

'Adam Al-Haraj: A Rukhshah Application in the Implementation of Islamic Law in Modern Society Life

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Abstract: *'Adam Al-Haraj: A Rukhshah Application in the Implementation of Islamic Law in Modern Society Life.* One of the principles of Islamic teachings is to ease people's lives or to eliminate the difficulty. If in a certain occasion, people find it difficult (*masyaqqah*) to perform any obligations, Islam then gives a relief (*rukhsah*). For instance, when Muslims are travelling (*safar*) with a certain distance, they will get any easiness for their obligations, such as prayer. However, there is condition for the easiness. Given to the two situations, first people who travelling by air plane with hundred kilometers distance are comfortable because of the plane and they can travel fast. Another situation is people spending for ages because of the traffic jam are exhausting because of long journey. Those people who travel by plane are eligible to obtain *rukhsah* because they travel with hundred kilometers distance, while those who are stuck in the traffic jam are not. These situations absolutely need to be investigated.

Keyword: *'adam al-haraj, rukhsah, Islamic law, modern society*

Abstrak: *'Adam Al-Haraj: Aplikasi Rukhsah dalam Implementasi Hukum Islam dalam Kehidupan Masyarakat Modern.* Salah satu prinsip ajaran Islam adalah untuk memudahkan kehidupan orang atau untuk menghilangkan kesulitan. Jika dalam kesempatan tertentu, orang merasa kesulitan (*masyaqqah*) untuk melakukan kewajiban, Islam kemudian memberikan bantuan (*rukhsah*). Misalnya, ketika Muslim bepergian (*safar*) dengan jarak tertentu, mereka akan mendapatkan kemudahan untuk kewajiban mereka, seperti shalat. Namun, ada syarat untuk kemudahan itu, antara lain adanya kesulitan Sebagai contoh, orang yang terjebak dalam kemacetan yang parah, meski jarak perjalanan yang akan ditempuh hanya 2 km namun karena menghabiskan, atau menyita waktu yang lama, sehingga menyebabkan kelelahan fisik maupun mental, orang tersebut berhak untuk mendapatkan *rukhsah*. Sebaliknya, seseorang yang melakukan perjalanan menggunakan pesawat, walau jarak tempuhnya ratusan kilometer, tetapi karena dalam perjalanannya penuh kenyamanan, maka ia tidak memperoleh keringanan *rukhsah*.

Kata Kunci: *'adam al-haraj, rukhsah, hukum Islam, masyarakat modern*

Introduction

In Islamic law, there are five (5) categories of Islamic law such as *wajib* (compulsory), *mandūb*, *haram*, *makrūh*, and *mubah*.¹ Basically, the five categories apply to all Muslims in general, without exception and that provision has been applicable since the period of Islam first known during the Prophet period. Thus, the study of *Ushūl Fiqh* is called *‘Azīmah*.²

One of the principles of Islamic teachings is to ease people's lives or to eliminate the difficulty.³ If there are troubles, difficulty, fatigue, or exhaustion (*masyaqqah*)⁴ to perform an obligation, then there always is relief and easiness coming along with the difficulty which is called the *rukhsah*.⁵

Among *masyaqqah* (situation or problems), there is a term called *safar* or travelling. In the Islamic law, *safar* is discussed in details in the study of *fiqh al-Musafir*. It is the discussion about how Islamic law manages people who are travelling do worship. There is always easiness in performing prayer during travelling. Some of them are below:

1. Perform *tayamum*.⁶
2. Perform *jamak* prayer.⁷

¹ Amir Syarifuddin, *Ushul Fiqh*, Volume I, (Jakarta: Logos, 2000), p. 288-316. See Muhammad Nur Ali. "Perbuatan dan Tanggungjawab Hukum dalam Konsep Ushul Fiqh." *Istinbath: Jurnal Hukum* 12, no. 1 (2015): p. 23.

² See more Nasrun Haroen, *Ushul Fiqh 1* (Jakarta: Logos, 1997), p. 276-277.

³ Fathurrahman Djamil, *Filsafat Hukum Islam* (Jakarta: Logos, 1997), p. 66-73.

⁴ See Abdul Syatar, *Konsep Masyaqqah Perspektif Hukum Islam (Implementasi Terhadap Isu Fikih Kontemporer)*, Tesis, Program Pascasarjana UIN Alauddin Makassar, 2012, h. 71. See also Andul Natsir. "Abortus Atas Indikasi Medis Menurut Konsep *al-Dlarurat* dalam Islam." *Sumbula: Jurnal Studi Keagamaan, Sosial dan Budaya* 2, no. 2 (2017): p. 569.

⁵ Executing a command executed in contrast to what is established Syar'i in general because there are elderly (obstruction). Nasrun Haroen, *Ushul Fiqh 1*, p. 278. See Siti Khatijah Ismail, and Nadhirah Nordin. "*Raf'u Al-Haraj* In Al-Qur'an: Inspiring The Innovation In Dignity Protection During Maternity Care (Konsep *Raf'u Al-Haraj* Menurut Alquran dan Inspirasinya dalam Inovasi Penjagaan Maruah Ketika Prosedur Materniti)." *Malaysian Journal For Islamic Studies* 2, no. 2 (2018): p. 109. Siti Khatijah Binti Ismail, Ridzwan Bin Ahmad, Sumayyah Binti Abdul Aziz, and Salman Bin Amiruddin. "Keperluan Membuka Aurat Ketika Rawatan Antenatal Menurut Perspektif *Maqasid al-Syari'ah*." *Jurnal Islam dan Masyarakat Kontemporari* 12, (2016): p. 40.

⁶ *Tayamum* is one form of purification of major impurity and minor ritual impurity using a cleaner with a particular procedure.

