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# Analyses the Construction of the Indonesian Ulema Council *Fatwâ* on the Halalness of the Sinovac Covid-19 Vaccine Using Jasser Auda's Perspective of Islamic Law Development Models

Muhammad Abduh<sup>1</sup>, Khafid Abadi<sup>2</sup>, Athoillah Islamy<sup>3</sup>, Adib Susilo<sup>4</sup>

**Abstract:** *Analyses the Construction of the Indonesian Ulema Council Fatwâ on the Halalness of the Sinovac Covid-19 Vaccine Using Jasser Auda's Perspective of Islamic Law Development Models.* The spread of hoax news related to whether it is safe or not and whether or not the use of the Covid-19 vaccine is lawful has created a pro-contra attitude among the Indonesian people towards the Covid-19 vaccination program. For this reason, the Indonesian Ulema Council (MUI) has issued a *fatwâ* (legal opinion) to provide legal enlightenment on the *halâl* use of the Covid-19 vaccine. This study examines in depth the construction of the *fatwâ* and identifies the Islamic law development model used in constructing the *fatwâ*. This research is purely philosophical normative and uses the models of Islamic law development proposed by Jasser Auda. The results of the study conclude that the construction of the MUI *fatwâ* on the halalness of the Sinovac vaccine had used a holistic model of Islamic law. This is indicated by several characteristics inherent in the construction of the *fatwâ* namely: (i) the wholeness and multidimensional character, which is indicated by the use of universal textual arguments (*'âm*). (ii) the purposive character, which is indicated by the use of various fiqh rules emphasizing the realization of benefit as the basis and orientation of legal determination. (iii) the openness character which is indicated by the acceptance of the health and medical science principles which incidentally is outside the field of Islamic law.

Keywords: MUI *fatwâ*, sinovac vaccine, Jasser Auda's, Islamic law

**Abstrak:** *Analisis Konstruksi Fatwa Majelis Ulama Indonesia tentang Kehalalan Vaksin Sinovac Covid-19 dengan Menggunakan Model Pengembangan Hukum Islam dari Jasser Auda.* Menyebarnya berita hoaks terkait aman atau tidaknya dan halal atau tidaknya penggunaan vaksin Covid-19 telah menimbulkan sikap pro-kontra masyarakat Indonesia terhadap program vaksinasi Covid-19. Untuk itu, Majelis Ulama Indonesia (MUI) telah mengeluarkan fatwa untuk memberikan pencerahan hukum atas kehalalan penggunaan vaksin Covid-19 tersebut. Penelitian ini menelaah secara mendalam konstruksi fatwa tersebut dan mengidentifikasi model pengembangan hukum Islam yang digunakan dalam mengkonstruksi fatwa tersebut. Penelitian ini murni filosofis normatif dan menggunakan model pengembangan hukum Islam

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yang dikemukakan oleh Jasser Auda. Hasil penelitian menyimpulkan bahwa penetapan fatwa MUI atas kehalalan vaksin Sinovac telah menggunakan model pengembangan hukum Islam yang bersifat holistik. Hal ini ditunjukkan adanya beberapa ciri yang melekat dalam konstruksi fatwâ tersebut yaitu: (i) karakter menyeluruh (*wholeness*) dan multidimensi, yang ditunjukkan dengan penggunaan argumen tekstual universal (*'âm*). (ii) karakter kebermaksudan (*purpose*), yang ditunjukkan dengan penggunaan berbagai kaidah fikih yang menekankan pada realisasi kemaslahatan sebagai dasar dan orientasi penetapan hukum. (iii) karakter keterbukaan yang ditunjukkan dengan diterimanya prinsip-prinsip ilmu kesehatan dan kedokteran yang notabene berada di luar bidang hukum Islam.

**Kata kunci:** Fatwa MUI, vaksin Sinovac, Jasser Auda, hukum Islam

## Introduction

Public policies in various forms imposed by the Indonesian government to reduce the spread of the Covid-19 outbreak did not immediately receive a positive response from the public but instead reaped many pros and cons.<sup>1</sup> Many parties criticize and reject the vaccination program for various reasons. This counter-productive attitude cannot be separated from various hoax news about vaccination programs that are scattered in the social media space. The form of hoax news related to the Covid-19 vaccination program, among others, is mostly related to the safety and halalness of the Covid-19 vaccine.<sup>2</sup>

In response to the counter-productive attitude of some people towards the Covid-19 vaccination program in Indonesia, the Indonesian Ulema Council (MUI) came through its *fatwâ* (legal opinion) to assist the government in making the Covid-19 vaccination program success. The *fatwâ* in question is the MUI *fatwâ* Number 02 of 2021 regarding the Covid-19 vaccine product from Sinovac Life Sciences Co. Ltd. China and PT. Bio Farma (Persero). The *fatwâ* explains the legal rules for the halalness of the company's vaccine products. So that it will be good and safe to use by the public to maintain immunity from the potential for

<sup>1</sup> Nadi Suprpto and others, 'The Pros and Cons of the "New Normal" Concept during Covid-19 Outbreak', *Educec*, 4.3 (2021), p. 412.

