

**THE MODEL OF IJTIHAD IN FATWAS RELATED TO HEALTH
CARE IN SINGAPORE**

THESIS

Submitted in partial fulfilment of the requirements
for the Degree of Master of Law



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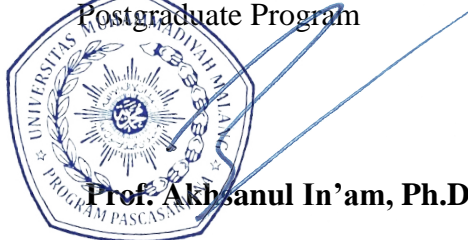
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2. If this thesis is proven as a form of **PLAGIARISM** in this thesis, I am willing to accept the consequences including accepting the **CANCELLATION OF THE GRANTING OF MASTER DEGREE** and undergoing any procedures required by the prevailing law.
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The Writer,



**NENNY SUZANAH BINTE
SELLAMAT**

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ABSTRACT

Background

For Muslims, Islamic law or *shariah* is seen as the expression of God's command for Muslims and, in application, constitutes a system of duties that are incumbent upon them. As human knowledge and technology progresses, activities related to health care expanded in line with the needs of communities and societies. For minority Muslims living and working within a dynamic environment in Singapore, there is a constant need for religious guidance especially when faced with a problem or issue that is new and complex and may not have prior reference in previous sources of Islamic law. Fatwas play a critical role in providing the direction and guidance for the community to adapt to changing circumstances. Hence, the objective of the study is to analyse the model of *ijtihad* for fatwas related to health care in Singapore.

This normative legal research is based on a qualitative approach. The study aims to analyse the framework or model on *ijtihad* in fatwas related to health care in Singapore. The descriptive-inductivist-deductive approach is used to first construct a framework, and followed by an actual model or system of *ijtihad* for fatwas related to health care in Singapore.

The results of the study demonstrated that there is a structured system in *ijtihad* to derive fatwa decisions related to health care. Ethics is an emergent component in analysis of factors and derivation of a ruling. *Maqasid shariah* and *maslahah* are the common objectives and this resulted in fatwas that are complete, balanced, and dynamic in response to contextual, situational, and environmental factors and stimuli. The model of *ijtihad* for fatwas related to health care is based on the principle of first, prevention, avoidance, minimization and elimination of harm (to society and tenets of *shariah*, followed by deriving *maslahah* or *dar'ul mafasid muqaddamun ala jalbul masalih*.

Keywords: *Ijtihad*, fatwa, health care

INTRODUCTION

A. Background

Through centuries, societal transformation has brought changes in human customs, life systems, rules and norms, interactions, needs and human knowledge. These changes necessitate a corresponding law or policy to guide the norms and conduct of communities. In modern times, law and governance for communities are formed by the authority of the land, usually through its constitution. Most countries in the modern world, especially those colonised or founded by the West, adopt its legal system and constitution from western law, which subsequently evolve to one that is unique to the state upon independence.

For Muslims, Islamic law or *shariah* is seen as the expression of God's command for Muslims and, in application, constitutes a system of duties that are incumbent upon them. Islamic law differs from Western systems of law distinctly. The scope of the Islamic law and its legal system is much wider, since it guides the individual conscience and relationship not only with society and with the state, but also with God.

Historically, Islamic law has undergone several periods of change, but one that remained close to its roots. In Islamic Law, God is the ultimate authority. Humans are the interpreter and implementor, beginning from Prophet Adam (AS), to Prophet Muhammad (PBUH) who completed the Islamic creed, and subsequently through Islamic scholars and jurists.

The golden age of Islam in the eighth to the thirteenth century brought vast advances in knowledge such as frontiers in Islamic legal thoughts and practice, and in the scientific, cultural, economic, medicine and societal development. For Muslims, knowledge was perceived as divine gift to humanity, and great effort was taken to amass this knowledge and expand it for humanity.

As human knowledge and technology progresses, the practice of medicine expanded to include prevention of illnesses and maintenance of health, and eventually became a part of a bigger realm of organized health care. Activities of health care also expanded in line with the needs of communities and societies.

These activities are performed by organisations through trained professionals in activities and programmes that promote health and for the reduction, prevention and treatment of diseases, through provision of service for delivery of care for persons affected by illnesses, including end-of-life care, and health insurance. (OECD, n.d.).

Global trends in health care brought about pandemic cycles, chronic and complex diseases and innovations in research, medical treatments and surgical techniques. The advent of pandemics such as SARS and Covid-19 demanded for radical shifts in the way people interact and conduct their day-to-day activities, and result in development of new vaccines for immediate use. Technological advances propelled capabilities in human stem cell research which enabled embryo and genetic research. Inadvertently, this opened the floodgates for possibilities in cloning and gene therapy, and ethical issues such as embryo destruction. New frontiers were constantly explored and attained and this indicate that boundaries are evolving in health care.

Singapore is a developed country with an advanced healthcare system, with a rapidly ageing population(Chin, 2022). There is a continuous challenge to meet the health care needs of the society. Muslims form 15.6% of the 5.45 million population(Department of Statistics Singapore, 2021), with Malays and Indians accounting for increasing incidences of diabetes, heart disease, hypertension, and organ failure (Epidemiology & Disease Control Division Ministry of Health, Singapore 2017).

In tandem with the increasing incidences of dangerous, chronic and complex diseases, medical research and innovations are needed to pave the way towards development of new medications, treatments, surgical techniques and technology. In the past two decades, apart from provision of quality and affordable health care, Singapore's strategy toward health care has evolved to a multi-pronged approach that emphasized health prevention and promotion rather than cure, reduction of health and illness, with emphasis on quality care and game changing concepts and innovations (Ministry of Health Singapore, 2021b). For Muslims, the vast

development and progression in health care may require a reference to the local fatwa authority in terms of its ruling in Islamic Law.

Due to these unique and dynamic factors, the researcher is keen to analyse the model of *ijtihad* in fatwas related to health care. The operational definition for health care in this study encompasses research, practices, procedures, for the prevention, treatment, or relief of diseases or abnormal conditions, and for the promotion of health, including its personnel and programmes that provide care. The scope of analysis will be limited to fatwas related to health care that was issued by Fatwa Committee of the Islamic Council of Singapore from 1972-2021. The operational definition of the 'model of *ijtihad*' refers to the description of a principle, a system or set of factors, approaches, processes or patterns, and the reasons and objectives of fatwas.

B. Research Questions

In accordance with the title to be studied, the research problems for this paper are:

1. What are the Islamic perspectives in seeking treatment and health?
2. What are the contributing factors in fatwa decisions for health care in Singapore?
3. How are the rulings derived in fatwas related to health care in Singapore?

The researcher will examine if there is a consistent pattern or approach in the group of fatwas issued in Singapore.

C. Research Objectives

To answer the research problems, the objectives of the study will focus on three key areas:

1. Islamic perspectives in seeking treatment and health.

2. Contributing factors for fatwa decisions related to health care in Singapore
3. The model of *ijtihad* in fatwas related to health care in Singapore

This study will present a discussion of fatwas related to health care from 1972-2021 because there were vast and rapid changes in the healthcare landscape and fatwa decision reversals during this period.

D. Literature Review

Globally, there are a number of published studies that focused on collective analysis of fatwas that targeted different topics in health which were completed by researchers from other disciplines such as medicine and social sciences. The studies are largely done in Muslim-majority countries. For this literature review, studies and scholarly works completed between the years 2000-2021 were selected based on the relevance in terms of study design, context and subject.

In terms of the process in fatwa decisions, the approach of collective *ijtihad* comprising of experts in the fields of shariah and medicine, and gender perspectives are imperative in contemporary fatwas. The presence of women shariah experts and scholars are advocated especially in issues relevant to women's health such as female circumcision, milk banks, vaginal, breast and hymen reconstruction surgery, uterus donation for robust perspectives from angles that cannot be achieved by male scholars (Ramli et al., 2020).

Situational factors also played a part in the approaches and processes in fatwa decisions. Based on the results of a comparative study of four fatwas of Singapore and Malaysia, the economic, political, social and legislative positions of Muslims in both countries result in the differences in fatwas decisions applied in both countries (Dahlan et al., 2012).

The political and governance structure within a country may contribute to fatwa decision. In a study of 50 online fatwas, Yucel & Albayrak (2021) opined that state appointed and controlled religious authorities who work under close

scrutiny of the state lacked credibility in their fatwas and opposing views on organ donation and transplantation are minimal.

In Muslim-majority political systems, the situation differed. A study done on 137 fatwas by the Indonesian Ulama Council or Majelis Ulama Indonesia across all disciplines such as religion, food, science and technology between 1975-2011 indicated that the existence of fatwas contributed positively to development of contemporary Islamic and national law (Jamaa, 2018).

Based on studies conducted in Malaysia, the reason in fatwa decisions pertaining to research and medical treatments on patients were varied, but the objectives of *maqasid shariah* were common. For fatwas pertaining to biological sciences, technological developments were the reasons (Saadan Man, 2014), for cosmetic surgery, the reason was *maslahah* (Hamdan et al., 2021), for fatwas pertaining to medical science, it was *darurah (necessity)* at varying levels, (Isa, 2016).

Fatwas for end-of-life care was also studied and analysed. For the fatwa ruling for the Advanced Medical Directive (AMD) , a legal document prepared by a patient who is terminally ill and that instructs healthcare professionals to refrain from resuscitation or sustenance of life, the reason was benefit and avoidance of harm (Malek et al., 2021).

Islamic medical ethics had been an emergent topic discussed by healthcare and medical experts of the west, but not amongst classical or modern Islamic jurisprudence scholars in the region. In a study conducted by Woodman et al (2019) the authors opined that ethics in medical practice encompasses the principles of justice between caregiver and recipient, beneficence, individual autonomy and non-maleficence, which are principles that drew parallel from the Islamic teachings. The emergent role of ethics and its values in fatwas related to health care, is a topic that warrants further review.

The Islamic Council of Singapore, which is known as *Majlis Ugama Islam Singapura* (MUIS), has published online versions of its fatwas, has published a

collection of fatwas, related to medicine, health, and science of which pertinent and emergent issues pertaining some fatwas were discussed.

The results of the literature review indicated that environmental factors, approaches and reasons for the fatwa decisions were varied, but the objectives were common. The researcher opined that there is a need to study the model of *ijtihad* in fatwas related to health care including emerging issues such as the pandemic and *aurat* of patients and healthcare professionals, considering the unique context and demographics of Muslim-minority country like Singapore

THEORETICAL FRAMEWORK

Key theories that underpin the theoretical framework¹ for this study are principles of Islamic law and jurisprudence, Islamic legal thought and its legal maxims, and the characteristics and objective of Islamic law. Context and situational contextual factors, and emergent topic such as the role of ethics are also discussed. The researcher will then construct the concept for the model of *ijtihad* based on the discussions presented.

A. Principles of Islamic Law

Linguistically, *syara'a* (شرع) means a source of water or a source of life, while metaphorically it means the ordained way or *siratul mustaqim* as defined by Allah SWT (Haroen, 2001). The phrase was also referenced in the Quran. The phrase *shariah*, or *syar'i*, in the plural, refers to the laws or rules that Allah SWT prescribes to man, as stated in verse 18, surah Al Jathiyah (A. Y. Ali, 1991).² Based on this verse, the term *shariah* means rules that is based on the values as defined by God which forms the basis for relations between man and Allah (God), the Almighty and Creator, between individuals, whether Muslim or non-Muslim, as well as between man and things, which are part of God's creations. In summary, *shariah* refers to God's commandments and rulings related to the activities of man, including the individual's *akhlaq* (virtue and morality) and *adab* (character and etiquette) (Kamali, 2019a).

B. *Ijtihad* and Fatwa

Linguistically, fatwa means 'to explain' (MUIS, 2017e). The term fatwa and its functions have been recorded in Quran as well as the hadith. In the ruling of distribution of the assets of a deceased in Surah An-Nisa, Verse 127, Allah stated

¹ A theoretical framework is usually used to compare results against other studies, to identify the framework's applicability in a specific scholarly tradition, or to serve as a concept for the study and subsequent studies (Taekema, 2018).

² Surah Al-Jathiyah (47:18): "Then We put thee on the (right) Way Of Religion: so follow Thou that (Way), And follow not the desires of those who know not" (A. Y. Ali, 1991)

to Prophet Muhammad (PBUH), that He has given a fatwa for them.³ Hence this ruling must be followed as a *hukm* for the mandatory distribution of a deceased assets to women kin of a deceased man. From this example, a fatwa refers to a juristic opinion in relation to the application of a ruling for a problem, and the answer must be given by an expert a group of experts trained in the discipline. The process of fatwa issuance can be complex, especially when it concerns issues that are multi-faceted and are not directly specified in the Islamic doctrines of the Quran and the hadith, or in other sources of Islamic law.

Typically, a fatwa decision follows a question from a *mustafti* (a questioner of the Islamic *hukm*, who can be an individual or organisation), a Mufti (a qualified scholar or jurist), with or without a committee or council of scholars, and a process of *ifta*, which is the activity prior to issuance of the ruling which involve *ijtihad* (MUIS, 2017e).

Ijtihad and fatwa are corelated, with *ijtihad* being the substance and process that examines the issues in depth with a framework for uncovering the evidence that supports a decision or ruling, while a fatwa is the outcome of the efforts in *ijtihad*. *Ijtihad* refers to exertion or striving to infer the religious ruling based on detailed evidence in the religious sources of the Quran and Sunnah (Kamali, 2019b). Due to the nature of the activity, *ijtihad* requires an expansive knowledge of theology and revealed texts, deep understanding of principles and methodologies of Islamic jurisprudence such as *usul fiqh* and legal maxims, a capacity for legal reasoning, and most importantly, competency in the Arabic language. Ijtihad is predominantly contextual with more than one interpretation of the ruling to an issue when applied to settings. The opposite for *ijtihad* is *taqlid*, which means conforming or following the teaching or decision of another, and *muqallid* refers to the person performing the act (Hallaq, 2005).

