

Necessity and Islamic juristic creativity: the case of the management of the dead related to COVID-19

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Abstract

This article studies one of the humanitarian challenges caused by the COVID-19 crisis: the dignified handling of the mortal remains of individuals that have died from COVID-19 in Muslim contexts. It illustrates the discussion with examples from Sunni Muslim-majority states when relevant, such as Egypt, the Kingdom of Saudi Arabia, Jordan, Morocco and Pakistan, and examples from English-speaking non-Muslim majority states such as the United Kingdom, the United States of America, Canada and Australia as well as Sri Lanka. The article finds that the case of the management of dead bodies of people who have died from COVID-19 has shown that the creativity and flexibility enshrined in the Islamic law-making logic and methodology, on the one hand, and the cooperation between Muslim jurists and specialised medical and forensic experts, on the other, have contributed to saving people's lives and mitigating the effects of the COVID-19 pandemic in Muslim contexts.

Key words: COVID-19, pandemics, Islamic burials, Islamic law, collective graves, cremation

Introduction

The global outbreak of the coronavirus (COVID-19) pandemic is another scary turning point in human history. It will take our world some time to grasp and deal with its global health, economic and humanitarian crises. But the main lesson COVID-19 is teaching our world today is that its challenges cannot be addressed on a national level¹ nor even at a regional groupings level. The unprecedentedly rapid and sweeping global impact of COVID-19 shows more than at any other point in history the common destiny of humanity, which in this situation does not distinguish superpowers from weak states, the rich from the poor and the global North from the global South. Therefore, addressing the impact of COVID-19 and of any future similar global crisis undoubtedly will require – in the words of Henry A. Kissinger – a ‘global collaborative vision and program.’² Effective responses to mitigate the impact of such a global crisis necessitate not only global cooperation,

but also ensuring that legal frameworks as well as traditional, religious and cultural norms address the impact of the pandemic.

This article will specifically focus on one of the humanitarian challenges caused by the COVID-19 crisis: the dignified handling of the mortal remains of individuals that have died from COVID-19 in Muslim contexts. Under Islamic law, as in many cultures and religions, the management of dead bodies is the object of specific rules that aim at ensuring the dignity and respect of the dead and of their living relatives. The current situation is creating a number of questions, challenges and even rumours in Muslim-majority states as well as in Muslim communities around the globe, which will be also discussed below. Hence, this article examines the Islamic burial laws that aim at safeguarding the dignified handling of the mortal remains of individuals that have died from the COVID-19 pandemic. It studies a number of fatwas (non-binding legal opinion) and guidance manuals issued by Islamic Sunni jurists and institutions in both Muslim and non-Muslim-majority states. Certainly, it is far beyond the scope of this study to claim to give a comprehensive examination of all the fatwas and guidance given by Muslim jurists and Islamic institutions globally. The article illustrates the discussion with examples from Sunni Muslim-majority states when relevant, such as Egypt, the Kingdom of Saudi Arabia, Jordan, Morocco and Pakistan, and examples from English-speaking non-Muslim-majority states such as the United Kingdom, the United States of America, Canada and Australia as well as Sri Lanka. Before discussing the Islamic burial laws and three challenges pertinent to the burial of people who have died in the context of COVID-19, the article starts with a brief overview of the impact of epidemics on Islamic religious obligations and the Islamic legal response developed by Muslim jurists in response to such cases of necessity. This article shows that the Islamic burial laws are intrinsically linked to, and based on, the available medical evidence, and therefore forensic science and Islamic burial laws together have succeeded considerably in safeguarding the dignified handling of the mortal remains of individuals that have died from COVID-19 in Muslim contexts.

Islamic law and epidemics

Epidemics and pandemics have caused tragic humanitarian consequences throughout human history, as well is documented by historians who have explored ancient civilisations, and throughout different parts of the globe.³ In Muslim contexts, these epidemics/pandemics triggered medical and Islamic legal responses to the disease⁴ and its impact on Islamic obligations such as congregational prayers, hajj (pilgrimage to Mecca) and the proper and dignified management of the bodies of the dead. Islamic historians recorded that one of the earliest plagues in Islamic history was a plague called Sheraweh that hit Persia in AD 628. The earliest and most famous plague in Islamic history was the plague of 'Amwas (also spelled Emmaus), which emerged in AD 639 in the Palestinian village of 'Amwas and which led to the death of twenty-five thousand people, including prominent Companions of the Prophet Muhammad. This plague was one of a series of epidemics known as the Justinian

Plagues, which appeared first in Egypt in AD 541 and spread through Palestine, the Byzantine Empire and the rest of the Mediterranean.

In the road from Medina to 'Amwas in AD 639, the news of the plague of 'Amwas reached the second caliph 'Umar ibn al-Khaṭṭāb (r. 634–44) and the army accompanying him at a place called Sargh (now Al-Mudawwarah, the southernmost village in Jordan). After consultation with the Muslim leaders, he decided that they would not proceed to 'Amwas, due to the infection there. This decision, which saved the lives of thousands of Muslims was taken when 'Abd al-Rahman ibn 'Awf (d. 656) mentioned that he had heard the following hadith from the Prophet Muhammad: 'If you hear of an outbreak of plague in a land, do not enter it; but if the plague breaks out in a place while you are in it, do not leave that place.'⁵ Under the section titled Medicine in which this hadith is recorded in the most authoritative Sunni canonical Hadith collection by Muḥammad ibn Ismā'īl al-Bukhārī (d. 870), there is another hadith that calls upon the Muslims to seek medication from every disease. Abu Hurayrah (d. 678) narrated that Prophet Muhammad said: 'There is no disease that Allah has created, except that He also has created its treatment.'⁶ These hadiths call for two remarks. First, among many others, they were recorded in the major collections of hadiths of Prophet Muhammad, and have been widely quoted as an Islamic evidence of quarantine in times of epidemic that goes back fourteen centuries.⁷ Second, and more importantly, the hadith narrated by Abu Hurayrah indicates that seeking medication is an Islamic obligation. Thus, when it comes to medical issues, Islamic rules should, when necessary, be based on relevant medical evidence.

In addition to the historical accounts and the works of the pre-modern medical professionals on the pandemics they experienced, the available pre-modern religious and Islamic legal sources, in particular, have considerably shaped the response to the COVID-19 pandemic in many Muslim communities. As shown below, the religious and Islamic legal authorities, whether government-affiliated Islamic law institutions such as dar al-ifta or individual Muslim jurists or muftis, played a huge role – in most cases along with and inseparable from the medical authorities – vis-à-vis the religious, medical and social responses to the COVID-19 pandemic. This has been the case not only in the Muslim-majority states, but also for Muslim minorities in the West, as shown below in the cases of Canada, the United States of America, the United Kingdom and Australia.