<sup>2</sup> Daniel Susilo, Teguh Dwi Putranto, and Charles Julian Santos Navarro, '9 Performance of Indonesian Ministry of Health in Overcoming Hoax About Vaccination Amid the Covid-19 Pandemic on Social Media', *Nyimak: Journal Of Communication*, 5.1 (2021), p. 151.

being infected with the Covid-19 virus.<sup>3</sup> However, in practice, as stated by Ilyas Supena, the MUI *fatwâ* is also not always positively welcomed by Muslims in Indonesia.<sup>4</sup> Abdur Rahman Adi Saputera also stated that the existence of the MUI *fatwâ* during the Covid-19 pandemic did not attract criticism, rejection, and even opposition among the Muslim community in Indonesia.<sup>5</sup>

As a product of Islamic law that responds to modern problems, the MUI *fatwâ* should use a comprehensive approach to Islamic law, not only based on a deductive normative basis in the form of a theological text basis and the repertoire of classical Islamic legal thought alone but also using various other approaches while taking into account the *maslahat* (benefit aspect) which is the goal of Islamic law (*maqâshid sharia*). In other words, the legal approach used is not only deductive but holistic following the paradigm of contemporary Islamic law. Thus, the MUI *fatwâs* are expected to be more accepted by the Muslim community.<sup>6</sup>

To go in that direction, the MUI scholars need to pay attention to the methodology of contemporary Islamic law offered by Jasser Auda. According to Auda, solving the dynamic and complex problems of modern Islamic law requires a holistic and integrative approach to logic, not textualism, or reductionism, let alone dichotomous.<sup>7</sup> This paradigm of Auda's thinking is interesting to be tested. For this reason, on this occasion, the researcher tries to identify the methodological constructions and approaches he offers and apply them in reviewing the MUI *fatwâ* in determining the halalness of COVID-19 vaccine products.

Prior to this research, there have been several studies that have also examined the *fatwâ* from various perspectives and approaches.

<sup>3</sup> *Fatwa Nomor. 02 Tahun 2021 Tentang Produk Vaksin Covid-19 Dari Sinovac Life Sciences Co. Ltd. Chipharm Dan Pt. Bio Farma (Persero)* (Indonesia, 2021).

<sup>4</sup> Ilyas Supena, 'Konstruksi Epistemologi Fikih Pandemi: Analisis Fatwa-Fatwa MUI', *L-Ma'ârif: Jurnal Kajian Hukum Islam*, 15.1 (2021), pp. 123–24.

<sup>5</sup> Abdur Rahman Adi Saputera, 'Menelisik Dinamika dan Eksistensi Fatwa MUI Sebagai Upaya Mitigasi Pandemi Covid-19', *Tabkim, Jurnal Peradaban dan Hukum Islam*, 3.2 (2020), p. 59.

<sup>6</sup> Athoillah Islamy, 'Pemikiran Hukum Islam Nurcholish Madjid' (Universitas Islam Negeri Walisongo, 2021).

<sup>7</sup> Hengki Ferdiansyah, 'Pemikiran Hukum Islam Jasser Auda' (Universitas Islam Negeri Jakarta, 2017), p. 92.

One of them is Farhat Abdullah's research (2021) which focuses on the elements that are considered the halal law of the Sinovac covid-19 vaccine and conclude<sup>24</sup> that the Covid-19 vaccine produced by Sinovac is clean and *Halâl* (religiously justified) because it does not contain elements of pigs, human limbs, and unclean stuff.<sup>8</sup> Furthermore, research by Allina Mustaufiatin Ni'mah and Syufa'at examined the legitimacy of the production and distribution<sup>38</sup> of the Sinovac Covid-19 vaccine in Indonesia with the addition of a review of sharia economic law related to the import activity of Covid-19 vaccines. Allina, relying on the MUI *fatwâ*, concluded that the legal status of the production and distribution of Sinovac's Covid-19 vaccine in Indonesia is *halâl* and good, while import activities can be classified into a *salam* contract whose legal status is also valid.<sup>9</sup> In line with the above thought, Muhammad Asrorun Niam Shaleh, and Muhammad Izhar Helmi argue that vaccines in<sup>5</sup> the Covid-19 vaccination program in Indonesia are legal, including the Sinovac vaccine. However, according to the law, the<sup>5</sup> use of the illegal Covid-19 vaccine can be allowed when it is no longer available or the type of vaccine that is holy and *halâl* has not been found.<sup>10</sup> Moreover, another study on the same topic is the research of Ibn Radwan Siddik Turnip which examines the effect of the rules of fiqh in the formulation of the Sinovac vaccine *fatwâ* on the attitude of medical personnel in receiving the vaccination program. Ibnu Ridwan concluded that the dimension of fiqh rules regarding<sup>17</sup> the halalness of the Sinovac Covid-19 vaccine has increased<sup>17</sup> the readiness of medical officers at the Tanjung Morawa Health Center, Deli Serdang Regency in accepting the Covid-19 vaccination program.<sup>11</sup>