The approach towards *ijtihad* can be done individually, or *ijtihad fard'i*, by a mujtahid or mufti, or collectively or *ijtihad jama'i* (MUIS, 2017e). In the

³ Surah An-Nisa (4:127); “They ask thy instruction Concerning the Women. Say: Allah doth Instruct you about them: And (remember) what hath Been rehearsed unto you” (Ali, 1991)
Commentary: Based on this verse, The law about widows and orphans. inheritance. dower. and marriage had already been declared (Ali, 1991)

contemporary world, collective *ijtihad* is typically performed with a panel comprising of a Mufti, Islamic scholars, and may include panel of experts which consist of specialists in their fields. As issues became more complex, collective *ijtihad* is the favoured approach.

C. Principles of Islamic Jurisprudence

The principles of Islamic jurisprudence consist of Islamic legal thoughts and theories, methodologies, and evidence of law, legal maxims, and consideration of incumbent factors such as context and situation.

1. Islamic Legal Thought

In the perspective of Islamic law, *fiqh* means a deep understanding of a matter in religion, and a *faqih* refers to someone learned in the matters of knowledge, which in this context, refers to Islamic law (Hallaq, 2005). Hence, *fiqh* is the science and methodology to ascertain the precise ruling from sources of Islamic law.

As human civilisations evolve and Islam began to spread widely across the globe, issues become more challenging and problems that were referred to jurists and scholars became different from the time of Prophets and companions. The Islamic scholarship and ulama develop principles for interpreting divine texts into *hukm* according the context and societies that they lived in and these became scholarly juristic views, and schools of legal thought or commonly known as *mazahib*. Although there are more, there are four prominent *mazahibs* or schools of legal thought which were complementary to one another and are still followed through the centuries. They are the Hanafi school, led by Abu Hanifah An-Nu'man Ibn Thabit, or widely known as Abu Hanifah; the Maliki school, led by Malik bin Anas, the Syafi'i school, led by Muhammad Bin Idris or Imam Al-Syafi'i; and the Hanbali school, led by Ahmad bin Hanbal (Kamali, 2019c)⁴. While all of them agree that the Holy

⁴ The Hanafi school of legal thought is prominent in the Indian subcontinent, Central Asia, Turkey and southern Europe, the Maliki school is prominent in North Africa and West Africa, the Syafi'i school is prominent in Egypt, South Africa and South East Asia, and Hanbali school is widely followed in in the Arabian peninsula. (Kamali, 2019)

Quran and the Sunnah of the Prophet (PBUH) are the two main sources for reference, there were difference with regards to the tools of legal interpretations and maxims developed by these various schools of Islamic law. Among all three scholars, only Abu Hanifah (702 CE-772 CE)⁵ was known to have extensive knowledge in *fiqh*, 'Ilm Kalam (Islamic Theology), and was the scholar who introduced the need for logical reasoning or *al-ra'iy* (Kamali, 2019c) as a tool in deriving religious rulings, especially when a certain issue is not specifically mentioned in the Quran or in the hadith.

2. Methodologies, Evidences, and Legal Maxims

The fundamental approaches in Islamic Law are *qawaidh usuliyyah*, which is principles and includes the evidence for the law, and *qawaidh fihiyyah* which are the policies or codes for the ruling. *Usul fiqh* takes into account the Arabic language rules and patterns in divine verses and requires jurists to be proficient to analyse the doctrinal sources, such as Quran and hadith, and provide a solution for a contradiction between the two Islamic law evidence proposition with the same rank or degree (Farhani et al., 2018). These principles are used together in the process of deriving a ruling.

Qiyas and *ijma'* are accepted and agreed by scholars as main sources for evidence, apart from the Quran and hadith. *Qiyas* is based on the analogy and reasoning in deducing juridical principles, while *ijma'* refers to the universal consensus of Muslim scholars on the Islamic law ruling for an issue (Hallaq, 2005).

There are other secondary sources which may be less utilized. These secondary sources of Islamic law are; *al masalih- al mursala* (evidence of public interest), *al-itishab* (presumption of continuity of the current situation), *al-urf*, (local customs and culture), *madhab al-sahabiy* (opinions of

⁵ Hijrah year starts from 622 CE (Common Era) which began 622 years of the start of the Gregorian Calendar and is based on the year that Prophet Muhammad (PBUH) migrated from Mecca to Yathrib (Medina) upon invitation, in order to escape persecution. Hence 80H-150H denotes Hijrah years or 702 CE -772 CE.

Companions, and *sad-al-dzaraih*, (closing the means for negative or impermissible actions) (Hallaq, 2005) and others.

The approaches are based in the nature of the problem and would have an impact of the ruling. Practiced in the time of the companions, *istihsan* is based on pure juristic decision, but many scholars considered it to be too flexible and dependent on the authority of the presiding judge (N. Omar & Muda, 2017). Another method similar to *istihsan* was developed, but more specific in terms of outcomes. *Istislah* is method that combined juristic opinion to the endpoint of achieving *maslahah*. (public interest or benefit(Hallaq, 1997)).

In discourses pertaining to contemporary issues where there is no direct or explicit reference in the Quran or Sunnah, jurists may use legal maxims or *qawaidh fihiyyah* in determining the reason, code or policy for the ruling. Classical scholars such as Suyuti opined that there are five major legal maxims, with complementary sub-codes within these five major legal maxims, along with other variants with similar expressions (Mustafa et al., 2016)⁶. Altogether, these legal maxims form the reference policy for the *hukm* or ruling. Each of these legal maxims placed heavy emphasis on the acts of the *mukallaf* and the impacts to the community and society.

3. Situation, Context, Values and Ethics

The term *darurah* or 'emergency' is often a key situational factor in fatwa decisions pertaining to medical intervention. Linguistically, *ad-darurah* comes from the word *darra*, *yadurru*, *darran* which means to cause damage or harm (Isa, 2016). It also refers to a destructive situation, an urgent and dangerous need when something is not met. In a state of emergency, a person can execute an action that is prohibited for that period. One example is eating food that is not halal when the person's life is threatened.

⁶ The five legal maxims in Islamic Law also known as *qawaid al-khams-al kubra*, and they are; *al-ḍarar yuzāl* (harm shall be eliminated); *al-mashaqqah tajlib al-taysir* (hardship begets ease); *al-ʿādah muḥakkamah* (custom is a basis for law, *al-ʿumūr bi maqāsidihā* (actions are determined by intentions; *al-yaqīn lā yazulū bil-shakk* (certainty cannot be removed by doubt (Mustafa et al., 2016)

Fiqh scholars and jurists have varying opinions on the application of *hukm* in *darurah* or emergency situations . The Maliki, Zahiri, and Syafi'i schools opined that performing an action that is forbidden in times of emergency is obligatory (*wajib*), while other scholars such as the Hanbali school and one of the Shafi'i pined that a forbidden act is permissible (*mubah*) in times of emergency (Kamali, 2019c).

In summary, *darurah* is a situation where an intervention needs to happen for a person to achieve his basic needs such as taking care of his religion, life, intellect, progeny and property. In emergency situations, a person should consider the effects on themselves and the surrounding community. If the intervention cannot take place, then a person can perform an action which is impermissible temporarily so that a critical need can be achieved. However, the meaning of *darurah* and the purpose of the application of the *hukm* may also differ according to the situation. In this respect, a situational analysis is best performed to understand the context of the fatwa decision.

Context is typically defined as the situation within which an event occurred or of which something exists (Cambridge University Press, 2017). In Islamic jurisprudence, the role of context, which consist of the operating environment, the conditions of society, time and *al-urf* which refers to the customs, practices and knowledge of a people or society, are factors that may influence a fatwa decision.

Situational and contextual analysis provide the foundations for assessments of reality of a ruling in implementation. The societal structure in contemporary societies is not just based on ethnic kinship of peoples but composed of intricate and detailed legislations and bodies of government, complex operating environments, and differing values, practice and needs of societies. Zuhaili opined that changes in a ruling or *hukm* can happen with changing times, and may be due to customs and habits, human welfare, emergency conditions or because of the state of society, its changing conditions, and the emergence of new legislative systems (Zuhaili, 2011).

Based on situational and contextual factors, a ruling for a problem can be changed so that *maslahah*⁷ which is benefits and public interest, can be realized, and *mafsadah* (harm) can be avoided. Hence, a deep understanding of situational and contextual factors will also impact on the outcome of the *hukm* or ruling for problem.

Over the course of time, ethics⁸ is applied in disciplines such as law, politics and medicine. In Islam, the term ‘ethics’ is frequently associated with *akhlaq* or the quality of morality, manners and virtue, and subsequently it evolved to include *adab* (good manners and noble character), (M. N. Omar, 2010), linked to faith (*iman*) and connected to good deeds. Prophet Muhammad (PBUH) is commonly portrayed as the epitome of perfection in terms of modelling the Islamic ethics. Ebrahim and Yusoff (2017) suggested that these values include *haqq* (truth), *taqwa* (piety), bravery, *khayr* (goodness), *nahi mungkar* (avoidance of harm), consideration of others, experience (based on expert knowledge), fairness, honesty, *adl* (justice), equity and being knowledgeable as the other guiding principles, with Quran and Sunnah as the source of ethics.

In health care, ethics is a set of moral values that provides the practitioner with a sense of humanity, balance and neutrality in performing activities that relied heavily on science and technology. It is linked to the concept of autonomy, such as; giving patients the right to make decisions, to respect privacy and confidentiality; beneficence (to help patients advance for their own good); alleviate harm, and the presence of justice and fairness, in treating patients (Chamsi-Pasha & Al-Albar, 2019).

The concept of ‘personhood’ is widely discussed in ethical discourses pertaining to the definition of human life and this is deeply relevant in the healthcare setting. The term ‘personhood’ refers to the state, quality, or condition of being a person (Bolonkin, 2022), with inherent individual values,

⁷ In Islamic Jurisprudence, *maslahah* (مصلحة) refers to attainment of benefit, and repelling of harm, and related to the preservation of *shariah* principles (Ghazali in (Nyazee, 2022)

⁸ Ethics is concerned with defining what is right wrong, and is linked to principles, morality and values (Editors of Encyclopaedia Britannica, n.d).

moral construct, properties, rights and responsibilities. In contemporary legal and bioethics application, the concept of ‘personhood’ is central in debates concerning humanity, human life and human values. In Islamic law, the concept of personhood is discussed in terms of the age of which a human embryo attains the status of a person.

From these examples, there are similarities between ethical values in Islam and in health care. The role of ethics, its’ values and principles in the context of Islamic jurisprudence, are emergent factors in rulings on medical treatments that warrants further analysis and discourse.

In summary, *ijtihad* is systematic method of interpreting and inferring Islamic law ruling on the basis of authoritative texts. The practice of *ijtihad* became a religious duty of a *mujtahid* or a group of scholars that possess the necessary skills and qualifications needed to form an opinion, engage in discourse and provide perspectives in deriving a fatwa decision. *Ijtihad* in contemporary societies require a deep analysis of situational and contextual factors, which in turn will have impact on the characteristics and the objectives of the law on a particular issue.

4. Islamic Law: The Characteristics and the Objectives of the Rulings

There are several key differences between Islamic law and common law or law of the land. In Islamic law, an act can be categorised as *wajib* (mandatory), *mandub* or *mustahab* (act that is recommended or preferred by God), *haram* (not allowed by God), *makruh* (reprehensible and not favoured by God), and *mubah*, (permissible). Together, these five decisions or rulings are known as *al-ahkam al khamisa* (the five rulings). Islamic Law rulings differs from the laws of the land which typically comes in a binary application of ‘allowed’ or ‘disallowed’, or legal and illegal. There is also the concept of multiplicity in terms in the act of good deeds-if one does something that is loved by God such as charity, the rewards are multiplied. God as the Law-Giver, will judge every act in the Day of Judgement. Hence the implications of

Islamic law for the *mukallaf* are twofold-one in the world, and the other, in the after-life.

Additionally, in Islamic law, there are two aspects of justice; namely equality, and equity. The concept of equality refers to balance in justice irrespective of race, number, degree, level without any other measure (Cambridge University Press, 2022a). This differs from the concept of equity. Equity takes into account the differences between men and women in terms of rights, physical, mental, emotional capability and responsibility - a situation in which everyone is treated in fairness in response to their needs (Cambridge University Press, 2022). One example is the position, rights and responsibilities of husband and wife in the family-men and women have different roles, rights and responsibilities in a marriage hence the needs, benefits, rewards and accountabilities differ for both, and men and women are liable for each of these factors.

Ulama has identified characteristics of Islamic law are *takamul* which means complete, *wasatiyyah* which is balanced, and *harakah* or dynamic which means that it is not stagnant and will progress according to the development of time (Haroen, 2001). Due to the dynamic nature of *ijtihad*, the characteristics of a *hukm* or the ruling for a problem may differ in different situations, environments and country.

There is also the concept of *azimah* and *rukhsah*. *Azimah* is the original ruling imposed by the Law Giver (God), while *rukhsah* demonstrates leniency or concession given to a Muslim in performing Allah's commandments due to obstacle or limitations, (Elgasim et al., 2013) *Rukhsah* can be implemented in matters of worship, or human interactions.