Some religious rituals can easily lead to the spread of COVID-19 infection, such as congregational prayers and hajj, where hundreds or thousands of worshippers gather in the former and millions gather in the latter. If the performance of an Islamic religious obligation would endanger lives, then it has to be suspended or alternative arrangements from the normal course should take place. For example, Prophet Muhammad suspended the congregational prayers at mosques because of heavy rain or cold weather and instructed that in the *adhān* (call to prayer) the phrase 'pray at your home' was to be added. Obviously, the COVID-19 pandemic is a much more serious situation for prayers to be performed in congregations and, during the peak of the pandemic, mosques worldwide were closed for congregational

prayers, as in Morocco, Egypt, Saudi Arabia, Malaysia, Iran, Bahrain, Pakistan, Singapore and Tajikistan, for example.⁸ At the time of writing, when the restrictions have been eased by the authorities, limited numbers of worshippers have been allowed into mosques and have had to follow certain restrictions in order to avoid spreading the infection. Nonetheless, incidents were reported where groups of Muslims gathered to pray in congregation, whether in mosques or in open areas. Certain groups have described the COVID-19 pandemic as a divine punishment for wrongdoings committed by humans⁹ and have claimed that no harm will be inflicted upon the believers except that which is already destined by God.

Hence, the role of ulama and muftis has proved crucial in guiding the masses during this crisis. According to Press Releases No. 24/2020 and No. 24/2020 issued respectively on 24 and 26 March 2020 by the office of the president of Pakistan, Dr Arif Alvi, President of Pakistan, stressed the role of the ulama and sought their cooperation in creating awareness among the masses about the COVID-19 pandemic.¹⁰ The Pakistani president even reached out in a tweet to the ulama, requesting them to take urgent actions based on the Islamic principles enshrined in the Qur'an and the Sunnah (tradition) of Prophet Muhammad to stop the spread of COVID-19 in Pakistan.¹¹ In March 2020 the Grand Imam of al-Azhar and the Council of Senior Ulama in Egypt issued statements permitting the temporary suspension of congregational prayers at mosques in order not to contribute to the spread of the virus.¹² In another tweet on 25 March 2020, the President of Pakistan thanked the Grand Imam of Al-Azhar and the Council of Senior Ulama for their response to his request and for issuing the guidance suspending congregational prayers.¹³ The British Board of Scholars and Imams issued *Guidelines for the Eid Prayer and Practices during the Coronavirus Pandemic*, which basically suspended the congregational prayer of Eid or Friday prayers throughout Britain, whether in mosques, community centres or open areas.¹⁴ In the same vein, the Australian Fatwa Council issued a fatwa that relied on 'the Islamic legal proofs', and the national and global medical and health authorities that strongly called upon Muslims to do the five daily prayers and the Friday prayer at home.¹⁵

The performance of hajj has been suspended forty times throughout Islamic history, whether completely or for certain parts of the Muslim world, because of wars or the spread of plagues.¹⁶ For example, because of the outbreak of hostilities, worshippers from different parts of the Muslim world could not perform hajj; such was the case for the Iraqis in AD 983 and for the Egyptians, Iraqis and Syrians in 1030. Hajj was suspended due to cholera outbreaks in 1837 and 1846.¹⁷ On 16 April 2020 the Jeddah-based International Islamic Fiqh [Law] Academy of the Organization of Islamic Cooperation (OIC) held its second annual medical-Islamic legal symposium under the title *2020 Second Medical Fiqh Symposium Recommendations The Novel Coronavirus (Covid-19): Medical Treatments and Shariah Rulings*. It is worth adding here that one of the objectives of the International Islamic Fiqh Academy, which includes a number of world-leading Islamic law experts, is '[t]o draw inspiration from the Islamic Sharia, to study contemporary problems from the Sharia point of view and to try to find the solutions in conformity with the Sharia through

an authentic interpretation of its content.¹⁸ Hence, in response to the COVID-19 pandemic crisis, the medical and Islamic legal recommendations of this symposium include:

Doctors and experts confirm that gatherings lead to coronavirus infections, so precautions must be taken by avoiding gatherings in all forms. Allah The Almighty said, ‘*O you who have believed, take your precaution.*’ [Qur’an 4: 71] These precautions include the Islamic legitimacy of closing Mosques for Friday prayer, daily congregational prayers, Tarawih prayers and Eid prayer; the suspension of Hajj and Umrah.¹⁹

The question of whether or not Muslims should observe the fast during the month of Ramadan was raised some weeks before it started on Thursday 23 April 2020, out of the fear that fasting might decrease immunity and thus increase the susceptibility of contracting the COVID-19 virus. On 7 April 2020, the Islamic Legal Research Committee of the Al-Azhar Islamic Research Council held a meeting in Cairo with senior medical experts from various specialisations, including experts from the World Health Organization (WHO), in order to attain expert opinion on whether fasting decreases immunity or not. The committee confirmed that there was to date no medical evidence to show that there is a link between fasting and contracting the COVID-19 virus and that therefore Muslims were still obliged to observe the fast during the month of Ramadan as per the Islamic rules.²⁰ Furthermore, the wording of the following recommendation of the OIC’s International Islamic Fiqh Academy’s 2020 Second Medical Fiqh Symposium held on 16 April 2020 makes it crystal clear that, based on the available medical evidence:

fasting does not affect health in general. Doctors and specialists have already confirmed that fasting does not increase susceptibility to the virus. There is no scientific evidence that dry mouth reduces immunity to the virus; therefore, the duty to fast at Ramadan remains an established principle. It is not permissible to drop fasting under the pretext of corona; every able, accountable, non-travelling and healthy person is required to fast. As for infected patients or suspected cases, the decision of whether to fast should be made after consultation with the attending physician. Muslims should fast unless doing so would affect their health, as determined by *reliable doctors* [emphasis added] treating their conditions. Health practitioners might drop fasting if they suffer from weakness and fatigue. They might also drop fasting if they are occupied during *iftar* [breaking of the fast] and *suhoor* [pre-dawn meal], and feel an extreme necessity for that.²¹

Understandably, the temporary suspension of congregational religious obligations created a state of perplexity for hundreds of millions of Muslims globally, and therefore begs the question whether government authorities are permitted under Islamic law to take decisions to suspend or restrict such religious obligations. The *Islamic Guiding Manual on COVID-19* developed by Al-Azhar Global Electronic Fatwa Center explained that the government authorities have the right, in case of

necessity, to temporarily restrict or suspend Islamic religious rituals such as congregational prayers or hajj after discussions with specialised experts, and provided that their decisions will serve the ultimate objectives of Islamic law. In the current situation, such decisions would achieve one of the ultimate objectives of Islamic law, namely, the protection of life.²² In the same vein, the 2020 Second Medical Fiqh Symposium's recommendations provided a clear answer to this question as follows: 'It is permissible for states and governments to impose restrictions on individual liberties in a manner that serves the public interest, whether by preventing entry into and exit from cities, imposing a partial or complete lockdown, imposing a travel ban, banning financial operations using notes and coins, suspending businesses, services, schools, and closing markets.' This prerogative given to the actions of rulers must rely on the fulfilment of public interest, in accordance with the Islamic legal maxim stipulating that 'rulers' decisions must be in favor of public interest.'²³

Jurisprudence of necessities

In response to unceasing new issues that confront the Muslim community where Islamic legal rulings are required, pre-modern Muslim jurists developed a body of Islamic law called *fiqh al-nawāzil* (new issues jurisprudence). The issues in question that fall within this body of Islamic law refer to new incidents that may have sometimes a strong and/or negative impact on the Muslim community or individual/s.²⁴ Therefore, this body of law is strongly linked to the fatwa literature, as shown in this article, where individual muftis (Muslim jurists qualified to issue fatwas) or government-affiliated Islamic law institutions such as dar al-ifta as well as Islamic law councils or entities – including those in non-Muslim-majority states – provide fatwas to such issues. Both the *fiqh al-nawāzil* and the fatwa literature provide excellent documentation of the Islamic law's response to the new political, social, economic and medical issues and challenges that have confronted Muslim cultures and societies throughout Islamic history. Hence, a comparative analysis between the Islamic legal rulings on specific issues provided by Muslim jurists in different parts of the Muslim world, on the one hand, and during different times in Islamic history, on the other, will give insight into the capability of Islamic law to respond to new challenges and explain some of the reasons behind its survival throughout the last fourteen centuries as one of the most widely practised legal systems. Furthermore, such comparative analysis will also clarify the limits and boundaries of the flexibility and changeability of Islamic law as well as Islamic law-making logic and methodology, as illustrated in the case of the Islamic burial rules in the context of COVID-19 discussed below.