<sup>26</sup> Farhat Abdullah, 'Sinovac Vaccine Halal Controllers: According To The Lay Community', *Tahdzib Al Akhlak*, 4.1 (2021), pp. 25–26.

<sup>3</sup> Allina Mustaufiatin Ni'mah and Syufa'at Syufa'at, 'Legalitas Impor Vaksin Covid-19 Perspektif *Maqâshid Syariah*', *Volksgeist*, 4.1 (2021), pp. 21–22.

<sup>10</sup> Sholeh and Helmi, p. 174.

<sup>11</sup> Ibnu Radwan Siddik Turnip, 'Kehalalan Vaksin Covid-19 Produksi Sinovac dalam Fatwa MUI dan Implementasi Vaksinasinya Pada Tenaga Kesehatan di Puskesmas Tanjung Morawa, Deli Serdang (Perspektif *Qawâidh Fiqhiyyah*)', *Al-Mashlahah: Jurnal Hukum Islam dan Pranata Sosial Islam*, 9.1 (2021), p. 59.

In contrast to the various studies above, this study analyzes the determination of the MUI *fatwâ* on the halalness of the Sinovac Covid-19 vaccine by using a contemporary Islamic law approach from Jasser Auda. This focus represents both the distinction and novelty aspects of this research.

## Research Methods

This research is a qualitative research based on a literature study.<sup>12</sup> The object of the research is the MUI *fatwâ* Number 02 of 2021 regarding the Covid-19 vaccine product made by Sinovac Life Sciences Co. Ltd. China and PT. Bio Farma (Persero). The aim is to explore and identify the methodological construction of the MUI *fatwâ* to find out whether the *fatwâ* uses a textual-dichotomous approach to Islamic law or uses a holistic-integrative approach to Islamic law. In this way, there will be a positive understanding and attitude of Muslims towards MUI as part of a religious institution in Indonesia that has the authority to issue *fatwâs* in response to religious problems that occur in the wider community.<sup>13</sup>

The primary data used is the *Fatwâ* document of the Indonesian Ulema Council (MUI). While secondary data is other supporting data that is relevant to the focus of the discussion. At the level of analysis, this study applies Jasser Auda's normative-philosophical approach, along with the features or characters in that approach, such as cognition, wholeness, openness, relational hierarchical relations, multidimensionality, and intentionality.

## Jasser Auda's Intellectual Diaspora

Jasser Auda is one of the central figures in the development of modern *maqâsid sharia* studies. His thoughts, especially regarding *maqâsid*

<sup>12</sup> Alexy J. Moleong, *Metodologi Penelitian Kualitatif Edisi Revisi* (Bandung: PT Remaja Rosdakarya, 2007), p. 6.

<sup>13</sup> Nico J.G Kaptein, 'The Voice of the 'Ulamâ': Fatwas and Religious Authority in Indonesia', *Archives de Sciences Sociales Des Religions*, 125, 2004, p. 21 <<https://doi.org/10.4000/assr.1038>>.

*shariah*, are so popular that it is important to study them.<sup>14</sup> Auda was born in 1966 in Cairo. His intellectual journey began at al-Azhar University by non-formally participating in various studies of Islamic studies at the al-Azhar Mosque. Auda studied Strata One at Cairo University in the Communication Studies program which he completed in 1988. Meanwhile, he obtained his Master's degree in 1993 at the same campus. Then, Auda completed his Doctoral education in systems analysis at Waterloo University Canada which was completed in 1996.

Not enough there, Auda resumed his formal studies by taking the Islamic Law program at the Islamic University of America which was completed in 1999 by obtaining a Bachelor of Arts (BA) in Islamic Studies. Then he continued his education in the Islamic Law program at the same University and obtained his second Master's degree in 2004. In 2008, Auda completed his Doctoral program with a concentration in Islamic Law at Wales University.