Maqasid shariah or objectives of Islamic law refers to the protection of religion (*al-din*), life (*al-nas*), progeny (*al-nasb*), intellect (*al-aql*), and wealth (*al-mal*).⁹ The concept of *maqasid shariah* had remained relevant through the

⁹ Developed by Abu Hamid Al-Ghazali, a prominent Islamic classical scholar in *fiqh*, *usul fiqh*, *usul-al-din*, *tasawwuf*, and philosophy (Tarmizi, 2020)

course of time. *Maslahah* is often quoted in scholarly works as a benefit or factor concerning public interest, and a key factor in discussions on achieving the five objectives of *shariah*. Any factor that ensures the protection of *maqasid shariah* is *maslahah* and any factor that causes the harm the objectives of *maqasid shariah* is *mafsadah* (Hammad, 1987).

With every objective, there is a need. In Islamic law, the level of need must be considered in order to derive a ruling. According to scholars like Ghazali, the lowest level is *tahsiniyyat* which refers to enhancements to life, hence it is not a need; the second level is *hajiyyat* which is an urgent need *or darurah*, hence interventions such as *rukhsah* are required to ease difficulties, while *daruriyyat* refers to necessity and the basic needs to attain *maqasid shariah* (Kamali, 2019b). The concept of *maslahah* is also discussed in terms of permissibility of use. Scholars like Malik and Shatibi reiterated that *maslahah* can be considered when there are no other evidence of law that exist in the main doctrinal sources, as it is based on reasoning (Nasiri & Ulum, 2019).

The level of need is important when assessing the impact of the ruling and outcomes. *Maslahah kulliyah* is benefits to a group of people, society and can refer to universal benefits or public interest, while *maslahah juz'iyah* refers to benefits towards an individual or private interest (Nyazee, 2022). In contemporary times, *maslahah* and *maqasid shariah* are often connected especially in issues where individual and societal needs are prevalent,

In health care, the fundamental approach will not be just to preserve life but to also ensure the well-being of the patient and society. As time and technology progresses, the objectives of Islamic law in this discipline can also shift due to the changing of times and needs of communities.

D. Concept of *Ijtihad* in Fatwas related to Health Care

A model refers to a philosophical or theoretical framework that shows a pattern or example in a body of knowledge, taking into account the laws, methods, theories, generalisations, and research done on the subject (Merriam-Webster Inc., 2022).

Islamic Law has one of the most sophisticated and diverse theoretical frameworks to guide jurists in *ijtihad* efforts and to evaluate decisions pertaining to a ruling. It provides guidelines and capabilities for a *mukallaf* to adapt to the environment that he lives in, and provides solutions to human problems such as about himself, his beliefs, his soul, his intellect, his lineage, his honour, his wealth, and how the individual interacts with the society and environment.

In the absence of Prophet Muhammad (PBUH), mujtahid and scholars are His proxies in interpreting the Islamic law. Legal principles, methodologies and maxims are instruments of references for establishing, deriving, implementing a *hukm*, and *aql* (intellect) and *ilm* (knowledge) are central in legal reasoning. Variances of opinions or *ikhtilaf* between the *'ulama* (scholars) of the different schools of legal thought with respect to the ancillary branches of religion (*furu'*) demonstrates Allah's *rahmah* (mercy) towards His creations. The concept of *rahmah* in Islam does not only refer to God's mercy but symbolizes the holistic divine love and concern for humanity (Esposito, 2003).

In Islamic law, common considerations for a legal ruling emphasised prioritisation of problems that is classified as essential (*daruriyyat*), followed by the necessity (*hajjiyyat*) and enhancements to life (*tahsiniyyat*). From an Islamic law standpoint, the ruling had to take into account the impact and benefits to an individual, that is *maslahah juz'iyah*, and to the community and society, that is *maslahah kulliyah*, but when the need demands it, then *maslahah kulliyah* will outweigh *maslahah juz'iyah*.

Maqasid shariah has been described as the objectives of Islamic law by Ghazali (Musolli, 2018), and by other classical and contemporary scholars (Kamali, 2019), or the philosophy of Islamic law (Auda, 2008). The objectives for Islamic law in ruling in fatwas related to health care may differ in relation to the context and the change of times.

In contemporary *ijtihad*, contextualising the problem is critical as it takes into account the challenges faced by the ummah, hence, a ruling that exist in another country or time, may not be relevant for implementation in another setting.

Developments in the external and internal environment of the fatwa institution may contribute to its model of *ijtihad*. Values of the community is important-as this will determine whether the fatwa is generally accepted. Ethics is an emergent and unique factor in fatwas, especially those pertaining to health care.

Based on the analysis of theories in Islamic Law, the researcher opined that the model of *ijtihad* is important as it would impact on the characteristics of the ruling and the objectives of the ruling apart from enabling the Muslim community to adapt to changing demands. Hence, based on a review of the theoretical frameworks, there is a framework for *ijtihad* for fatwas related to health care as demonstrated in Figure 1.

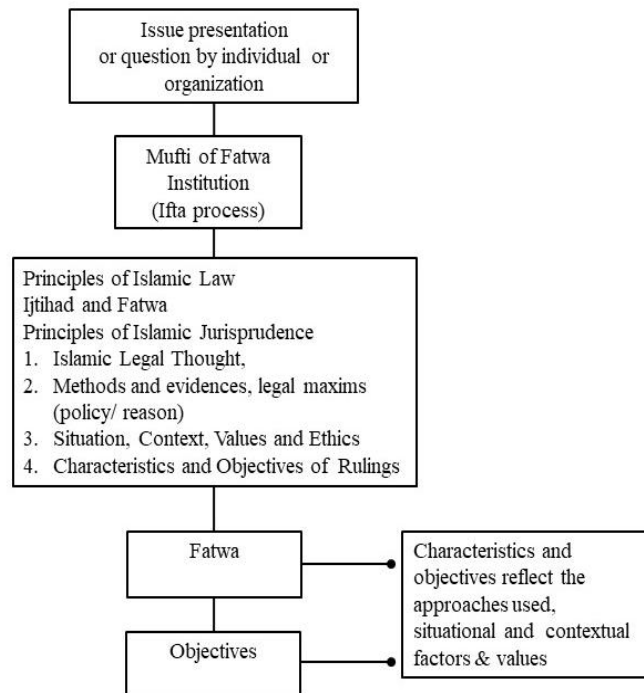


Figure 1: Framework for *ijtihad* in fatwas related to health care

RESEARCH METHOD

A. Introduction

This study is a library-based, normative legal research conducted via physical and online libraries.

B. Research Design

Normative legal research is qualitative in nature and is based on the analysis of laws, legal and principles, and doctrines of law that is relevant to the issues being analysed which in turn may result in discourses, theories, concepts or approaches (Christiani, 2016). It is a holistic analysis of the law as a system or process, or parts of a larger system or environment. Topics that commonly use this methodology are reviews on of inventories of law, the principles of law, discovery of themes of law, and the system of law (Christiani, 2016). The research instruments for this study are the physical and online databases which are the sources of qualitative data. The method is based on Creswell's model of qualitative studies in which qualitative data such as interview notes, reports, documents or articles are collected from the researcher or participant's setting, and then interpreted (Creswell, 2014).

C. Data Collection, Analysis and Validation

This study uses secondary data consisting of primary material of published fatwas by MUIS's Fatwa Committee, Singapore statutes and acts, and government data. The secondary sources of data are medical reference books, and scholarly works in journals and articles that relate to the study material. Data is sourced from public libraries in Singapore and other online libraries and databases such as JSTOR, PUBMED, SAGE, Google Scholar and the UMM online library. The PESTLE¹⁰ framework, a strategic situational analysis tool (Reding, n.d.) was used to assess the highly dynamic political, economic, socio-cultural, technological, legal and environmental factors that may have an impact on the fatwa decision. These factors form the basis of assessment of the organisation's internal dynamics

¹⁰ PESTLE is an acronym for political, economic, sociological, technological, legal, technological, environmental factors

towards the PESTLE factors, such as its strength and opportunities. Collected data is categorized into tables with the fatwa reference number (if applicable) or year, the statute or act number (if applicable), the description of the act, the fatwa issue, the methods in deriving the fatwa, the reason for the decision and the fatwa objectives, which may be inferred or stated. Common patterns were identified and emergent trends were analysed. The model of *ijtihad* is derived from the results.

This study uses the descriptive-inductivist approach of developing a concept, framework or model based on data collated, and a deductivist approach with the observation and analysis of data. Emergent patterns were identified followed by a confirmation of the framework that emerged during the inductivist phase of the study. An outcome analysis was performed with respect to the objectives of Islamic law, the characteristics of law and ruling, and the impacts on the Muslim community in Singapore. The theoretical framework served as a tool for triangulation and comparison of the model that was developed as a result of the research. Figure 2 provides a schematic representation for the research design for this study.

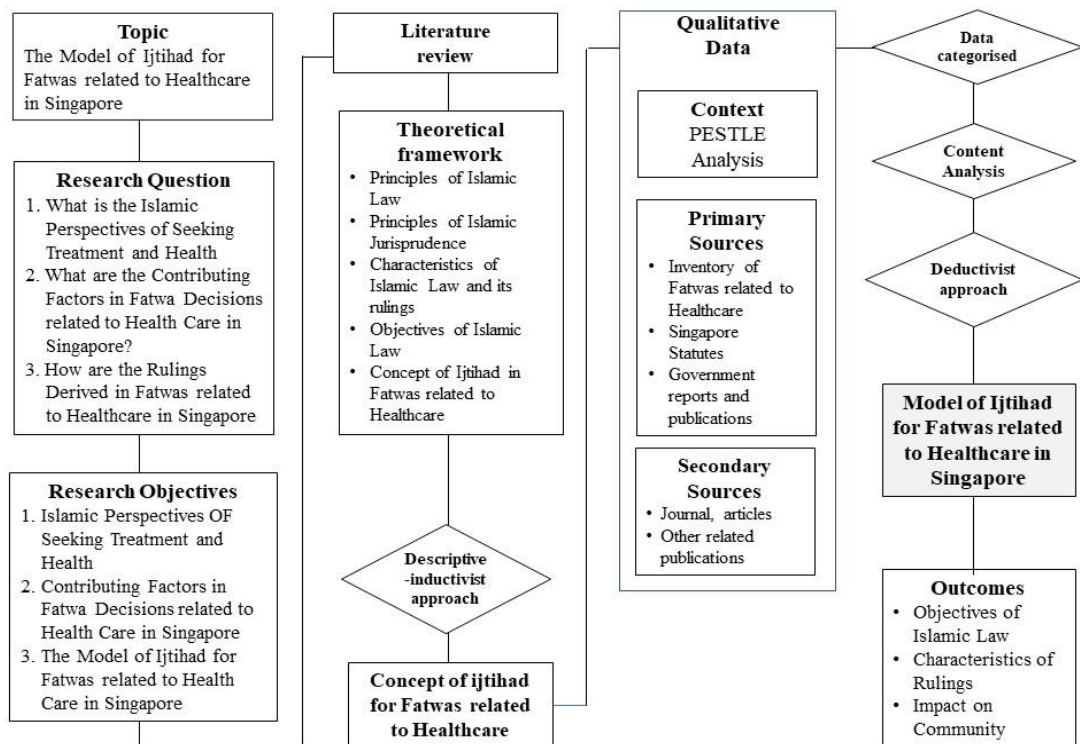


Figure 2: Schematic diagram of research method

DISCUSSION AND EVALUATION

The results of this study are presented in five sections. It will begin with a discourse on the Islamic perspectives for seeking treatment and health. This will be followed by a contextual analysis of the influencing factors, the *ifta* process, and a discussion of fatwas related to health care. The model of *ijtihad* in fatwas related to health care in Singapore will be discussed in the final section.

A. Islamic Perspectives on Seeking Treatment and Health

Throughout an individual's life, there may be instances of illnesses, diseases and accidents. Seeking a cure for the sick and to be healthy is a natural activity for humans. It was practiced as early as prehistoric times as it is a basic human need. Providing treatment and maintaining health, is the focus of health care in contemporary times.

Scholars have several opinions regarding consumption of medicine and seeking treatment, based on their source of reference and link to human knowledge. Shafi'i and Hanbali scholars opined that it is sunnah to seek treatment, based on a hadith of the Prophet Muhammad (PBUH) narrated by Abu Hurairah RA¹¹ that diseases and the knowledge of treatment came from Allah SWT (Mazri, 2020).

The *hukm* is considered *wajib* or *mubah* by other groups of scholars. Maliki scholars opined that seeking treatment is *mubah* (permissible) and the power to heal comes from God, while Zahiri, Hanafi and Shafi'i scholars such as Ibn Hajar Al-Haitami and Ibn-Hazm, opined treating diseases and getting treatment is *wajib* (obligatory), as per the examples of Prophet Muhammad (PBUH) (Mazri, 2020)

In contemporary times, scholars in the *Majmu' 'Al-Fiqih al-Islami* Conference in Zuhaili (2011), opined that seeking medical treatment may vary from *mubah* or permissible, *wajib* or obligatory, *mandhub* or recommended, *makruh* or reprehensible

¹¹ In a hadith narrated Abu Huraira, the Prophet (PBUH) said, "There is no disease that Allah has created, except that He also has created its treatment." <https://sunnah.com/bukhari:5678>

or unfavoured by God, or *haram* or forbidden, according to the context, circumstances and situations of each individual.

Seeking treatment is a way to prevent poverty and health problems, damage to the body and mind and the ability to carry out daily activities. This is very important especially when dealing with diseases that can be dangerous or chronic, or diseases that cause infection. Getting treatment and medication is also necessary for all illnesses and diseases that cause weakness in the body and disability or in certain cases, death. Taking care of health and prevention of diseases is important so that Muslims can continue to practice their religion especially those that may require physical activities such as fasting and *hajj*. The Quran provided direction for spiritual, emotional, mental health, including consumption of foods such as dates and grapes for the promotion of health (The Muslim World League, 2020).

