



Impact of covid-19 on the Islamic law of burial: An evaluation in perspective of Shariah objectives and Islamic legal Maxims

Dr. Nabeela Falak *

Assistant Professor, Department of Islamic Studies , the UOL, Sargodha Campus.

Abstract

This research paper aims to study and evaluate Islamic law of burial in context of death by epidemic (covid-19). Pandemic covid-19 brings impact to all aspects of human life, including in Islamic Fiqh. Therefore, Islamic fiqh continues to develop along with the development of the dynamics of community life and the problems of the age that surrounds it. As the number of coronavirus (COVID-19) deaths continues to rise across all regions of the world. Every culture and community has its own set of rituals to help ease the pain. 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 as well as for their living relatives. The nature and sheer scale of the current coronavirus (COVID-19) pandemic, however, has created a number of questions, challenges and even rumors in Muslim-majority states as well as for Muslim communities around the world. In handling the remains of COVID-19 victims, whether in Muslim or non-Muslim majority states, Islamic rules developed by Muslim jurists and Islamic authorities must be guided by two considerations: First, the lives of body handlers and rest of the community must not be endangered. The protection of life (Hifz al-nafs) is the first of the five ultimate objectives of Islamic law (maqāsid al-sharī'ah) 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. This pragmatic approach is characteristic of Islamic law, as evidenced in the Islamic legal maxims pertinent to the COVID-19 pandemic: For example “al-ḍarar yuzāl” (Harm must be removed), and “Al-Mashaqqah tajlib al-taysīr” (Hardship begets ease)



etc. This paper finds the impact of pandemic (covid-19) on law of burial in perspective of objectives of Islamic sharī'ah and Islamic Legal maxim.

Keywords: *Pandemic Covid-19, effect, law of burial, perspective, objectives of Islamic law, Islamic legal maxims.*

1. Introduction

COVID-19 is an acute respiratory disease SARS-CoV-2 that mainly affects the lungs and associated with mental and neurological manifestation amongst others. Most COVID-19 patients experience fever, cough, fatigue, anorexia, and shortness of breath. (1) However other non-specific symptoms may include sore throat, nasal congestion, headache, diarrhea, nausea, and vomiting.

Losing a loved one is one of the most difficult things we have to go through in life, even under the best of circumstances. Every culture and community has its own set of rituals to help ease the pain, from Hindus gathering to burn corpses along the Ganges River to the Jewish tradition of receiving condolences at home during a seven-day mourning period.

A death due to covid-19 is defined for surveillance purposes as a death resulting from a clinically compatible illness, in a probable or confirmed covid-19 case, unless there is a clear alternative cause of death that cannot be related COVID disease (e.g trauma). There should be no period of complete recovery from covid-19 between illness and death. (2)

2. Safe management of a dead body in the context of covid-19

World health organization (WHO) has announced the safety procedure for managing the bodies of deceased persons infected with covid-19 should be consistent with those that apply to the autopsies of people who have died an acute respiratory illness or other infectious diseases. If a person died of covid-19 while he or she was infectious, lungs and other organs may still contain live virus. If the body of a person with suspected or confirmed covid-19 is selected for autopsy, health-care facilities must ensure that safety measures are in place to protect those performing the autopsy including: appropriate PPE (personal protective equipment) must be available, including a scrub suit, a long sleeved fluid-resistant gown, gloves, a medical mask, eye protection (face shield or goggles), and boots/ footwear protection. (3)

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 as well as for their living relatives. The nature and sheer scale of the current coronavirus (COVID-19) pandemic, however, has created a number of questions,

challenges in Muslim-majority states as well as for Muslim communities around the world.

On the basis of this experience, this article offers expertise on one of the humanitarian challenges caused by the COVID-19 crisis: how Islamic burial laws can be referenced and adapted to the numerous protection challenges in Muslim contexts for a more dignified handling of mortal remains. Issues related to those who have died from the corona virus, washing their bodies, their burial and funeral prayers.

3. Research questions:

1. What is impact of covid-19 on the Islamic law of burial.?
2. Is it permissible to do funeral prayer for the bodies died with corona virus and bury them without doing Gusal or Tayammum?
3. What is the directives of Islam about Salat-ul-Ghaib for the funeral since only a very limited persons can attend the Salat-al –Jnazah?

4. Islamic burial laws:

According to Islamic tradition, the burial of a deceased person is a collective obligation

(فرض الكفاية) (*fard kifāyah*) by the Muslim community. This obligation consists of (غسل) *ghusl*, ritual washing of dead bodies, (كفن) *kafan*, or shrouding the body with pieces of cloth and finally (صلاة الجنازة) *salat al-janazah*, a funeral prayer.