Auda's interest in studying Islamic studies is also manifested through his involvement in various universities and organizations. Besides becoming a professor of Islamic law at the Qatar Faculty of Islamic Studies (QFIS) Hamad Bin Khalifah University (HBKU). Auda is also involved in various academic communities, including as a member of the senate at the Institute International Advanced System Research (IIAS) in Canada, as well as part of the Global Oversight Board of the Center for the Study of Civilizations (GCSC) in the UK. Apart from that, Auda is also an expert on the British Council of Muslim Scholars as well as a consultant for Islamonline.net and plays an active role in the Forum Against Islamophobia and Racism (FAIR). In addition, he is also the founder and active member of the International Union of Muslim Scholars in Dublin. In addition, he also serves as Founding Director of the Research Center for the Philosophy of Islamic Law, Al-Furqan Islamic Heritage Foundation, London, England. As a well-known scientist, Auda is also often invited to many universities in various countries to give lectures or be a speaker in many scientific forums.

<sup>14</sup> Soni Zakaria, 'The Contextualization Of The Mâqâshid Al-Shari'ah Jasser Auda Theory In The Concept and Practice of Islamic Family Law', *Al-'Adl*, 14.2 (2021), p. 86.

Jasser Auda is also a prolific writer who has created many works. Among his works on *maqâsid sharia* are, *Fiqh al-Maqsid: Inâtab al-Abkâm al-Shari'ah bi Maqâsidiha* (2006),<sup>10</sup> *Maqâsid al-Shari'ah as Philosophy of Islamic Law: A Systems Approach* (2007),<sup>10</sup> *Maqâsid al-Shari'ah: Dalîl al-Mubtadi'in* (2011).<sup>15</sup>

### Jasser Auda's Approach to Islamic Law

Auda, as quoted by Hengky Ferdiansyah, stated that in response to the dynamic and complex development, Islamic law requires a holistic and integrative paradigm.<sup>16</sup> He also suggested that a systemic approach could be the basis for the development of an Islamic legal approach.<sup>17</sup> Auda argues that the set of fundamentals of Islamic law is a 'system', which can be analyzed by looking at a set of features or characters.<sup>18</sup>

There are several characteristics of a systemic approach that can be used as an approach to developing a holistic contemporary Islamic law.<sup>19</sup> The first is the cognitive character. The existence of cognitive character features in the Islamic legal system is a component that must become understanding and aware. The truth of Islamic legal thought, as a result of the dialectic of cognition and the reality of human life, allows for disparities when applied in different spaces and conditions. This awareness of the cognitive character dimensions ultimately has an impact on the various results of Islamic legal *ijtihâd* on certain realities even though they rely on the same theological normative text of Islamic law.<sup>20</sup>

<sup>15</sup> Ferdiansyah, pp. 67–71.

<sup>16</sup> Ferdiansyah, pp. 96–98.

<sup>19</sup> Jasser Auda, *Mâqâshid Al-Shari'ah as Philosophy of Islamic Law: A Systems Approach* (London: International Institute of Islamic Thought, 2008), p. 29.

<sup>18</sup> Jasser Auda, p.45.

<sup>19</sup> Ferdiansyah, pp. 104–5.

<sup>20</sup> Athoillah Islamy, 'Landasan Filosofis dan Corak Pendekatan Abdurrahman Wahid Tentang Implementasi Hukum Islam di Indonesia', *Jurnal Al-Adalah: Jurnal Hukum dan Politik Islam*, 6.1 (2021), p. 60.



Second, the wholeness (*syumûl*). To answer the challenges of the complex and dynamic reality of Islamic law, the overall pattern of *ijtihad* is necessary. The application of comprehensive features in the Islamic legal approach will realize that in essence, the Islamic legal system has various interrelated components. This paradigm can get rid of the reductionistic and atomistic logic of Islamic law as can be found in the traditional logic of *ushul fiqh* which focuses a lot on the application of textual arguments in a fragmental manner. For example, the use of the *maslahah* method in comparison to the use of universal arguments, such as *Mâqâshid Al-Shari'ah*.

Third, the openness. Auda emphasized that the existence of the openness feature requires that Islamic law be viewed as an open legal system. However, it is important to understand that an open Islamic legal system requires the development of equivalent classical Islamic legal theories so that they are applicable when used in solving complex problems in contemporary Islamic law.

Fourth, is the relational hierarchical relationship. In this feature, the categorization of a proposition (theory) of Islamic law based on the concept is appropriate in the scheme of Islamic law. This mechanism aims to produce a more integral and systemic design of Islamic law. For example, the level of benefit (*maslahat*), which consists of primary (*darûriyat*), secondary (*hajj*), and tertiary (*tahsiniyat*) levels, is placed in a balanced and urgent position.

Fifth, multi-dimensional. This multi-dimensional feature is very important to be applied in the Islamic law approach. In this context, the existence of Islamic law is seen as having various dimensions. Therefore, the binary opposition mindset on the application of Islamic legal propositions (theories) should be avoided, so that, in formulating a law, various criteria for Islamic legal arguments can be reviewed correlatively and integratively.