As for the survival of Islamic law, in spite of the fact that the greatest majority of Muslim-majority states apply a civil law system whereas a minority apply a common law system, according to Emilia Justyna Powell: '[t]here are twenty-nine Islamic Law States (ILS) in the World today, and they constitute not only a substantial portion of the United Nations' membership, but a significant voice in today's international relations ... To some extent, each adherent to the Muslim faith is ethically, morally, doctrinally, or politically committed to sharia.'²⁵ Henceforth, significantly,

and unlike in other legal systems, self-imposed compliance is one of the characteristics of Islamic law and is also one of the reasons behind its survival up to the present day. Since another characteristic of Islamic law is that one part of it relates to religious rituals, which are not included in other legal systems, Powell's criteria for identifying these twenty-nine states as 'Islamic law states' are worth reproducing here. According to her, an Islamic law state is

a state with an identifiable substantial segment of its legal system that is charged with obligatory implementation of Islamic law in personal, civil, commercial, or criminal law, and where Muslims constitute at least 50 per cent of the population. This definition does not depend solely on the religious preferences of citizens, but rather fundamentally relies on the characteristics of the official legal system upheld by the state.²⁶

When it comes to the flexibility and changeability of Islamic law,²⁷ the fact that part of it relates to religious rituals and that two of its several sources, i.e., the Qur'an and the Sunnah, are divine sources (partly divinely inspired in the latter) has contributed to the misconception of labelling Islamic law as a religious or divine legal system whose rules are fixed and unchangeable. The distinction between the categories of Islamic law, which the Muslim jurists call *ibā'ādāt* (religious rituals) and *mu'āmalāt* (transactions), is key to differentiating between what is religious/divine in the former category and what is not necessarily so in the latter. Furthermore, the survival of several Islamic schools of law both within the Sunni and Shi'i sects along with the Ibāḍī school of law and the existence of conflicting legal rulings among and within these schools of Islamic law disprove this misconception, which brushes Islamic law with rigidity and unchangeability. In fact, since Islamic law was developed by mostly independent individual Muslim jurists and to a much lesser extent by Muslim judges, and since Islamic law has remained largely uncodified, the existence of conflicting laws is another one of its characteristics and also shows that labelling the totality of Islamic law as divine is again inaccurate. Additionally, shortly after its emergence, Islam encountered several neighbouring civilisations and cultures; there are therefore cultural and geographical elements that have impacted and still impact the development of Islamic law. Hence, Khaled Abou El Fadl points out that 'there is considerable flexibility and variation in how Shari'ah [Islamic law] is implemented from one culture to the next, from one country to the next – indeed, from one generation to the next'.²⁸

The Islamic law-making logic and methodology adopted to develop the rules related to the COVID-19 pandemic typify the Islamic jurisprudence of necessity and, as a consequence, the flexibility of Islamic law. In developing the Islamic rules related to issues that fall into the category of necessity and/or crisis, Muslim jurists rely on and are guided by a number of *al-qawā'id al-fiqhiyyah* (legal maxims, also translated as legal canons), developed by pre-modern Muslim jurists. In fact, the Islamic legal maxims go back to the advent of Islam and some of them are based on textual sources, namely the Qur'an, the Sunnah, *ijmā'* (consensus of the Muslim jurists), i.e., the primary three sources of Islamic law, and extratextual sources

including 'even foreign legal norms' borrowed from the Late Antique Near Eastern, Sassanian and Roman Laws.²⁹ These legal maxims sanction and guide the change of an Islamic rule to another that suits the case of necessity in question.³⁰ Interestingly, the Islamic rules related to the COVID-19 pandemic are an excellent case study where Muslim jurists successfully regulated the Islamic rules pertinent to the necessities brought about by the pandemic, partly thanks to the use of the Islamic legal maxims.³¹ In her recent study published a few months before the outbreak of the COVID-19 pandemic, Intisar A. Rabb insightfully pinpoints the significance and the major role the legal maxims as a genre of Islamic law played in the construction of Islamic law:

Studying legal canons may well be essential to understanding Islamic law itself because the canons offer a wide-angled lens through which scholars can examine the history of Islamic law in terms of substance and procedure, textual and contextual bases for the law, and hidden values governing the law and its institutions. This lens can also bring into focus the understudied laws, procedures and institutional actors who regularly developed legal canons to shape Islamic law, historically. The focus can in turn sharpen the conventional image of textual origins of Islamic law to reveal the contours of its extratextual bases. Legal canons spotlight an undeniable degree of judicial discretion, interpretive diversity and legal change permeating Islamic law. They represent key tools by which jurists argued with respect to notions of equity, necessity or rational presumptions to produce or justify novel rulings that changed over time.³²

Turning to the focus of this article and the Islamic burial laws related to people who have died from COVID-19, the role of Islamic legal maxims on Islamic law-making becomes apparent. The following five Islamic legal maxims provided legal rationales for these Islamic burial laws:

- 1 harm must be removed (*al-ḍarar yuzāl*)
- 2 hardship begets ease (*al-mashaqqah tajlib al-taysīr*)
- 3 necessity lifts prohibitions/makes the unlawful lawful (*al-ḍarūrāt tubīḥ al-maḥzūrāt*)
- 4 necessity is measured according to its proportion (*al-ḍarurah tuqaddar bi-qadrihā*)
- 5 matters shall be judged by their objectives (*al-umūr bi-maqāṣidhā*).

Islamic burial laws

In Islam, the burial of the deceased is a *farḍ kifāyah* (collective obligation) on the Muslim community which consists of: (a) *ghusl*, ritual washing of dead bodies; (b) *kaḥān*, shrouding with pieces of cloth; and (c) *ṣalat al-janāzah*, funeral prayer. It goes without saying that following the normal course in performing any of these three Islamic burial rituals for people who have died from COVID-19 may lead to spreading the infection. In regulating these three burial rituals vis-à-vis the remains of the victims of COVID-19, present-day Islamic rules developed by Muslim jurists and

Islamic authorities, whether in Muslim- or non-Muslim-majority states, are generally guided by two considerations. First, the lives of body handlers and of the rest of the community must not be endangered. The protection of life (*hiḥẓ al-naḥs*) is one of the five ultimate objectives of Islamic law (*maqāṣid al-sharīʿah*), namely, religion, life, intellect, lineage and property, and therefore overrides any other Islamic obligations.³³ It is therefore of paramount importance to keep in mind, as discussed below, that determining the Islamic position on any of these three Islamic burial rules for the victims of COVID-19 is dependent on the available medical evidence regarding whether performing these burial rituals could put a life at risk. Hence, furthermore, in case of the existence of medical evidence proving risk to human lives, the legal maxim ‘harm must be removed’ gives another layer of rationale for suspending the performance of any of these rituals. Second, according to Islamic burial rituals, the dignity of the dead and the emotions of their loved ones are to be respected as much as is practically possible in extraordinary situations such as armed conflicts, epidemics, disasters or other catastrophes.