There is a number of hadiths of Prophet Muhammad (PBUH) that encourage disease prevention and showed the importance of efforts in early phase treatment and treatment such as taking vaccines to prevent disease. One of them encouraged the habit of eating seven *ajwa* dates in the morning as a precautionary practice against poisons and magic.¹²

Based on these perspectives, the researcher opined that the *hukm* of taking medicine and getting treatment is *mubah* (permissible), and it becomes *wajib* (obligatory), *mandhub* (recommended) or *haram* (impermissible) in certain situations and conditions. If abandoning medical assistance or treatment leads to an effect such as disability of a limb or harm to one's own life or to community such as in the case of an infectious disease, then the *hukm* is *wajib* (mandatory). For example, in the case of the Covid-19 pandemic that has been going on for almost two years, Islamic scholars from various countries, issued fatwas allowing the vaccines based on *maqasid shariah* principles of saving lives. Whereas when a person's condition becomes weak, or more ill, and without reaching a level that brings *mafsadah*, the ruling for seeking treatment becomes *mandhub* because this

¹² Hadith narrated from Said in Abu Waqash, he said, I heard the Messenger of Allah ﷺ say, "Whoever eats seven *ajwa* dates in the morning will not be easily poisoned and affected by magic (Narrated by Muslim) (Albani, 2006).

action prevents self-harm and hardship for example when someone takes vitamins. The *hukm* is *mubah* or when one has to take a medication with impermissible substance when there is no other option and *makhruh* when one chose a medication with impermissible ingredient over another which is halal. Surgical treatments become *haram* or impermissible when they are for the purpose of gender-change, when the sole purpose is vanity.

In conclusion, seeking treatment when one is ill is permissible, especially when negative consequences to life, religion, intellect, offspring and property is expected if the condition is left untreated. Getting treatment is recommended by Islam because it is in line with the five principles of *maqasid shariah*. The concept of *tawakal* or dependent of Allah's will should be aligned to efforts taken to seek treatment as seeking treatment leads to the preservation of the *maqasid shariah*. The body of knowledge developed by humans for the purpose of healing, and improvement in quality of life is a divine gift. Humans are given the ability, intellect, capabilities, knowledge to deliver their best efforts to treat illnesses and to save lives, but ultimately, God is the Healer.

B. Analysis of Contributing Factors

This section will examine the practice of Islamic Law in Singapore and the influencing factors that contributes to fatwa decisions in Singapore.

1. Political, Economic, and Socio-Cultural Factors

Muslims in Singapore are a unique minority group as there are dedicated national acts for the management of its affairs stated in the Singapore Statutes.

Article No. 15, the Constitution of the Republic of Singapore, stated that all citizens have the freedom to practice religion and each religious group has the right to manage its own religion, to establish and maintain religious institutions and to acquire assets and manage them but prohibits any action related to public order, health and morals (Attorney General Chambers Singapore, 1965). This Act reflected the government's position in the matter of allowing the development of religion and religious activities as long as it does

not violate the rules of the state and community life. Corresponding with Article 15, is the Maintenance of Religious Harmony Act (1990) which provides the principles for maintenance of religious harmony among the community in Singapore.

Article No. 152, the Minorities and Special Position of Malays act, in the Constitution of the Republic of Singapore stated the government's position to recognise the special position of Malays as the original inhabitants of Singapore, and its responsibility to build, advance, support, and safeguard the interests of the race, and promote its social, cultural, educational, religious, economic interests as well as the Malay Language (Attorney-General Chambers Singapore, 1965). This Act supports the objective of preserving the interests of Muslims as 99% of the Malays in Singapore are Muslims.

Based on Article 153 of the Singapore Statutes, the government has a right to regulate Islamic religious matters, and to establish a Council to advise the President on matters pertaining to the religion. (Attorney General Chambers Singapore, 1965). This Act is instrumental in the establishment of the Islamic Religious Council of Singapore and the Shariah Court.

The Administration of the Muslim Law Act (AMLA) is an act that governs Muslim and Muslim religious affairs, with the provision of a dedicated council and a Syariah Court to advise on matters relating to Muslims (Attorney General Chambers Singapore, 1966). Along with these three acts, AMLA is the link between the government and religious authority in terms of responsibilities and strategies on the development and needs of the religion in relation to the country. The existence and success of MUIS and the Fatwa Committee as the highest collective authority is important for the Muslim community's development and in steering and facilitating the community's capabilities within a secular, dynamic, multi-ethnic cosmopolitan Singapore.

Statism in the context of the country is a model in which a country includes religious elements in the legal system or government system, for example, Statist Buddhism in Thailand (Pasuni, 2018). The influence of

religion in such models is well demonstrated where its main leader or the government promotes the development and protects the practice of the majority religion. In other examples, there are countries that include or co-opt religion and religious leaders as a way to reduce the influence of religion in state authorities (Mandaville & Hamid, 2018). Depending on the model, the statist approach can be used as a tool to control the political, economic and socio-cultural development of a community.

However, the model in Singapore is different from these statist model of religion-Muslims in Singapore are in a unique position because according to its national statutes, the government must provide support for the objectives of this group and in matters of legislation and justice, without including the country's values in religious objectives or vice versa. Muslims are free to practice and develop their religion. The government maintains its neutrality and will not intervene unless the issue goes beyond the sphere of religion. Hence though known as a secular country, the existence of these acts within its statutes indicate that Singapore practices are synonymous with the facilitative secularism¹³ model.

Economically, due to the existence of AMLA in the Singapore statutes, the government is bound to provide resources and funding to the Muslim community and to support its initiatives. Despite being state-funded, the religious authority is given autonomy for decisions for the religious practices of the Muslim community, while being the advisory body to the President for matters pertaining to the religion. In this model, the entities are able to facilitate the development of religious and social resources in response to the needs of the Muslim community, and be in a position to provide inputs or feedback to the state on legislations that may require an Islamic perspective.

Considering that Islam is a minority religion, the model practiced in Singapore is one that is conducive for economic and socio-cultural

¹³ Facilitative secularism is a model in which a government maintains neutrality in managing religions but facilitative in terms of religious practices and values within its communities, with a mutually beneficial outcome for both (M. Bin Ali, 2022)

development of the Muslim community. The presence of a Minister-in-charge of Muslim Affairs appointed by the state provide a representation from the community in the political sphere, and as a figurehead for matters pertaining to the religion, and reduces tension that may arise as a result of state and religious objectives. Islam as a religion is respected, and its practices and needs recognised, with its highest authority acting as a consultative body of the state pertaining to religious matters.

2. Technological, Legal, and Environmental Factors

In-line with global progress in biomedical research and science, and the potential opportunities in innovation, science, medicine and disease treatment, the Government of Singapore established the Bioethics Advisory Committee (BAC) in December 2000 (Bioethics Advisory Committee, 2021). This initiative is unique and visionary because it provides opportunities for experts, scientists and religious leaders such as the Mufti , to discuss and debate over moral, ethical, religious issues and problems that can arise from biomedical activities, such as genetic testing. Over the years, corresponding medical acts have been implemented as part of the Singapore Statutes, and which have involved discussions with the Muslim community through its religious leadership or its Fatwa Committee.

In addition to MUIS, AMLA also regulates the Shariah Court and the Muslim Marriage Registry since 1978. In terms of reporting structure, its CEO and Mufti, who is the highest religious authority in Singapore, reports to the Minister in charge of Muslim Affairs.

With the Shariah Court, the practice of legal pluralism in Singapore demonstrates that the Islamic legal system is recognised, because the administration of law, jurisprudence and administration of fatwas are included in the national statutes. It shows that Islamic values and aspirations are implemented in the law of the country, and this simultaneously prevents tension between the law of the country and the practice of religion. This collaborative and complementary model is also suitable for adaptation in

modern society, as well as to reduce misunderstandings and concerns in domestic and foreign sectors about Islam and the practice of *shariah*. The process of integrating the practice of Islamic law in the country's legal system, especially in a secular country, is complicated but this has been successfully done, with the direction set by Islamic entities and leaders in Singapore. The Mufti and Islamic leaders also set a strategic, positive, and clear example in terms of managing the balance between a law of the land and the practice of Islamic law.

The three Muslim entities regulated in the Singapore statutes, MUIS, the Singapore Syariah Court and the Registry of Muslim Marriages (ROMM) has an administrative structure to support operations and ensure that functions and operations are carried out professionally, smoothly and in accordance with the requirements and in line with the needs of the country. For example, MUIS has a CEO to lead the administrative branch to manage MUIS operations while the Mufti is the leader in matters pertaining to Islamic affairs. This operational model is important as it facilitates the process of navigating both legal systems in Singapore, to ensure accountability in the operation of these Islamic entities, and for strategic movements or decisions managed by MUIS in the face of the wave of modernization and globalization. With well-managed Islamic organisations and institutions, and professionals with skilled leadership in the religious and corporate branches, the needs of Muslims can be taken care of even as a minority community in the life of a secular country.

The Fatwa Committee is a division within MUIS, and serves as the fatwa institution and authority in Singapore. Only the Fatwa Committee and the Mufti is authorised to issue fatwas in Singapore and periodically, the Mufti and the Office of the Mufti will issue *irsyad* (religious advisory) to matters of concern to the Muslim community (MUIS, 2017e). The Fatwa Committee is well represented by diverse *asatizah* group, with leaders of autonomous organisations such as PERGAS (Persatuan Guru-Guru Agama Singapura (PERGAS) or the Singapore Teachers and Scholars Association), Muhammadiyah Singapore, PERDAUS (Singapore Adult Religious Students

Association) and other Islamic NGOs and organisations. Due to their participation in the Fatwa Committee, there is hardly dissenting opinions regarding local fatwas between the Fatwa Committee, and other religious organisations.

In 2023, six out of twenty-eight serving members of the Fatwa Committee are women, each expert in their own right, and this signaled its capabilities in terms of female-related issues in Singapore. The robust membership consisting of *asatizah* with diverse specialties and expertise symbolises the religious leadership's unity. Overall, the Muslim organisations and community in Singapore are united in recognising the Fatwa Committee's authority in issuance of a fatwa.

In summary, the researcher opined that the practice of Islamic law in Singapore is one of the best models in the context of a Muslim-minority country. MUIS as a council sets the foundation of this strong and exemplary model.

C. Approach in Fatwa Decisions

As the religious authority, MUIS's Fatwa Committee is a reference point for Muslims to seek guidance for contemporary and controversial inquiries pertaining to Islamic law and its application. The Fatwa Committee also plays a role in analyzing and providing answers of certain issues related to acts issued by the state. Based on prevailing procedures, any member of society, institutions or state bodies can refer to the Fatwa Committee about a problem or to seek advice on matters pertaining to Islamic legal ruling on a problem.

Fatwa decisions are made collectively (*jama'i*) fatwa and must be based on a unanimous, decision of all its members (MUIS, 2017). The process of issuing fatwas in Singapore is different from the days of classical scholars, because fatwas in Singapore is generally not issued by a sole scholar. A fatwa will not be issued without the Committee's consensus, and if there is such circumstance, the issue is

referred to the Mufti's Office for the Mufti's opinion, or for an *irsyad* (religious guidance and advisory) to be released.(MUIS, 2017d)

According to AMLA, Section 33, No. 152, the main *mazhab* to be followed, must first be based on the Syafi'i mazhab, but opinions from other *mazahib* is followed if it provides benefits for the community (Attorney-General Chambers Singapore, 1966). In terms of legal thought, the Fatwa Committee's approach is non-*taqlid*, and allowed for interpretations of law from the other schools of thought to be used in facilitating the solutions towards issues faced by the community.

The sources of law used are Al-Quran, Sunnah, Ijma' and Qiyas, or through *istihsan, istiṣlah, istiṣhab, madhab ṣaḥaba, sadd ad-dhari'* and other methodologies (MUIS, 2017). This demonstrated that the Fatwa Committee used a framework that includes all the four main legal schools.

The method of *ijtihad* is two-fold-first starting with *tarjih intiqa'*, a process that involved analyzing the evidences of law and opinions of previous scholars, followed by *ibda' insha'i*, the solutions of which is reliant on the *ijtihad* of the members of the Fatwa Committee and contextual factors (MUIS 2017). This reflected a thorough approach of which the expertise of its members is sought. Based on the observation of the researcher, if the fatwa is about a new problem or potentially contentious one, closed door meeting-sessions will be conducted for *asatizah* or the relevant groups involved, to convey the approach to the fatwa and communicate on the issues on hand, so that united approach is preserved.

The approach in issuing fatwas is from a multidisciplinary point of view, with the participation of religious scholars and experienced *asatizah*, and the inclusion of experts in certain fields such as medical science, and other disciplines which are relevant to the matter (MUIS, 2017). This ensured that the fatwa decision is made with full understanding and assessment of the complexities, contextual or situational factors presented, and serve to facilitate the needs of the community as a Muslim and as a member of the society.

D. Analysis of Fatwas related to Health Care in Singapore

In the course of forty years (1972- 2021), there were changes to the constitution, the operational environment of the country, the appointment of Sing memberships of the Fatwa Committee and the appointments of Singapore's Mufti changed throughout the years. These factors contributed to the dynamisms and rulings of fatwa decisions related to health care in Singapore. The discussion on fatwas is presented into seven sections as stipulated below. The database of fatwas is included in Appendices 1-7.

1. Fatwas on Research

Research is a critical process in health care and is an important element in treatment innovations and disease prevention and the improvement of health care outcomes on diseases.

In 1972, there was a fatwa on performing post-mortem on cadavers for compulsory medical training or research. The non-unanimous decision of its permissibility by the Chairman of the Fatwa Committee was based on the legal maxim of weighing the benefit versus the harm to the community, if Muslims are deprived of the means to train for the purpose of gaining knowledge of treating illnesses (MUIS, 2017i). Disallowing the practice would have an impact on the training of doctors and the number of Muslim physicians in Singapore.

