

Fiqhistic Illuminations Related To Corona Disease

Mahmoud Ibrahim Rahim Al-Hiti

Faculty of Law, Applied Science University, Bahrain

Article History: Received: 10 January 2021; Revised: 12 February 2021; Accepted: 27 March 2021; Published online: 4 June 2021

Abstract

Taking care of the origins of every science is to preserve it and renew the religious and worldly life of the nation and achieve its interests for its need in its renaissance of all sciences, including taking care of calamities and emerging issues that have an impact on the nation's nodal, economic, social, political, or educational entity. Or health, as is the case today with the emerging corona disease, and those who go back to the history of Islam find great care in the origins of science, and jurisprudential attention to the calamities that arise in the life of the nation and return them to those assets.

Because the issue that needs legal ijthad in most cases must have occurred and was one of the new issues, and that is in all issues, then the calamity is characterized by being severe, so that the nation as a whole pays attention to it, and it calls for a legal ijthad stance, and leaving ijthad in it is harmful to the Some scholars have defined it as "what necessitates a legal ruling from the emerging facts," or it is the urgent emerging facts. If it is added to its being severe, i.e. related to matters of importance in the reality of the nation, it is permissible to differentiate between it and the generality of new issues, as not every new issue is emerging. Modern forms of polytheism, some recent educational issues, innovative scientific discoveries, and contemporary linguistic issues, such as naming some modern inventions.

They also considered diligence in calamities as one of the obligations of competencies, carried out by those who find in themselves the strength to do so, especially when they lose those who can consider them. Ijthad, whether in the general sense or that is divided into some issues is one of the necessities of reviving and renewing the religion, which the nation is indispensable in every age, so the researcher who has the capacity to elicit deduction must gather evidence related to the question in question.

- The correct conception of it, starting with defining the subject of the dispute, the location and nature of the research in it, whether it is jurisprudence, educational, economic or health, and an investigation of previous studies, if any, whether they are in Sharia sciences or other sciences, and updating information about the calamity, Passing through the search for the circumstances of the calamity and its history, and the circumstances surrounding it, and ending with referring to the people who specialize in it and consulting them.

- Adapting the calamity, by returning it to its scientific origin if it is due to an original, or returning it to a group of assets, or what is predominant, or considering it an issue that has a special case And all of this is known either as a text, or a consensus, or graduation on an advanced calamity, or an advanced imam's fatwa, or a jurisprudential rule and as for the general issues related to other sciences, it is known to be adapted by following research methods in those sciences. **Keywords:** Fiqhistic illuminations, Islam, Coronavirus, Corona Disease

INTRODUCTION

Significance of the Research:

Taking care of the origins of every science of science is to preserve it and renew the religious and worldly life of the nation and achieve its interests for its need in its renaissance of all sciences, including taking care of calamities and emerging issues, which have an impact on the nation's nodal, economic, social, political, or educational entity... Or health, as is the case today with the emerging corona disease.

Whoever goes back to the history of Islam finds great care in the principles of science, and jurisprudential attention to calamities that arise in the life of the nation, and returns them to those assets, so what is the meaning of calamities, and how does jurisprudence treat them known as the jurisprudence of calamities?

Because the issue that needs legal ijthad in most cases must have occurred and was one of the new issues, and that is in all issues, then the calamity is characterized by being severe, so that the nation as a whole pays attention to it, and it calls for a legal ijthad stance, and leaving ijthad in it is harmful to the Some scholars have defined it as "what necessitates a legal ruling from the emerging facts," or it is the urgent emerging facts. If it is added to its being severe, i.e. related to matters of importance in the reality of the nation, it is permissible to differentiate between it and the generality of new issues, as not every new issue is emerging. Modern forms of polytheism, some recent educational issues, innovative scientific discoveries, and contemporary linguistic issues, such as naming some modern inventions.