The fatwas and the Islamic guidance manual for handling the bodies of people who have died from COVID-19 in both Muslim- and non-Muslim-majority states which are examined in this study have been shaped by the available medical evidence and forensic guidelines. However, to date, the medical knowledge and scientific evidence related to the COVID-19 pandemic are incomplete and, as a consequence, the guidance provided by Islamic and health authorities in Muslim-majority states and Islamic organisations in the West give different rules with regard to the three core Islamic burial laws, as detailed below.

Ritual washing (*ghusl*)

The different positions adopted by Islamic and health authorities in Muslim-majority states and Islamic entities in the West regarding the required *ghusl*, or ritual washing of the body, are due to the medical opinions and/or evidence followed by these authorities, on the one hand, and to the availability of resources and facilities, on the other. For example, *ghusl* has been administered on the bodies of COVID-19 victims in most cases and in many states, including Egypt, the United Kingdom and Canada. *Ghusl* is performed as normal for COVID-19 victims, provided that the necessary protective measures are put in place. Necessary forensic guidance here comprises wearing complete personal protective equipment (PPE) – including gloves, gown, a waterproof apron, face shield and goggles and a mask – as well as avoiding direct contact with blood or bodily fluids, making sure that wounds are covered with waterproof bandages and avoiding contact with the face and mouth, as well as with food, drink or eating and drinking utensils. It is worth mentioning here that the most detailed procedural guide on the burial of Muslim victims of COVID-19 quickly published during this crisis has been issued by the Canadian Council of Imams and the Muslim Medical Association of Canada.³⁴ The cooperation between the imams and Muslim medical professionals in Canada in producing this procedural guide is a case in point indicating the inevitable cooperation between medical professionals and Islamic law experts when

it comes to medicolegal issues. Another Islamic guidance manual has been released by Al-Azhar Global Electronic Fatwa Center.³⁵ Likewise, before issuing this guidance manual, Al-Azhar Islamic law experts met with specialised medical experts from Egypt and the WHO in order to find out what the available medical evidence says about the issues in question.

If health authorities conclude that normal *ghusl*, which includes scrubbing the body of the deceased person, could lead to infection – which may be due to insufficient resources or lack of facilities needed to strictly follow the necessary forensic guidance – then many Muslim jurists indicate that in this case merely pouring or just spraying water onto the body is sufficient. The Jordanian Iftaa Board Resolution No. 283, issued on 19 March 2020, makes clear that all necessary protective measures must be taken to prevent infection and that as much as possible of the burial rituals shall be performed, provided that no infection can be transmitted. Otherwise, merely spraying water on the body and shrouding will suffice.³⁶ This Resolution typifies the pragmatic, practical and flexible Islamic approach to the issue under discussion, as it makes the absence of *darar*, which means harm and, in this case, infection, a condition for the performance of *ghusl*.

In the same vein, the Ministry of Health in Morocco has also issued instructions for the handling of dead bodies of confirmed or potential COVID-19 victims, stating that ‘the ritual of washing the body, whether at the hospital morgue or the city morgue, must be supervised by the local management team (reducing to a minimum the use of water, spraying and other rituals used).³⁷ Afterwards, all areas used should be disinfected, including trolleys and tables, and disposable objects should be treated as medical waste. The fatwa number 87734 issued on 23 March 2020 by the Assembly of Muslim Jurists of America’s Resident Fatwa Committee under the title *The Rights of the Muslims Who Die with COVID-19 on the Muslim Community* adds that: ‘in the case of the presence of contagious diseases, the water can be poured on top of the cloth (that is not water repellent).³⁸

Moreover, if spraying water could also lead to infection, then most Muslim jurists advocate that *tayammum* (dry purification) should be performed. For example, the Assembly of Muslim Jurists of America’s Resident Fatwa Committee have issued fatwas to this effect.³⁹

Lastly, if none of the above is permitted by the health authorities because of the fear of spreading infection, as is the case for example in Algeria, France and Tunisia, then jurists agree that the body should be buried without *ghusl* or *tayammum*.⁴⁰ This is not a novel Islamic ruling, however. In fact, pre-modern Muslim jurists permitted burials without performing *ghusl* in cases where the high number of bodies resulting from an epidemic would make it impossible.⁴¹

Shrouding (*kafan*)

Following the same logic and approach as with *ghusl*, where Islamic burial rules are deliberated in conversation with the medical professionals, shrouding shall be done only if there is no risk of infection. The Islamic guidance manual on COVID-19 developed by Al-Azhar Global Electronic Fatwa Center suggests that a specialised

team should be in charge of the washing and shrouding in order to avoid the possibility of infection.⁴²

Funeral prayer (*salat al-janāzah*)

The funeral prayer requirement should not constitute an issue in the context of COVID-19 because funeral prayers can be performed in congregation by a minimum of two individuals: an imam (an individual who leads the prayer) and a *ma'mūm* (one who follows the prayer leader). Furthermore, funeral prayers can be performed at the grave after the burial of the dead, whether in congregation by a minimum of two or individually. Alternatively, absentee funeral prayers (*salat al-ghā'ib*) can be performed on COVID-19 victims, as advocated in a recent fatwa issued during a Facebook live session by Sheikh Ahmad Wisam, the Secretary of Fatwa at Dar al-Ifta in Egypt.⁴³

As discussed above, to avoid infection during the daily congregational prayers, Friday prayers and funeral prayers, most Muslim-majority states have closed mosques and advised that funeral prayers should be performed in open spaces or cemeteries. They have also advised keeping the number of those who perform the funeral prayer on the COVID-19 victims to a minimum⁴⁴ and ensuring that burials can be carried out on the same day.⁴⁵ Obviously, social distancing measures should also be put in place during funeral prayers.

Protection challenges

Protection of lives and removal of harms are the overriding criteria in regulating the three burial rituals discussed above. It can be safely argued that Islamic law experts along, with medical experts, have successfully managed to provide guidance that accommodates the three Islamic burial rituals in the context of the COVID-19 pandemic insofar as they do not pose any life-threatening risks to death-care workers or to anyone involved in the burial ceremonies. The flexibility shown in accommodating these rituals is a living proof of the changeability of Islamic law.

When a law changes, it is still meant to achieve an Islamic objective, as indicated in the legal maxim: 'matters shall be judged by their objectives'. The changes discussed above are (a) dictated by the necessity of removing harm, as indicated in the legal maxim: 'harm must be removed' and (b) the change is restricted within the limits of the situation of necessity only, as is made clear in the legal maxim: 'necessity is measured according to its proportion'. Nonetheless, the massive global outbreak of COVID-19 created several challenges to the protection of lives and to the safeguarding of the dignity of the dead in Muslim contexts. In particular, the lack of a complete understanding of the nature of the virus contributed to the spread of several rumours and misconceptions which necessitated quick Islamic legal and medical responses precisely to protect the lives of the living and the dignity of the dead, as explored below.