Over the last two decades, there is a push towards biomedical sciences and research, and those involving human tissues, especially at the cellular and embryogenic level. In humans, an embryo is a stage of cellular development two weeks after an ovum (egg) has been fertilized up to the end of the seventh or eighth week of pregnancy (National Cancer Institute, n.d.). Embryonic stem cell research is important in studies pertaining to genetic mutations, degenerative diseases and cancers. Apart from its benefits to mankind, the potential of embryonic stem cell research is expansive especially in the field of disease therapy, human biological development and pharmaceuticals (Bioethics Advisory Committee, 2001). However, with this huge potential, are the ethical issues such as the capability of human cloning, the accountability

towards management of human embryos and possibility of embryo destruction, which is considered as life form in various faiths. In some aspects, there is an opportunity to ‘play God’ in terms of creation of life forms and in the provision of disease treatments such as creation of a new perfect being, or creation of an offspring based on gender selection methods.

The findings that followed engagement sessions conducted among the Bioethics Advisory Committee which consist of religious and professional experts were reviewed, and opinions of contemporary Islamic scholars were analysed (MUIS, 2017i). Though human stem cell research poses many ethical questions, there is a need to address its permissibility from the Islamic law perspective. After reviewing available information, the Fatwa Committee decides that it is permissible for embryonic stem cell research to be conducted on embryos that is below 14 days old, which is developed in-vitro (in a lab, not inside the womb), but with the condition that the purpose is beneficial to human kind(MUIS, 2017i).

One unique factor in bioethics research is determination of the state of personhood¹⁴ of a human. The Bioethics Advisory Committee was divided on the status of personhood; one opinion is that a human embryo is a person, while the other opinions are that the embryo has some status of personhood, or none at all and must be treated as cells used for research (MUIS, 2017i).

In deriving the ruling, Fatwa Committee need to ensure that there was no misalignment with regards to Islamic and scientific values. Clear definitions were set on the status of personhood in embryos and their approach was based on examination of the Islamic law perspectives of ensoulment of an embryo and scientific evidence such as the anatomical development of embryos and the process and location of fertilization of the ovum. The Fatwa Committee eventually accorded a personhood status and rights of protection to embryos that is formed inside the womb regardless of its age, while those fertilized

¹⁴ ‘Personhood’ is a concept that determines if and when a person has rights and responsibilities, based on certain traits, such as rationality, consciousness, and capability to interact and establish a societal relationship (Oxford Reference, 2013).

outside the womb is not(MUIS, 2017i). Essentially, this means research is prohibited for embryos that developed within the womb.

As cloning technology developed, there is a possibility for different methodological approaches that could be explored for research and therapy. The fatwa in Singapore for human cloning for the purpose of gender selection of a baby and conception of a child with a DNA of only one parent is not permissible based on analysis of religious texts and upholding one of the principles of *maqasid shariah* which is to protect lineage(MUIS, 2017i). The Fatwa Committee's stance was firm, based on the presenting ethical considerations. Cloning of an organ to replace a diseased organ for medical research and replacement of a diseased organ is permissible for the purpose of *maslahah* (MUIS, 2017i).

The researcher opined that fatwa decisions pertaining to biomedical sciences, bio-research and bio-engineering are the most interesting and challenging in terms of culminating and expanding the knowledge base of Islamic law, modern science and technology. Adding on to these requirements is the need to examine Islamic values, ethical values and basic principles of humanity. Upholding the principles of *maqasid shariah* such as preservation of progeny and knowledge (intellect), and facilitating *maslahah* were the common objectives.

2. Fatwas on Organ Donation, Storage, Transplantation and the Consent Process

Since the 1970s, there were altogether nine fatwas pertaining to human organ storage, donation, transplantation, dialysis and the consent and witness process. In the fatwa for organ donation in 1973 and kidney donation in 1995, the Committee unanimously agreed that living and non-living organ donation was prohibited for Muslims based on Quranic texts that prohibits humans from putting themselves to destruction (Al Baqarah, verse 195), as the organs such as the eyes, ears and heart will be questioned by the Almighty after death (Al

Isra, verse 26), and the legal maxim of ‘harm is not removed by harm’ (MUIS, 2017a).

However, the rulings for fatwas related to organ donation were an about-turn starting from the fatwas on cornea transplant which was discussed on the same year. This ruling for the permissibility of cornea transplantation was derived based on Quranic texts in Surah *Al-Maidah*, verse 6, on the need to alleviate difficulty, a hadith reference, and the legal maxims of ‘difficult draws simplicity’ and ‘necessity takes the form of urgency’ (MUIS, 2017a). The definition for the level of need was also taken into consideration whereby a medical condition need not be life-threatening to be considered as urgent. Interestingly, the definition of *darurah* has been expanded to include improvement of a person's condition and not based on emergency (MUIS, 2017h).

Progressively, the permissibility of other organ transplantation was also recorded. Bone marrow transplantation from living and non-living donors and heart donation pledge and transplantation from deceased donors were permissible based on fatwas in 1997 and 2003 respectively (MUIS, 2017h). Clinical evidence and technology at that time showed that organ transplantations are safe, and it is the treatment of choice for patients who are going into organ failure. The ruling was derived based on *ijtihad*, and taking reference from contemporary scholars.

The process that facilitates organ transplants, such as organ storage needs, the witness criteria and the consent process, were also examined. The fatwa for organ storage in 2003 was non-permissible in the first instance but becomes permissible with the Ministry of Health’s instruction (MUIS, 2017h) Next to be examined was the witness criteria and consent taking. The witnesses for organ transplant pledge requires any adult Muslim male to be witnesses but does not necessitate them to be next-of-kin, while the next-of-kin must execute the pledge upon death of the donor (MUIS, 2017h). By 2007, under the Human Organ Transplant Act (HOTA), it is mandatory for Singapore Citizens and Permanent Residents above the age 21, to opt out of the

programme if they do not wish to be donors. With increasing cases of organ failures in the society and Muslim community, there was a critical need for access to donor organs and be part of the Act (HOTA), hence the Fatwa Committee decided that it is permissible for Muslims to be donors by pledging in or opting in (MUIS, 2017h)

The objectives in the fatwas for organ transplantation in the 1990s onwards was largely avoidance of harm, upholding the *maqasid shariah* principles of saving lives as an answer to the need of the public and society or *maslahah*, regardless of race and religion. In the fatwa for cornea transplant, for example, the definition for *darurah* was adjusted to one that also included improving the quality of life, as being able to see does not fall into the domain of protecting lives. Legal maxims of ‘constriction demand relief’, and ‘the leader’s action is based on the interests of his society’ (MUIS, 2017h), were used in deriving the fatwa ruling.

In these cases, the researcher opined that consideration of *maqasid shariah* and *maslahah* (public benefits and public interest) were dominant in the ruling for permissibility of organ donation and transplantation. In-depth examination of the clinical technologies in organ donation and transplantation, and complications of failure to the patients were the factors considered. Context and situation were critical factors that contributed to the change in rulings and legal maxims were used in deriving of the ruling. It reflected the progressive stance of the Fatwa Committee.

3. Fatwas on Planned Parenthood and Reproductive Health

Singapore was focused on stability in population and economic growth after independence. Along with the government’s strategies, and national statutes, advances in surgical techniques and the pharmaceutical world allowed for different approaches towards planned parenthood. Since family planning was a strategic initiative, religious perspectives were sought on the various methodologies. The Fatwa Committee’s rulings were clearly defined. Family planning is permissible as long as it safe for the individual and family, and it

was temporary in nature (MUIS, 2017c). The decisions were made after a thorough examination on the available modalities for family planning.

A total of nine fatwas on family planning and reproductive health were compiled and examined. In 1976, family planning methods with the use of contraceptives (pills) and intra-uterine devices (IUD) were permissible as long as both parties were aware and the husband had allowed it, while *azl* (premature withdrawal prior to ejaculation) is also permitted (MUIS, 2017c). These methods were conservative, less-invasive and temporary in nature. Vasectomy and sterilisation were permissible only in cases of emergency (MUIS, 2017c). In summary, the procedures were by default, prohibited as there are more invasive and are more permanent in nature.

Corresponding with the Termination of Pregnancy Act¹⁵, the ruling for abortion was sought. The initial fatwa ruling in 1976 was that abortion is prohibited unless it is less than 120 days (for unwed mothers), and the pregnancy harms the mother and child (MUIS, 2017c). However, as technology become sophisticated, there is a need to assess the applicability of this fatwa ruling. Ultrasound technologies allows multi-dimensional views of foetal development after just two weeks of fertilisation. Textual description in the Quran and hadith described embryology development but not the exact time period, and ulama were divided on the time period that a foetus becomes a human which is linked to the ensoulment on 120th day of life in the womb. The Fatwa Committee then changed its ruling for abortion to be prohibited at any points of pregnancy after consideration of the Islamic perspectives, opinions of contemporary scholars and the scientific perspective that embryo is a life form from the point of conception (MUIS, 2017c).

On the issues pertaining to assisted reproduction such as artificial insemination and test-tube babies, the overarching principle is that the embryo

¹⁵ Based on the statute, a pregnancy cannot be terminated when it is less than 24 weeks but more than 16 weeks, and allowed after 24 weeks only if is a life-saving and is measure to prevent the mental or physical harm on the pregnant woman, both to be done by a registered practitioner (Termination of Pregnancy Act 1974, 1974)

must be the product of the father's sperm and the mother's egg. Anything outside this relationship is prohibited. Hence, the ruling for sperm donation, using the services of a sperm or egg donor, surrogacy, using a deceased husband's sperm, or fertilised egg from another couple is prohibited (MUIS, 2017c). The ruling of prohibition upholds the *shariah* principles of protecting progeny and these rulings were not revised since the first instance despite advances in technology or other needs that may be considered as urgent in the contemporary world such as the inability of a woman to carry a pregnancy due to health reasons or male infertility in the husband.

There was a singular fatwa on surgical reconstruction of the hymen, which was aesthetic in nature. Despite social and cultural factors, hymen reconstruction was prohibited, as the Fatwa Committee opined that there is an element of deception, and the requirement to expose the intimate parts of a woman's body for a non-urgent need (MUIS, 2017f).

Fatwa rulings on planned parenthood and reproductive health were focused on preventing harm, and upholding the *shariah* principle of protecting progeny. For rulings on assisted reproduction between married couples, the approach is towards achieving *maslahah*. Ethical principles of protecting the integrity of the family nucleus were upheld in all the decisions pertaining to assisted reproduction despite changing social and cultural norms.

4. Fatwas on the Use of Medicines or Therapeutics with 'Impure' Substances and Advisory on Covid-19 Vaccines

Singapore has a national immunisation programme for children and adults which includes schedules for immunisations at various stages of an individual's life (Ministry of Health Singapore, 2021a). The latest to be included in the immunisation schedules are the Covid-19 vaccines consisting of the 1st, 2nd and booster doses.

Vaccines that contain porcine (pig)-derivatives are mostly due to the manufacturing and preservation process. For vaccines consisting of porcine

material, the approach for fatwas by the Fatwa Committee are based on hadith of the Prophet Muhammad (PBUH) where he had encouraged one of his people to seek treatment (MUIS, 2013) and through the concept of *istihlak and istihalah*¹⁶, The objectives for the ruling of vaccines containing impure substance were *maqasid shariah* and *maslahah*.

Skin xenotransplantation, or the use the skin of different species was also discussed in one of the fatwas related to skin grafting with porcine source. The Fatwa Committee decided that use of pig skin for human skin grafting in patients with a severe burn injury, is permissible only if the condition is at a level of *darurah*, or life threatening, and there is no other replacement material (MUIS,2017g). The issue of cleansing the impure substance does not present itself in this fatwa as the pig-skin is only used in situations of emergency. The strong evidence in the Quran on the permissibility in consuming non-permissible substance in times of constraints (Al Anam, verse 90) was the evidence of the law, while the objectives was for preservation of life (*maqasid shariah*) and *maslahah*.

With the arrival of the Covid-19 pandemic, experts around the world raced to develop vaccines that could counter the effects of the disease. Currently there are different types of vaccines available across the world, with different mechanisms for action and they work by triggering a process that stimulates immune systems to react by creating antibodies (Mayo Clinic, n.d.).

Across the Islamic world, the introduction of new vaccines such as the MRNA vaccines stirred up different perspectives in its permissibility for use. In this context, the role of the Islamic authority of the land is critical to direct the actions of the masses in understanding the need to accept the treatment for the purpose of self-preservation and healing of the nation. Aside from the need for the preservation of life, communities and livelihoods, there was a moral or

¹⁶ *Istihlak* refers to the full decomposition or disintegration of impure substances during the manufacturing process while *istihalah* refers to the process that transforms the composition and properties of a material or ingredient (Azlinda et al., 2022)

ethical perspective in deriving the legal ruling for this new treatment as there was a need to ensure the survival of humanity.

In Singapore, an executive decision was made by its Mufti, through the Office of the Mufti, on the permissibility of using Covid-19 vaccines (Koh, 2020). Among the local community, reactions to vaccine acceptance were mixed. The Mufti's decision for use of Covid-19 vaccines, including those on trial was preemptive, taking reference from approaches for past vaccines and based on a context of urgency to protect livelihoods and lives as the pandemic was still raging globally (Office of the Mufti, 2020).

The researcher opined that MUIS's Fatwa Committee has conducted a thorough investigation of the production technology and assessed the needs of the community at the period of time in their approach in deriving the ruling for consumption of medications and applications that contain impure or new substances. For the approach on new Covid-19 vaccines, though the long-term implications were yet to be known, the imperative was on upholding the *maqasid* shariah principle of saving lives, saving communities and livelihoods, and *maslahah* of the society, and it was needed to prevent *mafsadah*.