They also considered diligence in calamities as one of the obligations of competencies, carried out by those who find in themselves the strength to do so, especially when they lose those who can consider them. And ijthad, whether in the general sense or ijthad that is divided into some issues is one of the necessities of reviving and renewing the religion, which the

nation is indispensable in every age, so the researcher who has the capacity to elicit deduction must gather evidence related to the question in question.

- The correct conception of it, starting with defining the subject of the dispute, the location and nature of the research in it, whether it is jurisprudence, educational, economic, or health, and an investigation of previous studies, if any, whether they are in Sharia sciences or other sciences, and updating information about the calamity, Passing through the search for the circumstances of the calamity and its history, and the circumstances surrounding it, and ending with referring to the people who specialize in it and consulting them.

- Adapting the calamity, by returning it to its scientific origin if it is due to an original, or returning it to a group of assets, or what is predominant, or considering it an issue that has a special case And all of this is known either as a text, or a consensus, or graduation on an advanced calamity, or an advanced imam's fatwa, or a jurisprudential rule and as for the general issues related to other sciences, it is known to be adapted by following research methods in those sciences.

Applying the ruling on it to achieve the goal of the legislator, to achieve the interests, and to ward off evil, both in the present and in the future, and mention the evidence for that, by following the research methods in every science related to it, with an explanation of the Sharia ruling, and the disclosure of its purposes, through studies in the scientific, technical and social fields, and others. One of the important issues for society.

And whoever gives fatwas on calamities must understand the reality of the issue, in order for the correct ruling to be passed on the supposed incident. And if it was commercial, the merchants transferred this issue to the mufti and explained its reasons and interventions to the mufti so that the legal ruling would be revealed on it... and so on.

Reason for selection:

Through the foregoing, we see it is very necessary for Islamic scholars to address these calamities and developments because of the statement, necessity, and interest of every Muslim.

Where we wanted to highlight the legal and jurisprudential rulings for these calamities and these developments, and the nature of the research required that it be divided into:

Introduction, discussions, and conclusion:

As for the introduction, it included the importance and reason for the topic, then its plan and approach.

First topic: Definition of Catastrophes and Corona Disease It contains

five requirements:

The first requirement: Defining the calamities linguistically and idiomatically.

The second requirement: the importance of diligence in calamities

The third requirement: the definition of corona disease

Second topic: Examples of Calamities Related to Corona Disease It contains

eight requirements:

The first requirement: The prayer of the practitioner without purification

The second requirement: the annulment of the marriage due to the husband's infection with the Corona epidemic

The third requirement: to take care of the person with Corona disease

The fourth requirement: Custody of a patient infected with the Corona epidemic for others

The fifth requirement: the establishment of the marriage contract by direct video communication

The sixth requirement: transmission of infection due to corona disease

The seventh requirement: the impact of corona disease on rental contracts

The eighth requirement: Giving Zakat and postponing it due to Corona disease

We ask God, may He be exalted, that this work of ours be purely for His sake, and that we have succeeded in serving our true religion, even if only partially.

First Topic

The first requirement: Defining the calamities linguistically and idiomatically.

Al-Nazla in the language: the plural nazlah and nazlah is a participle noun of – descended, descended – if it came.⁽¹⁾ **As for the terminology:**

It has become common and well-known among the jurists to call the calamity a new, factual issue that requires diligence.

Ibn Abd al-Barr said: Chapter on Ijtihad of opinion on the principles when there are no texts while the calamity was revealed.⁽²⁾

Al-Nawawi said: It contains the ijthad of the imams regarding calamities, and he referred them back to the principles.⁽³⁾

Ibn al-Qayyim said: The companions of the Messenger of God – may God bless him and grant him peace – used to strive hard in calamities.⁽⁴⁾

He can derive a number of descriptions of the calamity, including being an actual occurrence, being new, or being severe.

Some scholars defined it by saying: What necessitates a legal ruling from the emerging facts.⁽⁵⁾

Or it may be said: They are urgent new facts and related to matters of importance in the reality of the nation. At that time, it is correct for us to differentiate between them and the generality of new issues. As not every new issue is coming down.