Denying burial of COVID-19 victims

There have been a number of attempts in some Muslim-majority states to prevent the burial in local cemeteries of the bodies of people who have died from COVID-19, due to the misperception that their corpses could spread infection in nearby population centres. For instance, although the Iraqi health ministry spokesman confirmed that there is no scientific evidence to prove that corpses of COVID-19 victims can spread the virus, it is alleged that 'tribal figures prevented a team of health ministry officials from burying four bodies in a cemetery the state had specifically designated for COVID-19 victims'.⁴⁶ On 11 April 2020, dozens of locals from Shubra al-Bahw, a village in the delta governorate of Al-Daqahlia in Egypt, refused to bury the mortal remains of a sixty-four-year-old female doctor who had died of COVID-19. In response to this incident, Dr Ahmed al-Tayyeb (the Grand Imam of Al-Azhar, the highest religious authority in the Sunni world) issued a statement on the same day condemning this act as un-Islamic, immoral and inhuman.⁴⁷ The current mufti of Egypt, Dr Shawki Allam, issued the somewhat lengthy fatwa number 100000 on 12 April 2020 prohibiting this act and describing it as un-Islamic, savage, inhuman and a violation of human rights. The fatwa also provides an account of the Islamic legal grounds for the burial rights/rules of the dead bodies and adds that perpetrators of such incidents must be strongly stopped and condemned.⁴⁸ On 19 August 2020, the Al-Mansoura Criminal Court in Egypt issued sentences against the forty-two defendants charged in this incident, with penalties ranging from one year's imprisonment for twenty-three of them, three years for two and – *in absentia* – ten years for the remaining seventeen.⁴⁹

One of the lessons that such incidents illustrate – particularly in cultures and societies where religious norms and fatwas play a significant role in influencing behaviour – is the need for strengthened cooperation between authorities, Islamic institutions and humanitarian organisations, specifically humanitarian forensics experts, to ensure a dignified burial of the dead. Indeed, dissemination and communication of information are crucial, both on the relevant scientific evidence as well as on the Islamic burial rules. Disseminating information about the mere fact that burying the dead is a collective obligation in Islam will create a sense of communal responsibility, since the disregard of this obligation would incur the guilt of the entire Muslim community.

Collective graves

While Islamic law provides that every dead body should be buried in an individual grave,⁵⁰ Muslim jurists agree that, in cases of necessity such as armed conflict or disaster, collective graves are permitted. This agreement is founded on the precedent set by the Prophet Muhammad in the battle of Uhud in March 625, where seventy Muslims were martyred – the highest recorded number of fatalities to date in a single military encounter. When Muslims told Prophet Muhammad that it was difficult for them to dig individual graves for each of the seventy martyrs, he told them to dig deeper and bury two or three in each grave.⁵¹ Subsequent generations of Muslim jurists deliberated on a number of cases related to collective graves, such as the burial of dead bodies of Muslims of different sexes or dead bodies of Muslims

and non-Muslims in the same grave. In the case of collective graves, in principle, male and female dead bodies should be buried in separate graves but, if necessity dictates otherwise, classical Muslim jurists stipulate that a barrier of dust should be placed between the bodies.⁵² It is worth adding here that, at the present time, collective graves for dead bodies usually from the same family are common in many Muslim-majority states, simply because of the shortage of spaces available in cemeteries in villages and towns and/or because of the unaffordability of building an individual grave for every dead body.

As for the burial of dead bodies of Muslims and non-Muslims in collective graves, classical Muslim jurists also agree that Muslims and non-Muslims should be buried in separate graves.⁵³ However, in situations where the religious identity of the bodies is unknown, Muslim jurists have disagreed as to whether they should be buried in Muslim or non-Muslim graves or whether they should be buried in special graves that do not belong to either the Muslim or the non-Muslim graves.⁵⁴ But the jurists agree that if the religious identity of the dead bodies of children cannot be identified, they are to be buried in Muslim graves.⁵⁵ This practice of burying the dead in separate graves based on religious identity is still observed in some Muslim-majority states and can hinder the dignified burial of unidentified dead bodies if there are no graves allocated for non-Muslim bodies. Still, the point here is that it is well established that Islamic law permits collective graves in case of necessity. Practically speaking, this means that if the authorities, whether in Muslim-majority states or not, decided to bury Muslim people who have died from COVID-19 in collective graves, it might be useful to invoke these rules in case of any objection or rejection from Muslim local communities. In other words, keeping relevant state officials informed about these rules and accommodating them as much as possible could eventually lead to safeguarding the proper and dignified burial of the dead bodies of COVID-19 victims in Muslim contexts.

Cremation

In Islamic law and Muslim cultures, burying the dead in the ground is regarded as the correct way of respecting dead bodies, while *harq* (cremation) is strictly prohibited because, unlike in some cultures, it is considered a violation of the dignity of the human body.⁵⁶ The issue of cremation of the remains of individuals who have died from COVID-19 has therefore been a great concern for Muslim communities in some non-Muslim-majority states, that is to say for 700 million out of the 1.6 billion Muslims, according to Powell's recent book.⁵⁷ It is worth mentioning here that during the Ebola crisis the current mufti of Egypt, Dr Shawki Allam, issued fatwa number 3246 on 14 May 2015 permitting the cremation of the dead bodies of Ebola victims and then *their burial in graves* if specialised experts confirm that cremation is the required method to stop the spread of the Ebola virus disease. Since it was scientifically established that people would die from the spread of the infection if the dead bodies of Ebola victims were not cremated, the mufti of Egypt grounded his fatwa on the protection of life (*hifz al-nafs*), which is the second of the five ultimate objectives of Islamic law for many jurists, while understandably ranked first for many others such as Al-Razi (d. 1209), Al-Qarafi (d. 1285) and

Al-Baydawi (d. 1286).⁵⁸ The current mufti of Egypt also grounded his fatwa on a number of Islamic legal maxims pertaining to the cases of harm and necessity such as: 'harm must be removed', 'necessity lifts prohibitions/makes the unlawful lawful' and 'necessity is measured according to its proportion'. Furthermore, he adds that under Islamic law, in case of irreconcilable contradiction between the rights of the dead and the rights of the living, the latter are given priority. Nonetheless, other scholars and muftis rejected this fatwa because they considered that cremation is still prohibited even in this case.⁵⁹

In the light of this strict Islamic prohibition and of the consequent concern raised over forced cremation by followers of the Islamic – and Jewish – faiths, the UK government amended an emergency COVID-19 Bill to stop cremation when performed against the wishes of Muslim and Jewish families.⁶⁰ The UK government's decision was referred to in the appeal of the Muslim community in Sri Lanka to President Gotabaya Rajapaksa to stop the cremation of Muslim COVID-19 victims.⁶¹ Bearing in mind that two of the early COVID-19 victims belonging to the Muslim faith in Sri Lanka 'were forcibly cremated on the instructions of the authorities and against the wishes of the deceased's families', and due to the sensitivity of this issue for the Muslim community, Amnesty International expressed the concern, on 3 April 2020, that 'religious tensions could be inflamed if Muslim families [are] not allowed to bury relatives in accordance with religious practice'.⁶²