5. Fatwa on Smoking and Advance Medical Directive (AMD)

One of the most interesting fatwas was pertaining to smoking. Smoking was an accepted social and cultural norm around the world and is potentially debatable subject within different segments of society. According to local statutes, smoking is permitted. The ruling for smoking was *makruh* (reprehensible) in the fatwa in 1993 despite differing views among the different segments in society (MUIS, 2017j).

Subsequent scientific evidences indicate that smoking is directly linked to lung cancer and other illnesses such as lung disease, cardiovascular diseases, diabetes, and the effect on passive smokers (people who inhale environmental tobacco smoke) also faced similar or worst risks (Cher et al., 2017). The fatwa ruling was changed in 2006. Smoking is prohibited in Islam, based on the same objective of avoidance of harm as per the fatwa in 1993 (MUIS, 2017j). There

was no explicit ruling that smoking is prohibited in the Quran in texts, hadith and Islamic sources as smoking does not exist in the times of Prophet Muhammad (PBUH) his companions or the classical Islamic scholars. Taking reference from Quranic texts, the *qiyas* approach of the prohibition of wine was gradual, before it was prohibited completely, as per evidence in Quranic texts in Al-Baqarah verse 119, Al-Nisa verse 43, Al-Maidah verse 90 (MUIS, 2017j).

In terms of fatwa for prevention of diseases as in this singular example, the approach was contextual and proactive. The fatwa was revised according to presenting evidence of the harm that smoking may cause to the community. The objective was *maqasid shariah* (protecting lives) and *maslahah* for the individual and society.

The Advance Medical Directive (AMD) consists of a legal document that provided doctors with the instructions to not prolong life with sustaining equipment in the event that an individual is unconscious due to a terminal illness (Ministry of Health Singapore, 2019). This is in contrast to other practices and applications in health care where prolonging a life and prevention of illness were the philosophies in patient care. However, prior to the implementation of the Advance Medical Directive Act, 1996, the Fatwa Committee's opinion was sought. The Fatwa Committee ruled that it was permitted (MUIS, 2017b). However, there are strict conditions to permit the use of AMD in Muslims and this aligned to the conditions for all individuals regardless of race or religion. The conditions are that the individual is adult, and three experts have certified that the individual is terminally ill, in a condition of pain with no hope of recovery, and that the individual cannot survive without a life support system (MUIS, 2017b).

The researcher opined that this ruling is progressive as it reflected the Committee's analysis and understanding of the difference between AMD and euthanasia. In their approach, the Fatwa Committee had referred to an authentic hadith of the Prophet (PBUH) and opinions of the scholars, while recognising

that contextually, the terminally ill patient has the right to decide to not prolong his life in order to reduce suffering and pain, avoid harm to body and soul.

6. Fatwas on the Human Milk Bank and Issues of *Mahram*, and *Aurat* of Patients and Nurses

In Singapore, Malay births account for 9.5% of the total 6500 premature births annually (Bakaram, 2017), and this poses an issue when there is a need to feed premature infants who were born below 34 weeks and in need of breast milk in neonatal wards, in situations when the maternal breast milk supply is not available.

In the Islamic world, the issue of milk banks and use of the breast milk from donors has been contentious, with countries divided on its prohibition or permissibility. The Fatwa Committee was first approached by Singapore's KK Women and Children Hospital on its opinion of the milk bank and the permissibility for Muslim premature infants to consume milk from the milk banks, by unanimous donors (Jayagobi, Pooja Agarwal et al., 2022). The dominant issue in human milk banks is the issue of *mahramiyah* or milk-kinship as according to Islamic law, kinship can be established through consumption of breast milk.¹⁷ The boundaries of kinship prohibit marriage between individuals who are breastfed from the same mother, and the relationship between these individuals are akin to siblings.

The Fatwa Committee studied the needs of the premature infant and the community, the process of extraction and storage of breast milk and the feeding amounts and cycles of the premature babies¹⁸, and analysed Quranic texts on the process of feeding between child and a nursing woman, and the difference of opinions of classical and contemporary scholars (Bakaram, 2017). The

¹⁷ Based on Surah Al-Nisa, verse 23, among female relations that are prohibited for marriage are siblings from milk-kinship prohibited from marriage (*The Holy Quran, Translation by Yusuf Ali*, n.d.)

¹⁸ Prioritisation is for premature infants (born under 34 weeks of pregnancy) to be fed with the breastmilk of the own mother and if insufficient, milk from the milk bank will be used. Donors are tested and certified to be healthy and free from diseases. Breastmilk is donated from approximately 20 anonymous donors, processed and stored in 50 mls batches, and distributed to premature infants in each feeding cycle in the ward. (Bakaram, 2017).

researcher opined that it is one of the most challenging fatwas as the fine balance between the issue of milk-kinship and the pressing needs of the deprived infant needs to be examined.

The Fatwa Committee decided that the consumption of milk from milk bank in Singapore was permissible, as there were issues of doubt (not knowing the actual consumption) and based on the legal maxims of ‘hardship begets facility, avoidance of harm, and widening the law when conditions are tightened’(Bakaram, 2017).

The issue of *aurat*¹⁹ in Muslim patient surfaced in 1984 in the fatwa for hymen reconstruction surgery, while the fatwa for headscarves in Singapore’s uniformed services was a result of a change of policy for wearing of headscarves for nurses by the Singapore Government in 2021. Due to the different context and factors, the approach, decision and objectives for *aurat* of patients and *aurat* of nurses differed. For Muslim patients, exposure of the *aurat* is prohibited but it becomes permissible in the instances of need, dependent on its gravity (MUIS, 2017f). The fatwa had not been revised since then.

In the fatwa on *aurat* for women in the uniformed services, the Fatwa Committee’s decision is that, it is dependent on the policies of the uniform service, and the individual’s consideration in upholding the *shariah* principles according to the tenets of essentiality (*darruriyat*), necessity (*hajjiyat*), and desirability (*tahsinniyat*) (Mohd Nasir, 2021). This approach is unique only in Singapore, and it was a decision that the Fatwa Committee made to enable and guide Muslims to practice their religion while balancing their personal priorities and needs, and other influencing factors.

The stance was different on the uniform policy and *aurat* for nurses. The Fatwa Committee opined that it is permissible for nurses to expose their arms below the elbows (Bare Below Elbow policy) based on the latest infection

¹⁹ The boundaries of the body to be covered from a non-mahram’s (member of the opposite sex that is permissible to marry) view.

control policies, clinical evidences, the need to uphold patient safety and infection control standards, and taking into account the need for Muslim nurses to practice their religion.

E. The Model of *Ijtihad* in Fatwas related to Health Care in Singapore

The model of *ijtihad* refers to the framework of *ijtihad* and this includes the principles that guide the reasoning, approaches, methods or concepts used and the objectives in deriving fatwa decisions. The model was deduced and constructed based on the analysis done. Overall, 32 fatwas were analysed. In the last two decades, the Fatwa Committee played an active consultative role to community and government prior to implementation of new laws. The approach of the Fatwa Committee pertaining to issues in health care is also largely contextual and situational. In the 1970s to the 1990s the fatwa rulings typically followed the implementation of national acts, while fatwas in the 2000s were usually due to the result of a consultative and collaborative approach between the local bodies and MUIS's Fatwa Committee.

In the *ifta* process, evidence of law is taken from the Quran, Sunnah, *qiyas*, and other sources such as the views of classic and contemporary scholars. Based on the review of the inventory of laws, when taking the views of scholars, the strongest opinion was used (*tarjihi intiqa'i*), but where there is no opinion available, the Committee decides on the ruling based on available evidences (*ijtihad ibda'i insya'i*) (MUIS, 2017e). Based on the approaches, the Fatwa Committee adhered to the *Shafi'i* school of thought, but is dynamic in utilizing the approaches of other *mazahib's* school of thought when faced with contemporary issues. In the last two decades, legal maxims have been found to be very relevant in deriving the decisions for fatwas pertaining to contemporary medical and health questions.

The Fatwa Committee also applied relevant concepts in its fatwa decisions related to health care, such as the concept of *istihalah* and *istihlak* for the ruling of using medications with impure substances; the avoidance of harm and consideration of *darurah* and *maslahah* for relevant surgical procedures and clinical interventions. (MUIS, 2017g).

The common reasons for the fatwa decisions were avoidance, prevention or elimination of harm, to the individual, community and the tenets of *shariah*. The objectives for 29 out of 32 fatwas were upholding the *maqasid shariah* principles and *maslahah* (benefits to self and society). The other two fatwa objectives were related to avoidance of harm, which can be inferred as *maslahah*. One fatwa on hymen construction surgery was pure due to aesthetic needs and preventing deception, hence the objectives of the fatwa can be inferred as preserving practice of religion, which fell under the tenet of *maqasid shariah*.

The Fatwa Committee's perspective of *maslahah* is *multi-fold*, which is (i) to prioritise *maslahah* according to the three different levels of need which is *darruriyat, hajjiyat, tahsinniyat*; (ii) to serve the welfare of the Muslim community and the greater society, (iii) to secure good & well-being of humanity, and (iv) to only allow *maslahah mutabarra* (benefit to shariah) and disallow *maslahah mulgha* (prohibited benefits). Muslims are constantly reminded to follow the example of Prophet Muhammad (PBUH) in their daily interactions, as a leader and member of a diverse society in his time. For the ummah, when individual needs are addressed (*maslahah juz'iyah*), this simultaneously leads to needs and benefits for the community and society (*maslahah kulliyah*). There is an emergent pattern that the Fatwa Committee's decisions typically go beyond the basic needs of upholding the *maqasid shariah*, and towards achieving universal benefits for the public (*maslahah*), not just for the Muslim community.

The emergent ethical values and reason that was consistent in these cases was avoidance and prevention of harm, and removing difficulties of the community. As a religious authority, the Fatwa Committee has a spiritual, and ethical obligation to ensure that the needs of the community are addressed, especially in the unique context of a Muslim-minority state. Though the decisions of the Fatwa Committee may not be well-received by the Muslim community at times, hard decisions need to be made to enable the community to uphold the *shariah* principles while being a fully engaged members of the society.

The results of this study indicated that the Fatwa Committee has demonstrated ethical responsibility and strong principle on the following (i) to ensure that harm

is avoided, prevented, minimized or eliminated to the individual, Muslim community, and greater society, and (ii) to ensure that harm is avoided to the tenets of *shariah*. The over-arching principle behind the fatwas is that firstly, to prevent harm, and secondly, to derive *maslahah*. With this approach, *maslahah* for the community and society can be achieved.

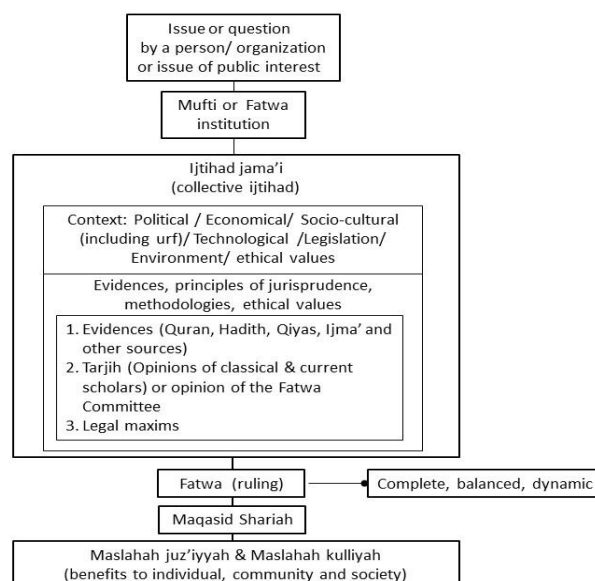
Due to contextual and situational factors, the characteristics of the *hukm* in fatwas related to health care serve a purpose for the individual and community at the present time and balanced in terms of addressing the societal needs, against the challenges of its environment. Due to the environmental dynamisms, fatwas may be revised according to the needs of the society, or in response to the change in legislation or availability of technology, new information and evidences, and a balanced view is adopted in consideration of the needs and effects of the decision to the community and society. Hence, the characteristics of the rulings are (i) that they are balanced in terms of addressing the needs of community and society against the need for access to care, (ii) dynamic, in terms of response to environmental factors, and (iii) complete, in terms of analysis of the problems and factors surrounding the issues. Equity and equality are also considered in the analysis.

Though fatwas are not legally binding, the opinions of the Mufti and Fatwa Committee were sought and are considered to be of importance in achieving the national objectives of disease prevention and preservation of health. Islamic legal perspectives are regarded in national legislations for the Muslim society in Singapore, for example, in the Human Organ Transplant Act. The fatwas provided guidance to the Muslim community on the humanistic dimensions of Islamic law philosophy of common good and universal well-being in life and the afterlife. There is a synthesis between Islamic law philosophy and in the philosophy of health and well-being of the communities in Singapore. Through the structured and systematic process, and contextual approach in deriving the fatwa rulings, the Muslim community is able to practice their religion, adapt to the changing needs of society, and national legislations.

Muslims in Singapore are in a unique position, as they represent a minority in a diverse, multi-religion, multi-racial society, population. There are pressing needs to uphold the practices of the religion while moving abreast with the developments in the modern world. From this study, the researcher opined that there is an emerging pattern for fatwas related to health care as the decisions typically goes beyond the basic needs of upholding the *maqasid shariah*, and towards achieving universal benefits for the public (*maslahah*), not just for the Muslim community. Muslims are constantly reminded to follow the example of Prophet Muhammad (PBUH) in their daily interactions, as a leader and member of a diverse society in his time.