The second requirement: the importance of diligence in calamities

Ijtihad in calamities is one of the obligations of competencies, and it is incumbent upon the one who finds in himself the strength to do so, especially when he has lost someone who can look into it. The nation dispenses with it in every age, and the researcher who has the capacity to elicit deduction must gather evidence related to the question under study.⁽⁵⁾

The third requirement: the definition of corona disease

Corona virus is a virus that causes diseases in mammals and birds. The virus causes diseases in humans in the respiratory system, which includes colds, usually mild, and rarely fatal, such as severe acute respiratory syndrome, Middle East respiratory syndrome, and the new Corona virus that caused the outbreak of the 2019-20 new corona virus. It may cause diarrhea in cows and pigs, and in chickens it may cause diseases of the upper respiratory tract. There are no approved vaccines or antivirals to prevent or treat these viruses.

Coronaviruses constitute the subfamily Orthocoronavirinae, in the family Coronaviridae, order Nidovirales, and realm Riboviria. Coronaviruses are enveloped viruses with a positive-sense single-stranded RNA genome and a nucleocapsid of helical symmetry. The genome size of coronaviruses ranges from approximately 26 to 32 kilobases, one of the largest among RNA viruses.

The name “Coronavirus” is derived from the Latin word “corona”, meaning “crown” or “wreath”. The name refers to the characteristic appearance of virions (the infective form of the virus) by electron microscopy, which has a fringe of large, bulbous surface projections creating an image reminiscent of the solar corona or halo. **Second Topic**

The first requirement: the prayer of the practitioner without purification

The doctor or practitioner who deals directly with patients with the virus must wear a special dress throughout the long and continuous working hours, and he is forced not to take it off for reasons including its lack and fear of infection from patients infected with this epidemic.

Based on the foregoing, it is not possible for him to combine two prayers due to the availability of purity, and it is also impossible for him to purify himself for prayer by performing ablution or tayammum. Here the following question arises:

First: Does he pray according to his condition or not?

This person is deprived of the two purities, and the jurists have agreed that if a person is missing the two purities, he should pray according to his condition.⁽⁶⁾ Based on this, if the doctor is unable to perform ablution or tayammum because he is not able to take off the medical covering, then he is unable to perform purification and is unable to do so, so he prays according to his condition and is in the same position as one who lacks two purifications who cannot find water for ablution or dirt for

tayammum, and there is nothing wrong with him if he prays with the presence of the impurity due to the inability to remove it.

The evidence for that is the following:

- 1- The Almighty's saying: "Fear God as much as you can".⁽⁷⁾
- 2- The Almighty's saying: "God does not burden a soul beyond its capacity".⁽⁸⁾
- 3- Narrating Aisha (r.a) that she borrowed a necklace from her sister Aasma (r.a), and she lost it. So, the Messenger of God sent some companions to ask for her, and the prayer overtook them, and they prayed without ablution, and when they came to the Prophet (peace be upon him), they complained about it to Him.

We came down the verse: "If you are sick, or on a journey, or one of you comes from the toilet, or you touch the women, and you cannot find water, then make a good upside, and wipe your faces and hands off it".⁽⁹⁾ **The inference from this narration:**

It is that the Prophet, may the peace and blessings of God be upon him, did not denounce the Companions of their prayers according to their condition when they lost the purification, so this was a relief and ease for them, and a license for them if they lost the purifier.

Second: Is it obligatory to repeat it or not?

The fuqaha' differed regarding the ruling on praying without purification due to the loss of purity, whether it is necessary for him to repeat the prayer or not, based on two views:

The first view: He does not have to repeat the prayer, and this is the view of the Hanbalis.