Sixth is the intention. The existence of *maqâsid sharia* in this feature will be the core orientation in the approach to Islamic law. In other words, *maqâsid sharia* is an important core or subject in the epistemology of Islamic law. However, it is important to note that the

position of *maqâsid sharia* as a characteristic of intent in the Islamic legal system is inseparable from various other characteristics, namely cognitive characteristics, overall, openness, relational hierarchy, and multi-dimensional.<sup>21</sup>

Apart from the six features above, Auda also added that the existence of *maqâsid sharia* in the Islamic legal system occupies a position of purpose (*ghâyat*) which does not have a monolithic and mechanistic character. Efforts to realize it as a core goal in the Islamic legal system can be done through various means, conditions, and results. It is in this context that the effort to expand the scope of benefit in the traditional *maqâsid* concept, with all its levels, is an urgent matter. For example, the concept of *hifz dîn* (maintaining religion) needs to be escalated to *hifz hurriah i'tiqâdiah* (maintaining freedom of belief), and the concept of *hifz nafs* (guarding the soul) which needs to be escalated to *hifz karâmah insâniyah* (maintaining human honor) or *hifz huqûq insâniyah* (maintaining human rights), the concept of *hifz aql* (maintaining reason) which needs to be escalated into respect for freedom of scientific thought, the concept of *hifz nasl* (keeping offspring) which needs to be escalated to *hifz usrah* (maintaining family life), and so on.

Auda classifies *maqâsid* in three levels. First, *maqâsid 'âmm* (general). It explains <sup>37</sup> the objectives of Islamic law which includes the study of *maqâsid sharia* in general, namely the urgency of maintaining religion, preserving the soul, preserving reason, maintaining offspring, and maintaining the property. Second, *maqâsid khâsh*. *Maqâsid khâsh* is an orientation of Islamic law that can be found in various branches of special *maqâsid*, such as legal protection for the benefit of children in the family. Third, *maqâsid juz'iat* (partial) where at this level the target of Islamic law relates to the reason ('*illat*) or goal (*ghâyat*) of establishing Islamic law.<sup>22</sup>

<sup>21</sup> Ferliansyah, pp. 105–25.

<sup>22</sup> See Islamy, 'Pemikiran Hukum Islam Nurcholish Madjid', pp. 60–61.

## Comparing the Methodological Construction of the Indonesian Ulema Council on the Halalness of the Sinovac Covid-19 Vaccine to the Jasser Auda's Islamic Law System Approach

The soaring number of victims of the Covid-19 outbreak in a short duration of time has prompted the government to implement various policies to reduce the rate of the spread such as the lockdown system, quarantine, tightening health protocols, closing public services and transportation, Enforcement of Community Activity Restrictions (PPKM), including Vaccination programs to protect the community's immune system from the potential for Covid-19 infection.<sup>23</sup>

Unfortunately, in practical terms, the various government policies in tackling the spread of the Covid-19 outbreak are not always welcomed by the public.<sup>24</sup> One example is the Covid-19 vaccination program, which not all people responded to cooperatively, many even rejected it for various reasons. These rejections arise because they are supported by various factors, one of which is the spread of hoax news circulating on social media related to the safety and halalness of the Covid-19 vaccine.<sup>25</sup> Given that the Covid-19 outbreak has become a major threat to the lives of the Indonesian people, the Indonesian Ulema Council (MUI) seeks to assist the Government in the success of the Covid-19 vaccination program through the decree of *fatwâ* No. 02 of 2021 regarding Covid-19 Vaccine Products From Sinovac Life Sciences Co. Ltd. China And Pt. Bio Farma (Persero).<sup>26</sup> The *fatwâ* is intended to provide a legal explanation for the halalness of the Sinovac Covid-19 vaccine. Although normatively, the MUI *fatwâ* is not binding and coercive, it has great power and influence in shaping the paradigm and attitudes of Muslims in responding to social and religious problems in Indonesia.<sup>27</sup>

<sup>23</sup> Athoillah Islamy, 'Nilai-Nilai *Maqâshid Syariah* dalam Fungsi Keluarga di Tengah Pandemi Covid-19', *Al-Qisthu : Jurnal Kajian Ilmu-Ilmu Hukum*, 9.1 (2021), p. 2.

<sup>24</sup> Suprpto and others, p. 412.

<sup>25</sup> Susilo Putranto, and Navarro, p. 151.

<sup>26</sup> *Fatwa Nomor. 02 Tahun 2021 Tentang Produk Vaksin Covid-19 dari Sinovac Life Sciences Co. Ltd. China dan PT. Bio Farma (Persero)*, pp. 1–2.