For the ummah, when individual needs are address (*maslahah juz'iyah*), this simultaneously this leads to needs and benefits for the community and society (*maslahah kulliyah*). The model of *ijtihad* in fatwas related to health care is based on the principle of avoidance, prevention, minimization or elimination of harm to the individual, community and society and the tenets of *shariah*, to achieve *maqasid shariah* and *maslahah* (benefits) to the society. This model is based on *dar'ul mafasid muqaddamun ala jalbul masalih* or prevention of harm before achieving *maslahah*, an Islamic legal principle.

Figure 3: Model of *ijtihad* in fatwas related to health care in Singapore- based on the principle of avoidance, prevention, minimisation, or elimination of harm, resulting in the achievement of *maqasid shariah* and *maslahah* to the community and society.



CONCLUSION

In conclusion, the outcome of this study are as follows:

- 1) The Islamic perspectives of health care is prevention of harm, and to seek treatment for the purpose of upholding *maqasid shariah*.
- 2) The Fatwa Committee has a systematic approach in *ijtihad*, by seeking evidence of the laws first from the Quran, the hadith and the other sources of Islamic law, and with sound legal principles. Its ruling is contextual and situational and as a response to new and emergent factors and the need of community and greater society.

Scientific and Islamic ethical values were analysed. Knowledge was upheld as a gift from God and to be utilised for the benefit of religion and mankind. It demonstrated the robust intellect of its members.

The guidance from the fatwa is fundamental in different stages of an individual's life, and it demonstrated that the Islamic law philosophy, paradigm, systems and methodologies remains timeless, universal and dynamic.

- 3) The model of *ijtihad* for fatwas related to health care is based on the principle of first, prevention, avoidance, minimization and elimination of harm (to the community, society and tenets of shariah), followed by deriving *maslahah* or *dar'ul mafasid muqaddamun ala jalbul masalih*) an Islamic legal principle.

In practice, the researcher opined that this model can be further explored and studied in the future, especially pertaining in the context of health care and relevant disciplines. Efforts to create awareness on the fatwas related to health care should be emphasized. Theoretically, more studies could be done on the *ijtihad* approaches in fatwas for other topics such as pertaining to Muslim finance and economics as comparisons to other studies done in other Muslim-majority countries.

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APPENDICES

Appendix 1: Table of Fatwas on Research

No	Fatwa ref/ year	Singapore Statutes/ Bill	Description of Act	Issue/ Problem	Approach/Method	Fatwa decision	Reason	Fatwa Objective
1	29/8/1972	--	--	The hukm or performing post-mortem on Muslim cadavers for research	Reference from hadith on the need to seek treatment, Legal maxim of drawing benefit and avoid harm.	No unanimous decision; Chairman allows in cases of emergency, with the condition that the researcher is a medical student who is required to dissect the human body as part of his medical training	Need for Muslim doctors to gain skills in disease treatment as benefit to society	Muslims need to seek knowledge as <i>fardhu kifayah</i> <i>Maqasid shariah</i> - preserving knowledge
2	15/2/2000	(1) Boethics Advisory Committee Report, 2002 (2) Human cloning and other prohibited practices Act, 2004 (3) Human Biomedical Research Act, 2015	(2) The Act to prohibit a human embryo done in the body of a human or an animal and other practices (3) The Act to regulate the conduct of human biomedical research to regulate tissue banks and tissue banking activities and to prohibit commercial trading of human tissue and to provide for matters connected therewith.	The ruling for using human embryo for therapeutic purposes or research	1. Cloning for gender of child: Quran Surah Ar-Rad, verse 8: "Allah as the sole Creator and the sole Owner of knowledge of human creation Surah As-Shura, verse 49: "Allah who decides on bestowing or male of female offspings" 2. Cloning of twins from DNA of a mother or father only, while using another person's DNA. Ijtihad- elements of shubha, as there is a product of the mother/ father's twin 3. Cloning of identical twins Ijtihad based on maqasid shariah- lineage is still preserved because the original embryo was split 4. Cloning an organ for research or to replace diseased organs (reduce risk of transplant rejection) Ijtihad-based save lives, give benefit to mankind	1. Cloning for selection of gender of child: Not permissible 2. Cloning of twins from DNA of a mother or father only, while using another person's DNA: Not permissible 3. Cloning for twins, quadruplets, and more: Permissible 4. Cloning an organ for research or to replace diseased organs (reduce risk of transplant rejection): Permissible	(1) Avoidance of harm to lineage (3) and (4) Avoidance of harm to humanity and respond for need of treatment for disease	For issue (1) and (2) <i>maqasid shariah</i> - preserve progeny For issue (3) and (4), <i>Maqasid shariah</i> - (preserve knowledge) and <i>maslahah</i> .
3	22/11/2001	Boethics Advisory Committee Report, 2002 Human cloning and other prohibited practices Act, 2004 Human Biomedical Research Act, 2016	(2) The Act to prohibit a human embryo done in the body of a human or an animal and other practices (3) The Act to regulate the conduct of human biomedical research to regulate tissue banks and tissue banking activities and to prohibit commercial trading of human tissue	Using human embryo for human stem cell research	Analysis of classical and contemporary scholars' opinion on the status of embryos and personhood Legal Maxim on avoiding harm "There should be no harm and nothing should be done to cause harm" "Harm should be avoided" The position of embryo and its status of personhood was analysed	Academic research on human genome, genetic engineering other related fields is permitted if it is for benefit of mankind such as treatment of diseases but it must be within the boundaries permitted by Islamic Law	Avoidance of harm, preserve knowledge for the purpose of searching for cures and treatment for disease	<i>Maqasid shariah</i> - preserving knowledge For the longer term- <i>maslahah</i>

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Appendix 2: Table of Fatwas on Organ Donation, Storage, Transplantation and the Consent Process

No	Fatwa ref/ Year	Singapore Statutes	Description of Act	Issue/ Problem	Approach/Method/ Evidence	Fatwa decision	Reason	Fatwa Objectives
1	31/7/1973	Medical (Therapy, Education and Research) Act 1972	An Act to make provision for the use of the bodies of deceased persons or parts thereof for purposes of medical or dental education, research, advancement of medical or dental science, therapy and transplantation, and for other purposes connected therewith.	Organ donation after death for Muslims	<p>Quran Al Baqarah, verse 195: "And spend of your substance in the cause of Allah, and make not your own hands contribute to (your) destruction; but do good; for Allah loveth those who do good." Al Isra, verse 26: "And render to the kindred their due rights, as (also) to those in want, and to the wayfarer: But squander not (your wealth) in the manner of a spendthrift." Legal maxim: "Harm is not removed by harm" 2. Impermissibility for organ donation after death Quran Al Abasa verse 21: "Then He causeth him to die, and putteth him in his grave" Al Ahzab verse 58: "And those who annoy believing men and women undeservedly bear (on themselves) a calumny and a glaring sin" Hadith of the Prophet (PBUH), that refers to prohibition of breaking bones of the deceased.</p>	Organ donation when the person is alive or after death, through a will, is prohibited. No evidence of permissibility in Quran and hadith	Avoidance of harm to a deceased body	Prevention of harm to a human body after death <i>Maqasid shariah</i> -Protection of religion and religious practice
2	3/12/1985	Human organ Transplant Act (HOTA) 1987	An Act for the removal of organs for transplantatio and prohibition of trading of organs and blood	Kidney donation	<p>Qur'an, hadith, similar to the original ruling for organ donation in 1973</p> <p>For decision to allow kidney donation: 1. Legal maxim of if a problem contradicts then the law should expand 2. Difficulties bring facilitation 3. Necessity makes the unlawful, lawful</p>	Living organ donation: prohibited Organ donation after death (through will) is prohibited. Donation due to <i>darurah</i> (urgency) is permissible regardless if he is alive or deceased, subject to several conditions. 1. For a living donor he must be Muslim and the surgery does not put risks on donor 2. For deceased donor, the donor had pledged his kidneys and his next of kin/ guardian has agreed to the donation	Avoidance of harm to deceased, but allowed for organ donation in emergency situation	<i>Maqasid shariah</i> - saving lives and <i>maslahah</i>
3	20/12/1995	Human organ Transplant Act (HOTA) 1988	An Act for the removal of organs for transplantation and prohibition of trading of organs and blood	Corneal Transplant	<p><i>Maqasid shariah</i> (preservation of religion, life, mind, generation, wealth) based on Quranic texts and hadith Examples from the Prophet (PBUH), on drinking camel's urine, eating carcasses and drinking alcohol in in cases of emergency Surah Al Maidah, verse 6 on the need to alleviate difficulty. Legal maxim 1. 'Difficult draws simplicity' 2. "Necessity takes the form of urgency</p>	Cornea transplant: permissible but with concession that there is no alternative option, and certain conditions are met. 1. The condition is donor and the next of kin or guardian had given the permission when the donor was alive. 2. There is an urgent need (<i>darurah</i>), and no other alternative option and the transplant would release the difficulty. The definition of <i>darurah</i> has been expanded to include improvement of a person's condition and not based on emergency	Avoidance of harm to deceased body but allowed in emergency situation	<i>Maqasid shariah</i> - preserve lives and <i>maslahah</i>
4	7/4/1997	Human organ Transplant Act (HOTA) 1989	An Act for the removal of organs for transplantatio and prohibition of trading of organs and blood	Bone Marrow Transplant (for leukaemia patients)	<p><i>Ijtihad</i>, taking reference from the permissibility of blood transfusion because leukaemia is a cancer that involved the blood. The disease results in suffering to the patient such as high fevers, anaemia, and bleeding tendencies. The criteria for permissibility for bone marrow transplant is based on similar criteria for blood transfusion Reference from contemporary scholars There must be an urgent need as confirmed by a Muslim/ Non-Muslim doctor and transplant is not for the purpose of profit.</p>	Bone marrow transplant is permissible as long it is safe for the donor and can help the patient	Avoidance of harm, need of community and society	<i>Maqasid shariah</i> - preserve lives and <i>maslahah</i>

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Appendix 2: Table of Fatwas on Organ Donation, Storage, Transplantation and the Consent Process (continued)

No	Fatwa ref/ Year	Singapore Statutes	Description of Act	Issue/ Problem	Approach/Method/ Evidence	Fatwa decision	Reason	Fatwa Objectives
5	13/2/2001	--	--	Day-Time Kidney Dialysis in Ramadhan	New problem that does not exist in the times of Prophet and classical scholars. Analysis of process of kidney dialysis Tarjih of differing opinions of recent scholars 1. Dialysis does not invalidate fast as the fluid does not cause the patient to be full. Fluid is not transfused through any of the natural orifices in the body 2. Dialysis invalidate fast as nutrients entered the blood stream.	Dialysis does not invalidate fast. Whenever possible, the patient is to try to have dialysis done in the evening. If fast causes harm, then patients are not to fast.	Removal of harm	Maqasid shariah - preserve lives and maslahah
6	7/10/2003	Human organ Transplant Act (HOTA) 1990	An Act for the removal of organs for transplantatio and prohibition of trading of organs and blood	Human Heart Transplant	<u>Contextual</u> Legal maxim: 1. Necessity makes the unlawful lawful 2. Allowed in an emergency with the rightful measures	Human heart transplant is permissible if there is danurrah or emergency need to transplant the human heart.	Avoidance of harm, need of community and society	Maqasid shariah - preserve lives and maslahah
7	2/3/2004	Human organ Transplant Act (HOTA) 1991	An Act for the removal of organs for transplantatio and prohibition of trading of organs and blood	Organ bank and organ storage for corneas	1. Not stated. Reference to local health authority	In principle, prohibited. It is permissible when the Ministry of Health requires the cornea to be stored in cases where procedures are postponed due to medical or logistical reasons	Avoidance of harm, need of community and society	Maslahah
8	17/7/2004	Human Organ Transplant Act 9	Inclusion of Muslims in the HOTA. Muslims need to opt in the HOTA	Participation of Muslims in the Human Organ Transplantation Act	<u>Contextual</u> Due to the acute problem of rising incidence of organ failure and lack of pledges for organs <u>Quranic Text</u> Based on Surah Al M'aidah: 32 which stated that saving 1 one life is equivalent to saving all of humanity, which resonates with shariah values of care and compassion. . The act of donation is considered to be amal jariyah <u>Legal maxims</u> The need to ensure that ma'fsadah (harm) and mudarrah (difficulties) is removed 1. A problem that is acute shall be relieved 2. Difficulty calls for facilitation	Permissible with conditions	Avoidance of harm, need of community and society	Maqasid shariah - preservation and protection of human life and maslahah
9	26/6/2004	Human Organ Transplant Act 10	Facilitation of organ donation pledge by Muslims	Organ Donation Pledge- Conditions of a witness	<u>Ijtihad</u> 1. Removal of difficulties and distress	If an individual has consented to pledging his organs during his lifetime, his decisions must be respected and executed by his next of kin. The requirement of a witness is needed upon signing the donation pledge form, and must be according to the requirements of Muslim law (2 adult Muslim male)	Avoidance of harm, need of community and society	Maslahah

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Appendix 3: Table of Fatwas on Planned Parenthood and Reproductive Health