Over and again, it surfaced in the discussion above that Muslim jurists emphasise that the Islamic rulings pertinent to COVID-19 are largely based on, and intrinsically linked with, the scientific, medical and forensic evidence provided by the specialised experts. Following the same legal logic given in fatwa number 3246 issued by the current mufti of Egypt on the permissibility of the cremation of the dead bodies of Ebola victims, the cremation of COVID-19 victims could be permitted only if specialised experts confirm that cremation is the required method to stop the spread of the infection. The WHO's guidance on infection prevention and control for the safe management of bodies in the context of COVID-19 shines a clear light on the question, stating that '[t]o date there is no evidence of persons having become infected from exposure to the bodies of persons who died from COVID-19'.⁶³ However, a low risk still exists from the aerosolisation of fluids from the body; a risk that is greater for healthcare and deathcare workers who may be involved in the examination of a dead body or in the cleaning of a mortuary area following autopsy. Yet, the cremation of the remains of individuals who have died from COVID-19 remains impermissible under Islamic law.

Due to their concern over the decision of some non-Muslim-majority states to cremate the dead bodies of all people who have died from COVID-19, fatwa requests were sent to Islamic authorities and Muslim jurists to inquire about what the families of the deceased Muslims should do in this difficult situation. For example, in a fatwa given in response to a query he received from the Muslim community in Sri Lanka, Sheikh Ali Al-Qaradaghi added that if the efforts of Muslim-minority communities in non-Muslim-majority states failed to convince the authorities to stop the cremation of the dead bodies of Muslims who have died from COVID-19, the safety of the whole society is an obligation that takes priority over any other

issues and therefore the issue may be abandoned by the Muslim minorities so as to avoid societal unrest.⁶⁴ This fatwa, in which a unanimously agreed-upon and well-established Islamic obligation is overridden in favour of an Islamic objective, is another example of the flexibility and changeability of Islamic law and of its capability to respond to new challenges. Understandably enough, conflicting legal opinions are still expected in such situations, mainly due to the discretion of individual Muslim jurists in balancing the Islamic obligation in cases of necessity and harm.

Conclusion

The discussion above shows that the fatwas, Islamic guidance manuals and instructions issued by the Islamic institutions in both Muslim- and non-Muslim-majority states are considerably and continuously shaped by the available medical evidence and forensic guidelines, and thus demonstrates that Islamic law is able to adapt to the reality of handling the remains of people who have died from COVID-19. It is thus realistic and feasible to follow the medical and forensic authorities' instructions while also respecting Islamic burial laws. This is simply due to the fact that medical and forensic instructions based on scientific evidence – at least specifically in the case of COVID-19 – will never be in essence antithetical to the objectives of Islamic law. Put differently, the protection of human life, the prevention and removal of individual and communal harm and the safeguarding of the dignity of the dead are overarching objectives of both Islamic law, on the one hand, and the medical and forensic professions, on the other. Hence, the deliberations and exchange of specialised knowledge among Islamic law and medical and forensic experts and institutions have managed to ensure the proper and dignified handling of the mortal remains of COVID-19 victims in Muslim contexts, despite the number of challenges and incidents discussed throughout this article.

In the face of such a worldwide crisis, where global resources and science are struggling with the impacts of COVID-19, one of the lessons learned so far is that a transversal and multidisciplinary approach has to be followed to mitigate the impact of the pandemic. There is no doubt that handling the remains of COVID-19 victims could aggravate the global crisis if an adequate coordination between health authorities, humanitarian forensics and Islamic religious authorities does not take place and if guidance on the burial of Muslim victims of COVID-19 is not communicated and explained to the Muslim public through local imams, the media and community leaders – a scenario that would allow misconceptions and rumours to persist. Furthermore, the use of innovative tools such as social media outlets by Islamic institutions and authorities has helped them to respond quickly to the misconceptions, challenges and queries regarding the effects of COVID-19. It is remarkable that Islamic law experts and muftis have been issuing fatwas and communicating guidance regarding COVID-19 through Facebook live sessions,⁶⁵ live television programmes, infographic videos,⁶⁶ YouTube⁶⁷ and other social media outlets. The amount of global Muslim engagement and interest in what Islamic law says about such new issues and, for example, the fact that the dar al-ifta of Egypt alone 'issued

one million and 100,000 fatwas covering verbal, written, telephone and electronic means of communication⁶⁸ in 2019 indicate the significant role Islamic law plays in the daily lives of hundreds of millions of Muslims.

In conclusion, the case of the management of dead bodies of people who have died from COVID-19 has shown that the creativity and flexibility enshrined in the Islamic law-making logic and methodology, on the one hand, and the cooperation between Muslim jurists and specialised medical and forensic experts, on the other, have contributed to saving people's lives and mitigating the effects of the COVID-19 pandemic in Muslim contexts. What facilitates this success in the case of the COVID-19 pandemic is the existence of pure pragmatic imperatives in dealing with the issues in this case, mainly preventing individual and communal harm and maintaining the dignity of the dead. The interdisciplinary approach and deliberations/cooperation based on scientific and factual evidence about the fulfilment of universal and/or common values between different legal systems (religious or non-religious based), different cultural or traditional norms as well as scientific evidence can save people's lives, alleviate the daily suffering of literally billions of people and bring about more respect for human rights. In some cases, what matters is not only the type of message that is conveyed but also the identity of *who* conveys it and *how* it is communicated. The legal grammar and vocabulary of a certain legal system or traditions resonate with its adherents far more strongly than those of other systems. Dismissing the importance of education and information to the population and, if relevant, the use of informal norms and traditions that shape the behaviour of individuals in a given context, is an ill-considered position from policy, pragmatic and strategic perspectives. Failing to work together across different legal frameworks and traditions to fulfil at least what is already shared in common has a heavy price that sometimes is paid collectively on a global level.

Notes

Translated by Cadenza Academic Translations.

- 1 H.A. Kissinger, 'The Coronavirus Pandemic Will Forever Alter the World Order', www.wsj.com/articles/the-coronavirus-pandemic-will-forever-alter-the-world-order-11585953005
- 2 *Ibid.*
- 3 See J.N. Hays, *Epidemics and Pandemics: Their Impacts on Human History* (Santa Barbara, CA, ABC-CLIO, 2005).
- 4 See M.W. Dols, 'Plague in Early Islamic History', *Journal of the American Oriental Society*, 94:3 (1974), 371.
- 5 <https://sunnah.com/bukhari/76/43>.
- 6 <https://sunnah.com/bukhari/76/1>.
- 7 See Al-Azhar Global Electronic Fatwa Center, *al-Dalīl al-Sharī lil-Ta'āmul ma' Vairus Kūrūnā al-mustajad (Covid-19)* (Al-Azhar Global Electronic Fatwa Center: [Cairo], [2020], pp. 12, 42, 47, available: <https://drive.google.com/file/d/1-cDQrZnjUvumkNiy33jbgTTeCcguHZWH/view>).