In handling the remains of COVID-19 victims, whether in Muslim or non-Muslim majority states, Islamic rules developed by Muslim jurists and Islamic authorities can be guided by two considerations: according to the Sharia objectives (مقاصد الشريعة) (*maqāṣid al-sharī‘ah*) (4) and Islamic legal Maxims (قواعد فقهيية) (Qwaid e Fiqhiya) (5)

The protection of life (حفظ النفس) (*hifz al-nafs*) (6) is the first of the five ultimate objectives of Islamic law (*maqāṣid al-sharī‘ah*) and therefore overrides any other Islamic obligations. The lives of body handlers and rest of the community must not be endangered. 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 laws for the victims of COVID-19 is dependent on the available medical evidence of how such a practice could put a life at risk.

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. This pragmatic approach is characteristic of Islamic law, as evidenced in the Islamic legal maxims pertinent to the COVID-19 pandemic:

1. Harm must be removed (*al-darar yuzāl*); الضرر يزال
2. Hardship begets ease (*Al-mashaqqah tajlib al-taysir*); المشقة تجلب التيسر
3. Necessity lifts prohibitions/makes the unlawful lawful (*Al-darūrāt tubīh al-mahzūrāt*); الضرورات تبيح المحظورات
4. Necessity is measured according to its proportion (*Al-darurah tuqaddar biqadariha*); الضروره تقدر بقدرها and
5. Matters shall be judged by their objectives (*Al-umūr bimaqāsidhā*). الامور بمقاصدها (7)

Current Islamic burial practices in both Muslim and non-Muslim majority states must be shaped by the available medical evidence and forensic recommendations and research guidelines. (8) However, to date, the medical knowledge and scientific evidence related to the COVID-19 pandemic are incomplete. That is why the guidance provided by Islamic and health authorities differ with regard to Islamic burial laws.

5. Washing Ritual

About the washing ghusl there are two views, one is that, in normal circumstances it is mandatory to wash the body of the deceased, and if for some valid reasons, ghusl is not possible, then Tayammum should be done. This is the part of respect due to the deceased. However these emergency conditions. not normal. Persons working with coronavirus victims are on the risk of contagion while doing ghusl or tayammum are very serious. Staff not getting necessary and protective slandered and they are forced to attend the patients unprotected. With this high risk dead body should be buried without ghusl or tayammum, because the principle of Islamic Law tell us, "Harm must be removed" (*al-darar yuzāl*); (9) الضرر يزال

The required Ghusl, or ritual washing the dead body can be performed as normal for COVID -19 victims, provided that the necessary protective measures are put in place. Forensic guidance includes 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 food, drink, or eating and drinking utensils. (10)

If health authorities conclude that normal *ghusl*, which includes scrubbing the body of the deceased person, could lead to infection, then merely pouring or just spraying water onto the body is sufficient. This is confirmed practical Islamic approach to the issue according to the Shariah Objectives (Hifz e Nafas حفظ النفس) (11) 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 be sufficient.

If spraying water could also lead to infection, then dry purification, or Tayammum, (12) should be performed. Both Iran's Supreme Guide, Ali Khamenei and his eminence Al-Sayyid Ali Al-Husseini Al-Sistani, the prominent Shi'ī authorities, have issued recent Fatwas to this effect.(13)

If none of the above is permitted by the health authorities, as is the case for example in Algeria, France and Tunisia, then the body should be buried without Ghusl or Tayammum.(14) This is not a new Islamic position. 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.(15)

6. Shrouding (kafan)following

Following same approach as with ghusl, shrouding can be done only if there is no risk of infection. Regarding the burial of those who have died from COVID-19, Ayatollah Al-Sistani proclaimed that the three layers of shroud could wrap the body even from outside the body bag and, if that is not possible, then a single shroud could cover the whole body.(16)

7. Funeral prayer (*salat al-ghā'ib*)

The funeral prayer requirements should not constitute an issue in the context of COVID-19 because it can be performed by a minimum of two individuals. Furthermore, funeral prayers can be performed at the grave after the burial of the dead. Alternatively, absentee funeral prayer (الصلوة الغائبة) (*salat al-ghā'ib*) can be performed on COVID-19 victims. Most Muslim-majority states have closed mosques and advised that funeral prayers should be performed in open spaces or cemeteries and ensuring the minimum number of people. (17)

8. Denying burial of COVID-19 victims

The refusal to bury the mortal remains of COVID-19 victims is due to the misperception that corpses could spread infection in nearby population centers. These types of rumors led Dr. Ahmed al-Tayyeb (the Grand Imam of Al-Azhar, the highest religious authority in the Sunni world) condemning and prohibiting this practice.(18)

This illustrates the need for strengthened cooperation between authorities, Islamic institutions and humanitarian organizations – more specifically, humanitarian forensics experts – to ensure a dignified burial of the dead. Dissemination and communication is crucial, both on the relevant scientific evidence as well as the fact that burying the dead as a collective obligation (فرض الكفاية) (*farḍ kifāyah*) in

Islam means that the entire Muslim community would be guilty if they failed to fulfill this communal duty.