No	Fatwa ref/ Year	Singapore Statutes	Description of Act	Issue/ Problem	Approach/Method/ Evidence	Fatwa decision	Reason	Fatwa objectives
1	31/5/1976	--	--	Use of contraceptive aids (IUD and pills)	Hadith on prohibition of harm, or repaying harm. Reference from contemporary scholars	Permissible with consent from husband and must be safe for use	Focus on quality in family life, focus on need of family	<i>Maslahah</i>
2	19/12/1974	Singapore Family Planning and Population Board Bill No. 68/1965	Sterilisation was legalised in Singapore in 1970 The National Family Planning Programme as a economical and social development strategy	Vasectomy and sterilisation	Element of harm based on surgical techniques used	Prohibited, except for reasons of emergency.	Avoidance of harm	Avoidance of harm
3	31/5/1976	Termination of Pregnancy Act 1974 (Revised in 2020)	The Act relating to termination of pregnancy by authorised medical practitioners in Singapore	Ruling on abortion	Abortion after four months is unlawful according to Islamic law as pre-marital sex is disallowed. However there were many cases where abortions were done via illegal methods.	Original ruling is that abortion is prohibited, but becomes permissible in certain conditions, such as: 1. The need to save the life of the unborn child's mother 2. It is an illegitimate pregnancy.Pregnancy can be terminated only if it is less than 120 days old.	Avoidance of harm for emergency reasons as there were cases of abortion done though illegal means	<i>Maqasid shariah</i> when required to save life of mother, and <i>maslahah</i>
4	11/12/1986	Termination of Pregnancy Act 1974 (Revised in 2020)	The Act relating to termination of pregnancy by authorised medical practitioners in Singapore	Review on ruling of abortion	<u>Context</u> Ruling is reviewed based on available technology- and a year after gathering of Muslim scientist and scholars which were divided in opinion over when a zygote beomes human. <u>Quranic Text</u> Based on Surah A Mukminin;12-14, the ayah described the development stage of foetus, from the nufthah stage (clot) to a bump consisting of flesh and bones. <u>Hadith</u> Authentic hadith (Bukhari & Muslim) which described the formation of a foetus in 40 days from a drop of blood , to a clot and a clump fo flesh and the ensoulment of the foetus of which his worldly affairs are written (life span, actions, sustenance)	Abortion is prohibited regardless of age of embryo	Avoidance of harm to embryo/ human life	<i>Maqasid shariah</i> -save lives and progeny

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Appendix 3: Table of Fatwas on Planned Parenthood and Reproductive Health (continued)

No	Fatwa ref/ Year	Singapore Statutes	Description of Act	Issue/ Problem	Approach/Method/ Evidence	Fatwa decision	Reason	Fatwa objectives
5	19/12/1974	--	--	Assisted reproduction-artificial insemination from sperm of a husband	1. Keep up with current technology 2. Does not go against the pinciple of protecting progeny	Permitted if sperm is from husband	Need of family/ ofspring	<i>Maqasid shariah</i> - ensure progeny and <i>masalah</i>
6	17/6/1987	Singapore Family Planning and Population Board Bill No. 68/1965	Sterilisation was legalised in Singapore in 1970 The National Family Planning Programme as a economical and social development strategy 2 child policy- polulation control measure	Family planning with azl	1. Azl, to space pregnancies was practiced in the time of the Prophet (PBUH) and compnions 2. Al Baqarah: 233, on feeding a child for two years, which is the suckling term for a newborn. 3. Pregnancy spaced apart via breastfeeding can acause harm to the child as mother would not be able to continue breastfeeding should she becomes pregnant	Islam prioritises quality over quantity. Family planning with contraceptive pills and azl is permitted as it is temporary	Avoidance of harm for the breastfed child.	<i>Maslahah</i>
7	8/3/1983	--	--	Various issues pertaining to test tube babies and reproductive technology	Ijtihad: Keep up with scientific developments. As long as process does not affect lineage and progeny, or cause harm to the individual	Prohibited: 1) Donation of sperm 2. Use of sperm from a sperm bank or from partner other than husband 3. Use of egg from another woman Permitted: 1. Assisted reproduction, insemination of husband sperm in the lab 2. Assisted reproduction technique - artificial insemination in the wife 3. Collection of husband's semen for purpose of artificial insemination to wife	Assisted reproduction for need of family for procreation, respond needs of community	Fatwas for conception using sperm or egg from partners who are not the individual's husband or wife- <i>maqasid shariah</i> , protect progeny Fatwas on assisted reproduction for couples who are husband and wife- <i>maqasid shariah</i> (protecting progeny)
8	2002	--	--	Use of frozen sperm from a deceased husband	Opinions of contemporary scholars Ijtihad	Prohibited, as the marriage relationship has already ended upon death of a husband	Avoidance of harm to family lineage	<i>Maqasid shariah</i> - protecting progeny. The marriage relationship has ended with deceased husband
9	23/8/1984	--	--	Ruling on hymen construction surgery	Ijtihad	Prohibited	Avoidance of harm - aesthetic surgery with purpose of deception, and unnecessary exposing aurat	--

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Appendix 4: Table of Fatwas on the Use of Medicines or Therapeutics with ‘Impure’ Substances and Advisory on Use of Covid-19 Vaccines

No	Fatwa / Advisory	Singapore Statutes	Description of Act	Issue/ Problem	Approach/Method/ Evidence	Fatwa decision	Reason	Fatwa Objectives
1	5/11/1988	--	--	Use of prohibited substance for skin grafting	<p>Quranic text</p> <p>1. Surah Al- Maidah verse 90 on avoidance of intoxicants, gambling and idol worshipping</p> <p>2. Surah Al Anam verse 145: "Allah has forbade to consume running carcass, blood, the flesh of swine,, but if one is constrained to consume it, then it is forgiven"</p> <p>3. Surah Al-Baqarah verse 173: "Allah forbids the consumption of carcass, running blood and the flesh of swine but if one is forced by necessity, then he is guiltless"</p>	Permissible, if no alternative option. Severe burns is critical.	Avoidance of harm to patients suffering from severe burns	<i>Maqasid shariah</i> - preservation of life and masalah
2	21/102003	--	A number of vaccines with porcine sources	Medicine from porcine sources	Al Quran, Al an'am, pg 119, "He has explained to you in detail what is forbidden to you, except under compulsion of necessity.	Permissible when there is no other substitute and the condition is <i>darurah</i>	Avoidance of harm to community and society	<i>Maqasid shariah</i> - preservation of life and masalah
3	28/2/2013	--	Query from HSA Rotavirus vaccine, which contains typsin enzymes (from pig's pancreas) is used in manufacturing of the vaccine.	Use of rotavirus vaccine	<p>Technical information of vaccine production was examined and analysed</p> <p><u>Contextual</u></p> <p>No available vaccine from any other sources</p> <p><u>Al Quran</u>,</p> <p>Al an'am, pg 119: "He has explained to you in detail what is forbidden to you, except under compulsion of necessity". Hukm of consuming non halal substance is impermissible in the first instance but becomes permissible when there is a necessity</p> <p><u>Hadith</u></p> <p>Trasmitted by Usamah Bin Syarik in which the prophet was asked on the ruling for seeking treatment, and the Prophet had encouraged his ummah to seek treatment and take medication, for treatment and medication is also from Allah</p> <p>The practice of illness preventiion</p> <p>Whoever consumes seven pieces of Ajwah dates every morning, s/he would be protected from poison and black magic on that day.</p> <p>Concept of istihalah and istihlak</p> <p>1. Istihalah- conversion of form and properties of impure ingredients</p> <p>2. Istihlak- dilution of impure substance until the form and properties change</p>	Permissible when there is no other substitute	Avoidance of harm to community and society	<i>Maqasid shariah</i> - preservation of life and masalah

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Appendix 4: Table of Fatwas on the Use of Medicines or Therapeutics with ‘Impure’ Substances and Advisory on Use of Covid-19 Vaccines (Cont’d)

No	Fatwa / Advisory	Singapore Statutes	Description of Act	Issue/ Problem	Approach/Method/ Evidence	Fatwa decision	Reason	Fatwa Objectives
4	7/10/2015	--	--	Heparin	<p><u>Quranic text:</u> Al Quran, Al an'am, pg 119, "He has explained to you in detail what is forbidden to you, except under compulsion of necessity (Chapter Al-An'am: 119). Hukm of consuming non halal substance is impermissible in the first instance but be comes permissible when there is no other alternatives.</p> <p><u>Concept of isihalah and istihlak.</u> 1. Istihalah- conversion of form and properties of impure ingredients 2. Istihlak- dilution of impure substance until the form and properties change</p>	Permissible	Avoidance of harm	<i>Maqasid shariah</i> - preservation of life and <i>maslahah</i>
5	2020	--	Vaccination against Covid19 is recommended for all	Religious advisory on use of Covid 19 vaccines	<p>Basic necessity (<i>darruriyat</i>) to avoid harm Past precedents of fatwa on use of impure vaccines</p>	Permissible	Avoidance of harm to self and society	<p>1. <i>Maqasid shariah</i>- Save lives and livelihoods, capability to worship and practice religion. 2. <i>Maslahah</i> -benefit to self, and society</p>

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Appendix 5: Table of fatwa on Smoking and Advance Medical Directive (AMD)

No	Fatwa Ref/ year	Singapore Statutes	Description of Act	Issue/ Problem	Approach/Method	Fatwa decision	Reason	Fatwa objective
1	1st fatwa 13/9/1993	Smoking (Prohibition in certain places) Act, 1992	The act that prohibits smoking in certain places, and vehicles	The opinion that smoking is sinful as smoking is a cultural and social norm	<u>Fatwa in 1993</u> Legal maxim on avoiding harm over benefit	<u>1993 Fatwa:</u> Smoking is prohibited if it is harmful to individual and discouraged (makruh) in others	1. Avoidance of harm to self	<i>Maqasid shariah</i> (preserve lives) and <i>maslahah</i>
2	2nd fatwa 20/4/2006	Smoking (Prohibition in Certain Places) Regulations 2018	An act that allows National Environment Agency, approval to make the regulations pertaining to smoking in prohibited places		<u>Fatwa in 2006</u> Smoking is legal in Singapore. Due to evidence that passive smokers are subjected to risk of developing cancers smoking in public places is progressively banned. 1. No explicit ruling that smoking is prohibited in the Quranic texts, hadith and Islamic sources as smoking does not exist in the times of Prophet Muhammad and his companions or the classical Islamic scholars.	<u>2006 Fatwa:</u> Smoking is prohibited as it is associated with causing harm to self and others around (passive smoking effects)	2. Avoidance of harm to self and society	
3	1994	The NMEC recommended that a bill be drawn up to give Singaporeans the right to make a voluntary 'advance medical directive' document and consulted MUIS. The bill was passed as the Advanced Medical Directive Act 1996.	Use of Advanced Directive (AMD) for Muslims	Muslims using the AMD	1. Concept of sabr Hadith of the Prophet (PBUH) The Messenger of Allah said: "If you want to be patient, then the reward for you is heaven, and if you desire (healing), I will pray to Allah to heal you." The woman then said, "Then I'll be patient." 2. Reference taken from contemporary scholars from Islamic Fiqh Academy (1987) conference's view that it is allowed to remove the life support equipment from a patient when the patient was brain-dead.	Permissible with conditions: 1. The patient is an adult, above 21 years old 2. 3 experts have certified that the individual is terminally ill, in a condition of pain with no hope of recovery 3. Deemed that patient cannot survive without a life support system	Alleviation of harm and continued suffering and harm to terminally ill patients with no hope to live when disease is already terminal Reason: the individual has made a conscious decision not to be attached to a life support system, and had chosen to be patient and die naturally.	<i>Maslahah</i>

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Appendix 6: Table of Fatwas on the Human Milk Bank and Aurat of Patients and Nurses

No	Fatwa ref no/ Year	Singapore Statutes	Description of Act	Issue/ Problem	Approach/Method	Fatwa decision	Fatwa Reason	Fatwa objective
1	Ref to fatwa 23/8/2004 on hymen reconstruction surgery	–	–	Consequential decision on aurat for non-mahram men (doctors) following fatwa on hymen reconstruction surgery	1. Needs assessment: Daruriyyah, Hajjiyat, Tahsiniyyat	Permissible only when there is urgency to save a life or there is a medical need	Avoidance of harm-variety related issues pertaining to surgery	Maslahah
2	2017	–	–	Premature Muslim babies feeding from milk in Human Milk Bank	<p>1. <u>Contextual</u> Basic need for premature babies</p> <p>2. <u>Studying the process of extraction, storage, distribution and feeding of babies</u> a. Milk is collected and stored, and anonymised b. Each stored milk is about 50 mls per container, and distributed to babies in the ward for feeding c. Babies consume may 1-2 mls each time, progressively amount is increased.</p> <p>3. <u>Review of classical and contemporary scholars' opinion</u> a. Amount and rate of feeding per baby cannot be ascertained b. Method of feeding- through a tube, hence no milk-bond with the woman who provides the breastmilk. c. <i>Jahalah</i> - unknown donor and amount of milk donated caused doubt on establishing milk-kinship relations</p> <p>4. <u>Legal maxim</u> a. Harm must be eliminated b. When the condition becomes tight, the law is widened c. Hardship begets facility</p>	Permissible, when mother's milk is insufficient or unavailable, and breastmilk are needed to thrive	<p>1. Avoidance of harm to premature babies (<34 weeks) needing human breastmilk for survival and to thrive.</p> <p>2. Need of community and society</p>	Maslahah
3	2021	–	–	Wearing of the headscarf in the uniform services	<p>1. <u>Quranic text</u> Surah al-Baqarah (2), verse 286 Which states : "Allah does not burden a soul with more than it can bear." Surah al-Taghābun (64), verse 16, which states "So be conscious of Allah (by obeying His teachings), as much as you are able"</p> <p>2. <u>Hadith</u> "What I have prohibited, avoid it, what I have commanded, carry it out to the best of your abilities..." (Hadith narrated by al-Bukhari and Muslim).</p>	<p>Nurses: Permissible to wear headscarf while adhering to the BBE (Bare Below Elbow) policy. For other uniformed services, adhere to uniform policy, and to make decisions or prioritise decisions based on the values of the maqasid shariah. The uniformed services are largely essential services, such as those with the need to serve and protect the country.</p>	<p>1. Facilitate practice of religion within constraints</p> <p>2. Need of community and society</p>	<p><i>Maqasid shariah</i> (preservation of religion) and <i>maslahah</i></p>

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