For the hadith of our lady Aisha, may God be pleased with her, in the aforementioned hadith, because the Messenger of God, may God's prayers and peace be upon him, did not order the companions who complained to them of what had happened to them to repeat their prayers according to their condition when they lost their purity. **The second view: It is obligatory to repeat the prayer, and this is the view of the majority of jurists.**

The more correct of the two views is the first saying to remove the harm first, and to bring together the evidence secondly,⁽¹⁰⁾ and that this calamity included two opposite harms:

First: the damage of the Corona virus

Second: The harm of prayer without purification

And based on the jurisprudence rule that says (the most severe harm is removed with the least harm), so removing the harm of prayer without purification by the harm of the Corona virus is possible, and that the harm of the Corona virus is more severe than the harm of praying without cleansing, and accordingly, the health practitioner who deals with patients directly if it is not possible for him to pray without He cleansed his prayers and did not have to repeat them.

The second requirement: the annulment of the marriage due to the husband's infection with Corona disease

The jurists agreed on the permissibility of separating the spouses because of the fault, with their difference in the type and duration of the fault and their difference in counting the faults that could be reasons for the separation between spouses and their impact on the relationship between spouses. Many of the diseases that are prevalent in the present and that plague them with diseases and defects have not been discovered Infectious disease, which is transmitted from one person to another, and that if it is not reduced and prevented from infringing, it will lead to epidemic disasters that destroy humans in a very large way.⁽¹¹⁾

Based on the foregoing, this should be classified as the period from which it can be recovered, according to what is divided and classified according to the jurists, may God have mercy on them, where they describe the defects into three categories:

- 1- Defects that the patient usually recovers from without a year
- 2- Defects that the patient does not recover from until after a year or more has passed
- 3- And defects that last a lifetime

The judgment of the jurists in differentiating between spouses based on the previous classification is that the spouses have the right to request separation because of defects that last a year or more, or that they are of the second category that continue with them until death. patience for that.

The jurists consider the distinction between spouses on the basis of the previous classification that the spouses have the right to request separation on account of defects that last for one year or more, or that they are in the second category with which they continue until death. patience on that.

Accordingly, if the people of specialization decide that the disease of Corona ends within months or less than a year, then one of the spouses affected by the infection of the other with this disease is not entitled to be patient, because the destruction of the marriage contract is more harmful in this case than infecting the other party with this disease.

But if it turns out that this disease is of the second or third category, then one of the affected spouses can infect the other party with this disease, but if it is considered of the second category, the request for separation from the second affected party is not accepted until after a full year has passed, but if it was considered one of the type The third can be differentiated between them immediately after it has been proven with evidence by a trustworthy, fair specialist.⁽¹²⁾

Evidence for this ruling:

- 1- The Almighty's saying: "God wants ease for you, and He does not want hardship for you".⁽¹³⁾ The reasoning here is that the stay of a healthy person with a patient with infectious diseases and by which he is severely affected is hardship, embarrassment, and unbearable hardship. For the patient, it is a protection for the whole community.
- 2- His saying, peace and blessings be upon him: "Flee from a leper as you flee from a lion"⁽¹⁴⁾ and his saying, peace and blessings be upon him: "A nurse does not want a suckling".⁽¹⁵⁾
The point of inference: The separation of the sick and the defective for fear of the spread of the disease, and it is not possible to escape from an infectious disease except by separation due to infectious diseases, there is a limit and prevention of its spread.
- 3- The rule (harm is removed) and (preventing harm is more important than bringing benefits). One of the overall purposes of Islam and its general rules is to preserve.⁽¹⁶⁾

The third requirement: Giving the patient with corona disease

One of the legal rulings agreed upon by the jurists of Islamic Sharia is that if a man has sexual relations with his wife, he must be loyal to her by deed, not by word:

- Inability to have sexual intercourse due to a disease that makes it impossible to have intercourse - Persistent inability to have intercourse until the period of ejaculation has passed.

Based on the foregoing, if a patient with corona disease is not able to do so, he is obliged to do so by saying, provided that he is unable to have intercourse and that it lasts until the period of sexual intercourse has passed.⁽¹⁷⁾

Fourth requirement: Custody of a patient with corona disease for others

Custody is considered a type of guardianship over oneself, and its purpose is to preserve and protect the child, and its ruling with regard to the custodian is a legal duty if there is only one custodian, or if the child is not accepted by anyone other than this custodian from among the custodians.

