor HK.01.07/MenKes/413/2020 Tentang Pedoman Pencegahan dan Pengendalian Corona Virus Disease 2019 (Covid-19). In *MenKes/413/2020* (Vol. 2019).
- Kementerian Kesehatan Republik Indonesia. (2020b). *Situasi Terkini Perkembangan Coronavirus Disease (COVID-19) 31 Mei 2020*. INFEKSI EMERGING: Media Informasi Resmi Terkini Penyakit Infeksi Emerging. <https://infeksiemerging.kemkes.go.id/situasi-infeksi-emerging/situasi-terkini-perkembangan-coronavirus-disease-covid-19-31-mei-2020>
- Kurniawan, A. (2021). *PBNU Keluarkan Fatwa terkait Kehalalan Vaksin AstraZeneca*. Nuonline. <https://www.nu.or.id/nasional/pbnu-keluarkan-fatwa-terkait-kehalalan-vaksin-astrazeneca-TfTvo>
- Mukhtar Yahya, F. (2007). *Komisi Fatwa MUI Propinsi KalSel, Ulama dan Tantangan Problematika Kontemporer (Himpunan Fatwa Ulama)*.
- Muzammil, S. (2021). *Vaksin AstraZeneca*. Artikel Ilmiah UIN Sunan Kalijaga.
- Nizam, S., & Asti, M. J. (2021). Is There Any Rukhṣah in Performing Praying During Covid-19? Maqashid Sharia Analysis. *Mazahibuna*, 3(1), 98–117. <https://doi.org/https://doi.org/10.24252/mh.v3i1.19687>
- Nuryani, A., & Kashim, M. I. A. M. (2014). Istihalah Dalam Pandangan Islam. *Fikiran Masyarakat*, 2(1), 19–27.
- Pratama, G. D. (2022). *Tinjauan konsep Istihalah menurut Imam As\_Syafi'i dan Imam Abu Hanifah terkait fatwa majelis ulama Indonesia nomor 14 tahun 2021 tentang hukum penggunaan vaksin Covid 19 produk Astrazeneca*.
- Salenda, K., Wahid Haddade Peniadaan Salat Jumat, A., Islam Negeri Alauddin Makassar, U., & Wahid Haddade, A. (2020). Peniadaan Salat Jumat dalam Surat Edaran Gubernur Sulsel Nomor: 451.11/2057/2020 Selama Pandemi Covid-19 Perspektif Maqāsid al-Syari'ah. *NUKHBATUL 'ULUM: Jurnal Bidang Kajian Islam*, 6(2), 289–309.

<https://doi.org/10.36701/NUKHBAH.V6I2.218>

- Sofyan, A. M., & Rahman, A. (2021). Analisis Fatwa MUI tentang Hukum Penyelenggaraan Jenazah Akibat Covid-19. *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab Dan Hukum*, 2(2), 463–501. <https://doi.org/10.24252/SHAUTUNA.V2I2.18335>
- Syatar, A., & Mundzir, C. (2021). *TOKOH DAN KETOKOHAN IMAM MAZHAB (Kontribusinya Terhadap Pengembangan Fikih Di Indonesia)*. Gowa: Alauddin University Press.
- Syatar, A. S. A., Amiruddin, M. M., Rahman, A., & Haq, I. (2020). Darurat Moderasi Beragama Di Tengah Pandemi Corona Virus Desease 2019 (Covid-19). *KURIOSITAS: Media Komunikasi Sosial Dan Keagamaan*, 13(1), 1–13. <https://doi.org/10.35905/kur.v13i1.1376>
- Taufiq, M. (2021). *Ribuan Vaksin AstraZeneca, Kiai Asep: Fatwa MUI Jatim Produk Suul Adab*. <https://jatim.suara.com/read/2021/03/25/113032/ribut-vaksin-astrazeneca-kiai-asep-fatwa-mui-jatim-produk-suul-adab?page=2>
- Wakaf, K., & Kuwait, U. A. (1983). *Kementrian Wakaf dan Urusan Agama Kuwait Muhaqqiq. Al-Mausu'ah Al-Fiqhiyah Al-Kuwaitiyah*. Juz.
- Wijaya, A. (2019). RESPON LEMBAGA FATWA TERHADAP ISU FIKIH KONTEMPORER (Studi Komparatif Lembaga Fatwa MUI, Majelis Tarjih Muhammadiyah dan Bahtsul Masail NU). *Mazahibuna: Jurnal Perbandingan Mazhab*, 1(2), 180–199. <https://doi.org/10.24252/mh.v1i2.10624>
- Zullies, I. (2021). *Mengenal Lebih Dekat Vaksin AstraZeneca,* Smartvity.Jakarta. <https://farmasi.ugm.ac.id/id/mengenal-lebih-dekat-vaksin-astra-zeneca-sinopharm/>