- 8 See <https://islamiclaw.blog/2020/03/15/covid-19-and-islamic-law-roundup/>, accessed on 27 July 2020.
- 9 See Tony Blair Institute for Global Change, 'Snapshot: How Extremist Groups Are Responding to Covid-19 (11 June 2020)', pp. 2, 3, 4, 5, available: <https://institute.global/policy/snapshot-how-extremist-groups-are-responding-covid-19-11-june-2020>; www.aljazeera.com/news/2020/03/taliban-promises-safe-passage-coronavirus-health-workers-200318162138283.html.
- 10 http://president.gov.pk/press_releases.html.
- 11 The president of Pakistan wrote in a tweet: 'I request Ulema to take urgent action to stop #CoronaVirus spread in Pakistan, based on principles of Islam from Quran & Sunnah.'
- 12 M. Şabri, *Fatāwā al-ʿUlamā ḥawl Fayrūs Kūrūnā* (Cairo, Dār al-Bashīr, 2020), pp. 13–15; www.facebook.com/AIRCAzhar/posts/2526762810916585.
- 13 The tweet reads: 'I am thankful to Grand Imam Shaikh of Al Azhar & Supreme Council, for responding to my personal request to provide guidance to us with regard to Farz Jamaat & Juma prayers in mosques during #CoronaVirusPakistan attack. The details of Fatwa are below for our Ulema to take action.'
- 14 www.bbsi.org.uk/wp-content/uploads/2020/05/BBS10G8-Guidance-for-Eid.pdf.
- 15 www.anic.org.au/wp-content/uploads/2020/04/Important-notice-Coronavirus-Update-Fatwa.pdf.
- 16 www.darah.org.sa/index.php/st-and-rep/darah-events/101-22-10-2018; www.siasat.com/hajj-has-been-cancelled-40-times-history-1874010/.
- 17 www.aljazeera.com/news/2020/04/epidemics-war-impacted-muslim-worship-history-200420210254391.html.
- 18 www.oic-oci.org/page/?p_id=64&p_ref=33&lan=en#FIQH.
- 19 www.oic-oci.org/topic/?t_id=23480&t_ref=13985&lan=en.
- 20 www.facebook.com/OfficialAzharEg/posts/3382271245120278
- 21 www.oic-oci.org/topic/?t_id=23480&t_ref=13985&lan=en.
- 22 See <https://drive.google.com/file/d/1-cDQrZnjUvumkNiy3jbgTleCcgHZWH/view>, pp. 60, 64.
- 23 www.oic-oci.org/topic/?t_id=23480&t_ref=13985&lan=en.
- 24 See, for example, N.A. Abu Liyah, *Al-Nawāzil al-fiqhiyah wa Manāhij al-Fuqahāʾ fī al-Taʾāmul maʾahā* ([n.p.], Dār al-Anwār, 2nd edn, 2015), pp. 9–11: www.aboulahia.com/c69.htm.
- 25 E.J. Powell, *Islamic Law and International Law: Peaceful Resolution of Disputes* (New York, Oxford University Press, 2020), p. 1.
- 26 *Ibid.*, p. 1, n. 1.
- 27 On 'how the changeability of Islamic law's presence in ILS' [Islamic law states] domestic legal system affects their views of international conflict management venues', see Powell, *Islamic Law and International Law*.
- 28 K. Abou El Fadl, 'Conflict Resolution as a Normative Value in Islamic Law: Handling Disputes with Non-Muslims', in Douglas Johnston (ed.), *Faith-Based Diplomacy: Trumping Realpolitik* (New York, Oxford University Press, 2003), p. 201.
- 29 I.A. Rabb, 'Interpreting Islamic Law through Legal Canons', in K. Abou El Fadl, A.A. Ahmad and S.F. Hassan (eds), *Routledge Handbook of Islamic Law* (London,

- New York, Routledge, 2019), pp. 222, 226–7. On Islamic legal maxims in criminal law, see, for example, L. Zakariyah, *Legal Maxims in Islamic Criminal Law: Theory and Applications* (Boston, Leiden, Brill Nijhoff, 2015).
- 30 Rabb notes that Muslim ‘Jurists frequently incorporated legal canons into their works of substantive law and jurisprudence. Through legal canons, they offered restatements of settled or disputed legal policies, provided rationales for their opinions, and derived new rulings for novel cases. Judges also used legal canons in their courts. Through regular use of legal canons, they resolved cases, helped allocate power and constructed an Islamic law of procedure.’ Rabb, ‘Interpreting Islamic Law’, p. 238.
- 31 A few months before the outbreak of the COVID-19 pandemic, Rabb points out that: ‘In almost every country, whether Muslim-majority or not, legal canons play a sizeable role in jurists’ opinions (fatwas) issued by non-state-affiliated experts on Islamic law. These developments underscore the continued scholarly relevance and reach of the history of Islamic legal canons.’ Rabb, ‘Interpreting Islamic Law’, p. 240.
- 32 Rabb, ‘Interpreting Islamic Law’, pp. 221–2.
- 33 On the ultimate objectives of Islamic law, see, for example, F. Opwis, ‘Maqāṣid al-shari‘ah’, in K. Abou El Fadl, A.A. Ahmad and S.F. Hassan (eds), *Routledge Handbook of Islamic Law* (London, New York, Routledge, 2019), pp. 195–207.
- 34 http://canadiancouncilofmams.com/wp-content/uploads/2020/03/CCI_MMAC_Ghusl-and-Burial-Guidance.pdf.
- 35 <https://drive.google.com/file/d/1-cDQrZnjUvumkNiy33jbgTIEcCguHZWH/view>.
- 36 www.aliftaa.jo/Decision.aspx?DecisionId=636#.XoEXn0xuLwq.
- 37 The original French text reads: ‘Le rituel du lavage du corps, que ce soit à la morgue de l’hôpital ou la morgue municipale, doit être supervisé par l’équipe de gestion locale (réduire au minimum l’usage de l’eau, les projections de l’eau et les rituels appliqués)’. www.sante.gov.ma/Documents/2020/coronavirus/corona%2003/PROCEDURE%20GESTION%20DECES%20DELM.pdf.
- 38 www.amjaonline.org/fatwa/en/87734/the-rights-of-the-muslims-who-die-with-covid-19-on-the-muslim-community.
- 39 The fatwa number 87734 issued by the Assembly of Muslim Jurists of America’s Resident Fatwa Committee explains that: ‘The dead are offered tayammum (dry ablution), just as the living would perform it, by striking the dust (or a stone) with the two hands and then wiping the face and hands of the deceased with them, even while wearing gloves. If dry ablution was also prevented or its harm was justifiably feared, then the obligation drops all together.’ www.amjaonline.org/fatwa/en/87734/the-rights-of-the-muslims-who-die-with-covid-19-on-the-muslim-community.
- 40 www.amjaonline.org/fatwa/en/87734/the-rights-of-the-muslims-who-die-with-covid-19-on-the-muslim-community; www.sistani.org/arabic/archive/26406/26406/.
- 41 See A.A. ibn Najm al-Khallal, *‘Iqd al-Jawāhir al-Thamīnah fī madhhab ‘ālim al-Madīnah*, ed. M. ‘Uthmān (Beirut, Dār al-Kutub al-‘Ilmiyyah, 2010), pp. 236–7.
- 42 See <https://drive.google.com/file/d/1-cDQrZnjUvumkNiy33jbgTIEcCguHZWH/view>.