As for the number of attendees, custody is considered a sufficiency duty. If some perform it, it is waived from the others.

Custody of a patient infected with Corona for others:

Islamic Sharia jurists stipulated several conditions that must be met in order for him to be entitled to custody of the young child, otherwise this right will be forfeited if one of these conditions is missed.

Based on the foregoing, if the custodian suffers from Morona's disease and the specialists decide that his disease is contagious and causes harm to the child in custody, his right to the custody is forfeited until it recovers and the disease is removed from him, because the right of custody is one of the rights that can be referred to if it is forfeited due to the removal of that reason.

The fifth requirement: the establishment of the marriage contract by direct video communication

The issue of the use of modern means of communication is of interest to contemporary jurists, and the first to address this issue is Sheikh Ahmed Ibrahim Bey, and then it was examined in a broader way by the Fiqh Council in its sixth session held in Jeddah in 1410 AH corresponding to 1990 AD, which adopted the ruling on the permissibility of contracting in financial transactions Through the modern means of communication in the legitimate form of affirmation and acceptance, but they excluded the marriage contract for the requirement of witnessing, and Salam for the requirement of haste and exchange for the requirement of intercourse.

And the importance of conducting the marriage contract through the means of direct video communication, the researchers then dealt with it between an expanded and a narrow and divided into two sayings:

First: It is absolutely forbidden to perform the marriage contract by any means of modern communication.

Second: the permissibility of conducting the marriage contract through modern means of communication at all. This is the opinion of a number of contemporary jurists, among whom are the following:

Ahmed Ibrahim Bek, Mustafa Al-Zarqa, Badran Abu Al-Enein, Wahba Al-Zuhaili, Muhammad Oqla AlIbrahim, Mufida Ibrahim, and Osama Omar Al-Ashqar.⁽¹⁸⁾

The sixth requirement: the transmission of infection with the Corona disease

Speech in the matter differs according to the criminal intent in terms of intentional and non-intentional, and it does not go beyond that it was intentional or wrong, and that it leads to the death of the person who is transferred to him or not, or that the intent is to cause harm to the general public.

If the felony intends to corrupt and cause public harm, then there is no doubt that the carrier of this disease has committed a great forbidden and a clear sin of religion, and his ruling is the rule of the warrior who corrupts the earth, and is considered a kind of enmity and corruption in the land and accordingly requires one of the punishments stipulated in the verse of hijacking, in the Almighty saying:

“Indeed, the penalty for those who wage war against Allah and His Messenger and strive upon earth (to cause) corruption is none but that they be killed or crucified or that their hands and feet be cut off from opposite sides or that they be exiled from the land. That is for them a disgrace in this world; and for them in the Hereafter is a great punishment”.⁽¹⁹⁾

Accordingly, the guardian has the right to punish those who deliberately transmit the infection of the Corona disease to others by mixing with them by transporting a disciplinary measure.

And in the event that he does not know but is reckless of the orders of the guardian, then this is considered disobedient to the Almighty’s saying: “O you who believe, obey God and obey the Messenger and those in authority among you”⁽²⁰⁾ and the verse indicated that his disobedience deserves the appropriate punishment for him.

In the event that the disease is transmitted without the transmission causing the death of the person transmitted to it, it is excused for the preservation and preservation of souls.

The seventh requirement: the impact of corona disease on rental contracts

If the lessee is able to pay, he does not look and demand the rent debt and obliges him to pay, even through the judiciary.