<sup>27</sup> Mohammad Syifa Amin Widigdo, Homaidi Hamid, "The Power of Fatwâ in Indonesia: An Analysis of MUI's Controversial Fatwâ," *Afkaruna*, 14.2 (2018): 146.

Regardless of the influence of the MUI *fatwâ* on the halalness of the Sinovac vaccine on people's attitudes, the MUI, in issuing its *fatwâ*, implements a specific method and style of Islamic law approach that is interesting to study.<sup>28</sup> In line with that, in the following sub-description, the author will analyze the methodology for determining the MUI *fatwâ* on Covid-19 Vaccine Products through the Islamic legal system approach initiated by Jasser Auda.

Based on the results of the author's search, there are at least four methodological foundations in determining the MUI *fatwâ* regarding the halalness of the Sinovac vaccine, as follows.

*First*, is the basis of theological arguments (al-Quran and Hadith). The basis argument (*nas*) of the MUI *Fatwâ* on the halalness of the Sinovac Covid-19 vaccine consists of various verses containing generally accepted legal messages (*'âmm*) rather than specifically applicable ones (*khâsh*). Such a conclusion refers to various verses that form the basis for the determination of the *fatwâ*, among others:

(1) QS. Al-Baqarah verse 173 which means:

*"Indeed, Allah only forbids you carrion, blood, pork, and animals that (when slaughtered) are called (names) other than Allah. However, whoever is forced (to eat) while he does not want it and does not (also) exceed the limit, then there is no sin for him. Verily Allah is Forgiving, Most Merciful."*

(2) QS. Al-Maidah verse 3 which means:

*"It is forbidden for you (to eat) carrion, blood, pork, (animal meat) that is slaughtered in the name of other than Allah, that which is strangled, that which is beaten, that which falls, that of gore, and that of a wild animal that is torn by a wild animal, except for those who have slaughtered it, and (it is forbidden for you to eat animals that are slaughtered for idols."*

(3) QS. Al-An'am verse 145 which means:

*"Say I did not find in the revelation that was revealed to me anything*

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<sup>28</sup> Zakaria Syafei, 'Tracing *Mâqâshid Al-Shari'ah* in The Fatwas of Indonesian Council Ulama (MUI)', *Journal of Indonesian Islam*, 14.2 (2017), p. 119.

*that is forbidden for those who want to eat it, except if the food is carrion, flowing blood, or pork, because verily these are filthy, or animals slaughtered in the name of other than Allah. Whoever is forced (to eat) while he does not want it and does not (also) transgress, then indeed your Lord is Forgiving, Most Merciful."*

In addition, MUI also uses the Hadith as the basis of an argument which includes (1) "*Treat, because Allah does not make a disease unless also makes a cure other than one disease, namely senile (old)*" (Narrated by Abû Daud from Osâma bin Syarik). (2) "*God has sent down disease and medicine, and made a cure for every disease; So, seek treatment and do not seek treatment with things that are forbidden.*" (Narrated by Abû Dawûd from Abû Darda). (3) "*Allah does not send down a disease except to send down (also) a cure*" (Narrated by al-Bukhâri from Abû Hurairah). (4) "*The Messenger of Allah was asked about a rat that fell into the cheese. He replied: "If the cheese is hard (solid), throw the mouse and the cheese around it, and eat (the rest of) the cheese; but if the cheese is liquid, then do not eat it "*" (Narrated by Ahmad from Abû Hurairah). (5) "*If there are two pots of water, then it does not contain dirt/impurities*" (HR. Abû Dawûd, al-Tirmidhî, al-Nasâi, Ibn Majah from Abdullah Ibn Umar. This hadith is considered authentic by Ibn Huzaimah, al-Hâkim, and Ibn Hibbân). (6) "*Indeed, there is nothing in the water that defiles it, unless it changes its smell, taste, and color*" (Narrated by Ibn Majah from Abî Umâmah al-Bahili).<sup>29</sup>

The use of the universal argument ('*âm*) above shows that in producing the *fatwâ* regarding the halalness of the Sinovac vaccine, MUI has contextualized the social-universal ethical values of various verses of '*âm* with the Covid-19 vaccination program. This is in line with Jasser Auda's *wholeness* paradigm concept which emphasizes the correlation between various components of the method in establishing Islamic law. The importance of this comprehensive paradigm, according to Auda, is to avoid the reductionistic and atomistic tendency of classical Islamic law logic which is shown by the dominance of law-making logic which

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<sup>29</sup> *Fatwa Nomor. 02 Tahun 2021 Tentang Produk Vaksin Covid-19 dari Sinovac Life Sciences Co. Ltd. China dan PT. Bio Farma (Persero)*, pp. 1–4.

emphasizes the use of partial arguments (*al-'adillat al-juz'iat*), such as the tendency to use propositions of *maslahah*, instead of using universal arguments (*al-'adillat al-kulliat*), such as *maqasid shariah*.<sup>30</sup> As emphasized by Auda, the Islamic legal system is multi-dimensional. Therefore in the process of establishing Islamic law, the binary opposition paradigm (the use of conflicting legal arguments) must be removed and replaced with complementary arguments.<sup>31</sup> Observing what has been done by the MUI in the process of making the *fatwâ* regarding the *halalness* of the Sinovac vaccine, it can be concluded that the MUI's emphasis on the use of universal textual arguments (*'âm*) in the determination of the *fatwâ* is in line with the style of contemporary Islamic law approach which is comprehensive and multidimensional.