- 43 [https://www.youm7.com/story/2020/3/25/-](https://www.youm7.com/story/2020/3/25/) كورونا/نا/4688241-دار-الإفتاء-يجوز-صلاة-الغائب-على-أرواح-المتوفين-بغير-وس. According to fatwa number 87734 issued by the Assembly of Muslim Jurists of America's Resident Fatwa Committee: 'The funeral prayer is one of the rights of our dead, and it is a communal obligation: if one person performed it, the rest will not be liable, and if there were more than one person, they pray in congregation behind the imam, while keeping the recommended distance between each of them. This will not invalidate their prayer. Whoever wants to pray at the grave afterwards or perform the absentee prayer, they may do that.' www.amjaonline.org/fatwa/en/87734/the-rights-of-the-muslims-who-die-with-covid-19-on-the-muslim-community.
- 44 www.aliftaa.jo/Decision.aspx?DecisionId=636#.XoEXn0xuLwq.
- 45 <https://mcb.org.uk/community/covid-19-muslim-burial-resources/>.
- 46 www.rudaw.net/english/middleeast/iraq/30032020.
- 47 www.egypttoday.com/Article/1/84590/Egypt%E2%80%99s-Al-Azhar-Grand-Imam-Refusal-of-burying-COVID-19.
- 48 www.dar-alifta.org/AR/ViewFatwa.aspx?ID=15341&LangID=1&MuftiType=&D8%A7%D9%84%D8%A7%D9%85%D8%AA%D9%86%D8%A7%D8%B9_%D8%B9%D9%86_%D8%AF%D9%81%D9%86_%D9%85%D9%88%D8%AA%D9%89_%D9%83%D9%88%D8%B1%D9%88%D9%86%D8%A7.
- 49 www.youm7.com/story/2020/8/19/%D8%A7%D9%84%D8%B3%D8%AC%D9%86-%D9%85%D9%86-%D8%B9%D8%A7%D9%85-%D9%84%D9%8010-%D8%B3%D9%86%D9%88%D8%A7%D8%AA-%D9%84%D9%8042-%D9%85%D8%AA%D9%87%D9%85%D8%A7-%D8%A8%D9%85%D9%86%D8%B9-%D8%AF%D9%81%D9%86-%D8%B7%D8%A8%D9%8A%D8%A8%D8%A9/4936691.
- 50 M. ibn Muḥammad ibn Aḥmad ibn al-Ikhwah, *M'ālim al-Qurbah fī Ṭalab al-Ḥisbah*, ed. M.M. Sha'bān and Ṣ.A. 'Isā al-Muṭī'ī (Cairo, Al-Hay'ah al-'Ammah lil-Kitāb), p. 106; A.A. ibn 'Umar ibn Muḥammad ibn al-Saḥaybānī, *Aḥkām al-Maqābir fī al-Sharī'ah* (Al-Damamn, Dār ibn al-Jawzī, 2005), p. 218.
- 51 Ibn al-Saḥaybānī, *Aḥkām al-Maqābir fī al-Sharī'ah*, pp. 221–4; A.R. ibn Gharmān ibn 'Abd Allah al-Karīmī Al-'Umarī, *Aḥkām al-Shahīd fī al-Fiqh al-Islāmī* (Al-Ṭā'if, Maktabah Dār al-Bayān al-Ḥadīthah, 2001), pp. 292–3.
- 52 Ibn al-Ikhwah, *M'ālim al-Qurbah fī Ṭalab al-Ḥisbah*, p. 106; Ibn al-Saḥaybānī, *Aḥkām al-Maqābir fī al-Sharī'ah*, p. 223.
- 53 See Ibn al-Saḥaybānī, *Aḥkām al-Maqābir fī al-Sharī'ah*, p. 231.
- 54 See A. Al-Dawoody, 'Management of the Dead from the Islamic Law and International Humanitarian Law Perspectives: Considerations for Humanitarian Forensics', *International Review of the Red Cross* 99:2 (2017), 770.
- 55 Ibn al-Saḥaybānī, *Aḥkām al-Maqābir fī al-Sharī'ah*, p. 236.
- 56 See, for example, fatwa number 1896 issued by Dar al-Ifṭā of Egypt on 26 June 2001: www.dar-alifta.gov.eg/ar/ViewFatwa.aspx?sec=fatwa&ID=11896; fatwa number 17513 issued by the General Presidency of Scholarly Research and Ifṭā in the Kingdom of Saudi Arabia: www.alifta.net/Search/ResultDetails.aspx?language=ar&lang=ar&view=result&fatwaNum=&FatwaNumID=&ID=12862&searchScope=3&SearchScopeLevels1=&SearchScopeLevels2=&highLight=1&

- SearchType=exact&SearchMoesar=false&bookID=&LeftVal=0&RightVal=0&simple=&SearchCriteria=allwords&PagePath=&siteSection=1&searchkeyword=216173216177217130032216172216171216171032216167217132217133217136216170217137#firstKeyWordFound; fatwa number 87734 issued by the Assembly of Muslim Jurists of America's Resident Fatwa Committee:
www.amjonline.org/fatwa/en/87734/the-rights-of-the-muslims-who-die-with-covid-19-on-the-muslim-community; fatwa issued by the Islamic High Council of Australia: www.darulfatwa.org.au/ar/%D8%AD%D9%83%D9%85-%D8%A5%D8%AD%D8%B1%D8%A7%D9%82-%D8%AC%D8%AB%D9%85%D8%A7%D9%86-%D8%A7%D9%84%D9%85%D8%B3%D9%84%D9%85/.
- 57 Powell, *Islamic Law and International Law*, p. 1.
- 58 www.dar-alifta.gov.eg/ar/ViewFatwa.aspx?sec=fatwa&ID=13425.
- 59 www.elnabaa.net/632207.
- 60 www.thejc.com/news/uk-news/government-to-amend-emergency-coronavirus-bill-to-stop-cremation-against-families-wishes-1.498364.
- 61 www.colombotelegraph.com/index.php/issue-of-corona-cremations-mr-president-please-respect-the-wishes-of-muslims/.
- 62 www.amnesty.org.uk/press-releases/sri-lanka-muslim-covid-19-victims-cremated-against-families-wishes.
- 63 World Health Organization, 'Infection Prevention and Control for the Safe Management of a Dead Body in the Context of COVID-19', Interim guidance, 24 March 2020, https://apps.who.int/iris/bitstream/handle/10665/331538/WHO-COVID-19-IPC_DBMgmt-2020.1-eng.pdf.
- 64 <http://iumsonline.org/ar/ContentDetails.aspx?ID=11323>.
- 65 <https://www.youm7.com/story/2020/3/25/->
كورونا/نا-الافتاء-يجوز-صلاة-الغائب-على-أرواح-المتوفين-بفيروس
- 66 www.facebook.com/609396492454634/posts/3081475915246667/?d=n.
- 67 www.youtube.com/watch?v=h0RNMZ2NtIU.
- 68 www.dar-alifta.org/Foreign/ViewArticle.aspx?ID=6918&CategoryID=1.