If the benefit is interrupted by an emergency order that necessitates the fall or decrease of the rent, or the tenant’s option of termination is proven, and if the lessor is harmed in the event of the termination, compensation may be made by the lessee for the remaining period in the contract.⁽²¹⁾

The eighth requirement: Giving Zakat due to Corona Disease

Zakat may be accelerated for a year or two due to Corona disease if the money reaches its value, and it is permissible to delay it under certain conditions in the event that it is not possible to reach the money in reality or judgment, or if it is not possible to transfer it to those who deserve it as a matter of approval for necessity or need.⁽²²⁾

CONCLUSION

- 1- The Islamic Sharia has made the patient with corona disease a status of one who loses the two pure ones and moves from ablution to tayammum in case of impossibility.
- 2- If the specialists of the doctors decide that the Corona disease ends within months or less than a year, then one of the spouses affected by the infection of the other with this disease does not have the right to ask for separation and must be patient, for the destruction of the marriage contract is more harmful in this case than infecting the other party with this disease.
- 3- If a patient with corona disease is not able to perform sexual intercourse, he is obligated to perform sexual intercourse by saying, provided that he is unable to have intercourse and that it lasts until the period of ejaculation has passed.
- 4- If the custodian is infected with Morona disease and the specialists decide that his disease is contagious and causes harm to the child in custody, his right from the custody is forfeited until it recovers, and the disease is removed from him.

- 5- It is absolutely permissible to perform the marriage contract through modern means of communication, according to the most correct opinion.
- 6- If the person infected with Corona disease is in the case of transmitting the disease, if the transmission causes the death of the person transmitted to him, then he is excused for the preservation and preservation of souls.

Sources and References

1. The Holy Quran
2. Fairness in knowing the most correct of the dispute over the doctrine of Imam Ahmad, Ali bin Suleiman Al-Mardawi, House of Revival of Arab Heritage - Beirut, 2nd floor - 1400 AH
3. The clear sea, explaining the treasure of minutes, Zine El Abidine Bin Njeim, Dar Al-Baz for Publishing and Distribution, 2nd ed.
4. Badaa' al-Sana'i in the Order of Laws, Abu Bakr bin Masoud al-Kasani, Dar al-Kitab al-Arabi - Beirut, 2nd floor - 1394 AH
5. Tuhfat Al-Ahwadhi with the explanation of Jami' Al-Tirmidhi, Muhammad bin Abdul Rahman Al-Mubarakpuri, Dar Al-Fikr - Beirut, 3rd edition - 1399 AH
6. Tadhkirat al-Hafiz, Muhammad bin Ahmed al-Dhahabi, Ottoman Encyclopedia Press - Hyderabad Deccan, 3rd floor - 1375 AH
7. Interpretation of the Great Qur'an, Ismail bin Kathir Al-Dimashqi, Dar Al-Maarifa - Beirut, 1403 AH.
8. The Collector of the Rulings of the Qur'an, Muhammad bin Ahmed Al-Qurtubi, Dar Al-Kutub AlMasryah, Edition 3 - 1387 AH
9. Clarify the facts for Al-Zaila'i
10. The Great Container of Mawardi
11. Al-Muhtar's response to Al-Durr Al-Mukhtar (Hashiyat Ibn Abdeen), Muhammad Amin, famous for Ibn Abdin, Al-Halabi Press - Egypt, 2nd floor - 1386 AH.
12. Explanation of Fath al-Qadeer, Muhammad ibn Abd al-Wahed, known as Ibn al-Hamam al-Hanafi, House of Revival of Arab Heritage – Beirut
13. Laws of Sharia Judgments and Issues of Jurisprudence Branches, Muhammad bin Ahmed bin Juzy, Dar Al-Ilm for Millions - Beirut, 1979 AD
14. Scouts of the Mask on the Board of Persuasion, Mansour bin Idris Al-Bahouti, World of Books - Beirut, 1403 AH
15. Al-Majmoo' Explanation of Al-Muhadhab by Al-Nawawi
16. The principle of satisfaction in contracts A comparative study between Islamic jurisprudence and law by Qara Daghi
17. Journal of the Islamic Fiqh Council, issue (2/887)
18. The general jurisprudential introduction of Mustafa Al-Zarqa
19. Al-Mughni, Abdullah bin Ahmed bin Muhammad bin Qudamah Al-Maqdisi, Dar Hajar for Printing and Publishing - Cairo, i. 1-1409 AH
20. The singer who needs to know the meanings of the words of the curriculum, Muhammad AlSherbiny, House of Revival of Arab Heritage - Beirut.