Second, is the use of fiqh rules (*qawâid fiqhiyah*). The fiqh rules used by MUI include (1) *al-Dhororu yuzaalu* (adversity must be eliminated). (2) *al-Amru bis syai'i amrun bi wasâilih* (an order to do something also means an order to do an intermediary). (3) *Ma la yatimmu al-wâjibu illâ bihi fahuwa wâjibun* (An obligation that can only be realized by doing a case, then the case becomes obligatory). (4) *al-Daf'u aulâ minar rof'i* (prevention is prioritized over eliminating). (5) *Yutakhammalu aldhororu al-khâssu li daf'i al-dhorori al-'âmmi*" (bearing certain harm to prevent evenly distributed harm).<sup>32</sup>

The above legal rules, as used by MUI in determining the *fatwâ* on the *halalness* of the Sinovac Covid-19 vaccine, are preventive (*sadd al-dzarî'ah*) and rely on the public benefit (*maslahah mursalah*).<sup>33</sup> The *sadd al-dzarî'ah* principles themselves are a flexible legal basis to deal with dynamic and complex legal issues while still making the benefit

<sup>30</sup> Auda, pp. 197–98.

<sup>31</sup> Ferdiansyah, pp. 126–27.

<sup>32</sup> *Fatwa Majelis Ulama Indonesia Nomor: 23 Tahun 2020 Tentang Pemanfaatan Harta Zakat, Infak, dan Shadaqah Untuk Penanggulangan Wabah Covid-19 dan Dampaknya* (Indonesia, 2020), p. 4.

<sup>33</sup> *Maslahat mursalah* is an Islamic legal thought that makes *maslahah* (human interests or needs) that are not bound (*mursalah*) as a source or basis for determining Islamic law. This concept is also known as *istislâh* or *al-masâlih al-mursalah*. See: Muhammad Rusfi, *Hukum Kebiri dalam Perspektif Maqasid al-Syariah dalam Hukum Kebiri dalam Kajian Interdisipliner* (Surabaya: CV. Gemilang, 2018), p. 69.

aspect the main goal.<sup>34</sup> Likewise with the rules of *maslahah mursalah*. This rule is an independent legal proposition and does not require affirmation from the text.<sup>35</sup> This is in line with Jasser Auda's thinking which emphasizes that the existence of *maqâsid sharia* as the goal of benefit in establishing Islamic law is a feature of intent that should not be ignored,<sup>36</sup> as is the existence of *maqâsid sharia* which occupies a purpose (*ghâyat*) position in the establishment of Islamic law which is not monolithic.<sup>37</sup> From this point of view, it can be concluded that the use of various fiqh rules, with their preventive and benefit dimensions, in the MUI *fatwâ* regarding the halalness of the Sinovac vaccine is an Islamic legal approach oriented towards the realization of various benefits in establishing law.

*Third*, is the repertoire of classical scholars' opinions. Several opinions of classical scholars became the basic part in determining the *fatwâ* on the halalness of the Sinovac Covid-19 vaccine. (1) The opinion of Imam al-Zuhri in the book *Syarah Sahih al-Bukhâri* by Ibn Baththâl (*Maktabah Syamilah*, 6/70) states that it is forbidden to seek treatment using unclean goods. (2) The opinion of Imam Ibn Hajar al-Haitami in the book *Tuhfatu al-Muhtâj* juz 1 page 290 which explains the impurity of pigs and the law of prohibition on their use under normal conditions. (3) The opinion of Imam al-Nawawi in the book *Raudlatu al-Thâlibin wa Umdatu al-Muftiin* (1/37) explains that something that is not believed to be impure or chaste, then its status is judged as a sacred item according to the law of origin. (4) Opinion of Imam al-Thabary in his book "*Tahdzîb al-Atsâr*" (2/717) states that the condition of a small amount of water has the potential to become unclean when exposed to (mixed) something unclean, even though there is no change in color, taste, or smell. In contrast to the condition of a large amount of water, the legal status does not change to najis when exposed to a little najis. (5) The opinion of al-Qasthalani in the

<sup>34</sup> Ali Imron, 'Menerapkan Hukum Islam yang Inovatif dengan Metode *Sadd al-Dzari'ah*', *QISTIE*, 4.1 (2010), p. 65.