9. Cremation

In Islamic law and Muslim cultures, burying the dead in the ground is regarded as the correct way of respecting dead bodies, while cremation is prohibited because it is considered a violation of the dignity of the human body.(19)Cremation of the remains of individuals that have died from COVID-19 has therefore been a great concern for Muslim communities in some non-Muslim majority states.

. In Sri Lanka, the Muslim community appealed on 26 March 2020 to President to stop the cremation of COVID-19 Muslim victims. On 3 April 2020, Amnesty International expressed concern that ‘religious tensions could be inflamed if Muslim families not allowed to bury relatives in accordance with religious practice’, noting that two of the early COVID-19 victims belonging to the Muslim faith were ‘forcibly cremated on the instructions of the authorities and against the wishes of the deceased’s families’.(20)

The World Health Organization’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 debate, stating that ‘To date there is no evidence of persons having become infected from exposure to the bodies of persons who died from COVID-19’. However, a low risk does still exist from the aerosolization of fluids from the body, a risk that is greater for health care and death care workers who may be involved in the examination of a dead body or the cleaning of a mortuary area following autopsy.(21)

Conclusion

Islamic burial laws and instructions from health authorities in Muslim-majority states are considerably and continuously shaped by the available medical evidence and forensic guidelines, demonstrating that Islamic law is able to adapt to the reality of handling the remains of people who have died from COVID-19. In other words, it is realistic to follow authorities’ medical and forensic instructions while also respecting Islamic burial laws. Nonetheless, handling the remains of COVID-19 victims could aggravate this global crisis if adequate coordination between health authorities, humanitarian forensics and Islamic religious authorities does not take place and if guidance on the burial of the COVID-19 Muslim victims is not communicated and explained to the Muslim public through local imams, the media, and community leaders – a scenario that will allow misconceptions and rumors to persist. In the Islamic legislative process, Muslim jurists use certain Islamic sources and legal tools to develop laws regulating the handling of remains of individuals

who have died from COVID-19, guided by the objectives of preventing individual and communal harm and maintaining the dignity of the dead. To fulfill these objectives, humanitarian forensic scientists, protection, communication and networking delegates require basic understanding of the above Islamic positions, the Islamic legal system, its sources and legal tools, coupled with an awareness of the different practices in various Muslim cultures and contexts , that will help them to communicate key messages and facilitate discussions on common ground using a culturally sensitive approach.

References

1. Clinical management of COVID-19: interim guidance, Geneva: World Health organization;2020. (<https://apps.who.int/iris/handle/10665/332196> accessed , 2020)
2. International guideline for certification and classification (coding) of COVID-19 as cause of death, 16th April 2020.
3. <https://apps.who.int/iris/handle/10665/331695> accessed 20 May 2020.
4. See Al- Mawafqat, Imam Shatbi, Maktaba Rehmania, Egypt, Darul. Ahya, Turath ul Arabi, Beirut, Labnan, 2001
5. See Al- Ishbah wa Nazair, Ibne Nujam,
6. Al- Mawafqat, Imam Shatbi, Maktaba Rehmania, Egypt, Darul. Ahya, Turath ul Arabi, Beirut, Labnan, 2001
7. Al- Madkhlil lil Fiqh il Aam, Mustafa Zarqa, p:954
8. <https://apps.who.int/iris/handle/10665/331695> accessed 20 June 2020.
9. Al- Madkhlil lil Fiqh il Aam, p:954
10. World Health Organization(<https://apps.who.int/iris/handle/10665/331846> accessed 12 June 2020).
11. Al- Mawafqat, Imam Shatbi, p : 453
12. <https://www.icna.org/washing.ghusl-of-coronavirus-victim>
13. <https://sistani.org/arabic/archive/26406>
14. Ibid

*Impact of covid-19 on the Islamic law of burial: An evaluation in
perspective of Shariah objectives and Islamic legal Maxims*

15. See ‘Abd Allah ibn Najm al-Khallal, *‘Iqd al-Jawāhir al-Thamīnah fī madhhab ‘ālim al-Madīnah*, ed. Mohammad ‘Uthmān, (Beirut: Dār al-Kutub al-‘Ilmiyyah, 2010), pp. 236--
16. <https://sistani.org/arabic/archive/26406>
17. Infection prevention and control for the safe management of a dead body in the context of COVID-19, interim guidance, 24, March 2020. P:4.
18. Egypts-al-azhar-grand, Imam-refusal-of burying,covid-19
19. On the Islamic position on cremation in general and a fatwa by the current Grand Mufti of Egypt on the cremation of the dead bodies of Ebola victims, see *Ibid.*, p. 774.
20. [Hps://www.amnesty.org/ut/press-releases/sri-lanka-muslim-covid-19-victim-cremation-against-family-wishes](https://www.amnesty.org/ut/press-releases/sri-lanka-muslim-covid-19-victim-cremation-against-family-wishes)
21. Infection prevention and control for the safe management of a dead body in the context of COVID-19, interim guidance 4 September 2020.