<sup>35</sup> Abd al-Wahab Khallaf, *Ilmu Ushul al-Fiqh* (Cairo: Maktabat al-Da'wat, 1974), p. 84.

<sup>36</sup> Auda, p. 54.

<sup>37</sup> Auda, p. 55.

book *Irsyâdu al-Sâri* (7/96) mentions the mandatory treatment due to illness and self-protection from the plague.<sup>38</sup>

The use of the classical scholars' opinions above shows that the MUI realizes that the tradition of the repertoire of classical Islamic legal thought can still be used as the basis for determining the law on various existing contemporary issues. MUI, however, does not use the various classical Islamic legal opinions as the main arguments, but only as part of various other elements that form the basis for determining the *fatwâ* on the halalness of the Sinovac vaccine. In Jasser Auda's view, the existence of products of Islamic legal thought has a cognitive nature dimension that must be realized and understood. For this reason, the validity of Islamic legal thought as a product of dialectics between human cognition and the reality of life that has weaknesses and needs to be updated can even be revised when applied in different contexts. Therefore, MUI realizes that the repertoire of products of classical Islamic legal thought needs to be elaborated with various considerations of new elements in determining the law on new issues as well. In other words, MUI is aware of the advantages and disadvantages of cognition products in classical Islamic legal thought when it is made part of the legal determination of the halalness of the Covid-19 vaccine which requires various complex considerations.

Fourth, The inclusion of several analyzes from experts related to vaccines. This includes (1) Reports and Explanations of the Audit Results of the LPPOM MUI Auditor Team with the MUI *Fatwâ* Commission to Sinovac Life Sciences Co. Ltd. China and PT. Bio Farma regarding the production process and materials for making vaccines. (2) The Decree of the Indonesian Food and Drug Supervisory Agency (BPOM) approving the use during an emergency or Emergency Use Authorization (EUA) and guarantees safety, quality, and efficacy for the Covid-19 vaccine produced by Sinovac Life Sciences Co.Ltd. China and PT. Bio Farma (Persero). These considerations based on scientific research become one of the indicators that the vaccine meets good qualifications (*thayyib*).

<sup>38</sup> *Fatwa Majelis Ulama Indonesia Nomor: 23 Tahun 2020 Tentang Pemanfaatan Harta Zakat, Infak, dan Shadaqah Untuk Penanggulangan Wabah Covid-19 dan Dampaknya*, pp. 4–9.



The inclusion of the medical experts' analysis regarding the use of the Covid-19 vaccine above shows that, in determining the halalness of the Sinovac vaccine, MUI realizes the importance of integrating Islamic legal thought with medical perspectives.<sup>39</sup> This is in line with Jasser Auda's assertion that Islamic legal products must be positioned as an open legal system. Auda also asserts that to create an open Islamic legal system, it is necessary to develop instruments for various classical Islamic law methods, so that they become legal methods that apply to the complexity of the legal problems faced.<sup>40</sup> Auda stated, therefore, the importance of engaging a competent worldview based on scientific thinking, not just based on speculation (allegations).<sup>41</sup> On this basis, it is not an exaggeration to say that MUI emphasizes the importance of an open approach to Islamic law in the process of determining the *fatwâ* on the halalness of the Sinovac vaccine. In other words, the MUI provides space for the integration of the Islamic legal approach with the development of science.

## Conclusion

Based on the core discussion of this research, it can be concluded that the determination of the *fatwâ* of the Indonesian Ulema Council (MUI) on the halalness of the Sinovac vaccine uses a holistic approach to Islamic law. Such a conclusion can be seen from the various characteristics of the contemporary Islamic legal approach to determining the *fatwâ*. First, is the comprehensive and multidimensional character in the form of the use of universal textual arguments (*'âm*). Second, the character of purpose in the form of the use of various fiqh rules that emphasize the realization of benefit as the basis as well as the orientation of legal determination. Third, the character of openness (open system) in the form of an elaboration of the Islamic legal approach with the development of medical science through the

<sup>39</sup> Azhar Arsyad, "Integration Tree and the Interconnectivity of Science and Religion," *Kalimah*, 14.2 (2016), p. 115.

<sup>40</sup> Auda, p. 202.

<sup>41</sup> Ferdiansyah, pp. 111–15.

analysis of vaccine experts. The theoretical implication of this study's findings shows that the Islamic law approach used by MUI in setting *fatwâs* related to contemporary problems, especially the halalness of Sinovac vaccines, is integrative, not dichotomous as the institution has combined various normative foundations of the Islamic legal theory with scientific, medical considerations.

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