⁷ To merge two obligatory prayers, done at one time. See Arisman. "Jamak dan Qadha Salat Bagi Pengantin Kajian Fiqh Kontemporer." *Hukum Islam* 14, no. 1 (2014): p. 1-7.

3. Perform *qasar* prayer.⁸
4. The prayer's direction (*Qiblah*) is in line with the direction of passing vehicles.
5. Perform prayers in a sitting position on the bench seat.⁹

To obtain any *rukhsah* above, the scholars determine some requirements, as follows:

1. The journey is not for immoral purposes.
2. The distance is 93 kilometers away from where they are currently living in.

M Quraish Shihab argues that to obtain *rukhsah*, some one does not need to travel with certain distance, which is often called *masafah safar*. In contrast, Jumhur scholars point out that they are required to travel with at least 93 km as a condition to obtain *rukhsah* or relief in a worship. According to Quraish Shihab, there is a situation where people could not avoid a traffic jam for quite a while and it makes them exhausted and even fatigue which can make these people obtain any *rukhsah*.¹⁰

In a different case, people who are travelling by plane could get *rukhsah*, but this is still debatable. Those who use the aircraft can cover hundreds or even thousands of kilometers in a relatively short time and they are travelling comfortably. This condition is different from that of those who are travelling by bus or train. Despite their long journey, they are on a plane, are feeling well and are not fatigue. The question is whether they deserve to obtain *rukhsah* in the implementation of worship? In terms of mileage, they have traveled far away reaching 93 km which is supposed to have met the requirements to obtain *rukhsah*. However, they do not meet *masyaqqah* on that journey. That is among the

⁸ Qasar means to condense; abbreviate the prayer-prayer that *rubaiyah* (totaling four cycles) into two cycles.

⁹ Jayusman, *Fiqh al-Musafir*, power point topic of discussion in the course of Fiqh, Islamic Theology Faculty of IAIN Raden Intan Lampung, 2015. See Muhammad Khoirul Wahdin. "Maqashid Ayy-Syariah: Perlindungan Anak Difabel Pada Yayasan Sayap Ibu, Yogyakarta." *Al-Ahwal: Jurnal Hukum Keluarga Islam* 8, no. 2 (2016): p. 220.

¹⁰ M. Quraish Shihab, *Tafsir al-Misbah* (Jakarta: Lentera Hati, 2009), p. 463.

problems related to *'Adam Al-Haraj* faced by the Muslims. Accordingly, these problems will be discussed on this paper.

The Responsive Islamic Law on Surroundings and Any Situations: Study about *Azîmah*, *Rukhshah*, and *Dharûrah*

Islamic law contains commands and prohibitions which are essential within the limits of *mukallaf* ability to implement them. Allah does not overburden His people except within their limits.¹¹

The ability of humans to keep God's commandments is varied. What do people do in normal or ordinary circumstances possibly for certain people or in certain conditions can be very demanding. To obtain many benefits for people, God excludes certain parties from the provision of a general nature. This exception is given by God in the form of a different legal provisions with a predetermined law. Accordingly, there are two different legal categories, namely: law whose application is in accordance with the applicable legal provisions and is widely applicable is called *Azîmah* and a law whose application is different is originally called *rukshah*.¹²

Azîmah: Basically, every provision of *syara'* is a generally applicable regulation. Substantially, each *mukallaf* has the same obligation in relation to the general rules (*azîmah*);¹³ the same provision for every Muslim; there is no difference among them.

However in Islamic law, there is a term called *rukshah*. *Rukshah* is established because *nash* regulation is violated due to some reasonable reasons.¹⁴ In this respect, people within certain situation and condition can receive any easiness in worship or called *rukshah*.

If comparing the definition of *azîmah* and *rukshah*, it can be stated that *azîmah* is to carry out orders and stay away from the

¹¹ Amir Syarifuddin, *Usul Fiqh*, p. 321.

¹² Amir Syarifuddin, *Usul Fiqh*, p. 321.

¹³ See Moh. Toriquddin, "Teori Maqashid Syari'ah Perspektif Ibnu Ashur." *Ulul Albab Jurnal Studi Islam* 14, No. 2 (2013), p. 200.

¹⁴ Nasrun Haroen, *Usul Fiqh 1*, p. 278. See also Abd. Wahhab Khallaf, *Ilmu Usul Fiqh*, (Kuwait: Dar al-Qalam, t.t.), p. 121.

general and absolute prohibition;¹⁵ The command either mandatory or *mandûb*, either the prohibition is because of *haram* or *makrûh*. Meanwhile, *rukhsah* is lightness and spaciousness given to a *mukallaf* in conducting God's command and avoid what He forbids.¹⁶ *Azîmah* is the right of Allah upon His servants while *rukhsah* is a servant in grace and wisdom of God.¹⁷

Based on the above descriptions, it can be explained that there are at least five aspects related to the elaboration or explanation of *rukhsah*:

First, the change from hardness to easiness of the implementation of law. *Second*, The changes due to reasonable reasons. *Third*, Rules still remain applicable to other *mukallaf* who has no excuse or reason. *Fourth*, *hadits* about *rukhsah*. *Fifth*, *rukhsah* law is not the original law (*ashliyah*) but the branches (*far'iyah*) which are prescribed to provide ease and eliminate the difficulties.

Moreover, in a state of *dharûrah* (critical condition) which can threaten the existence of religion (*dîn*), soul (*nafs*), mind ('*aql*), descendant (*nasl*), and property (*mâl*),¹⁸ *rukhsah* is applicable, and even the people may do some forbidden things.

Masyaqqah: The Types, Levels, and Forms

In *ushûl fiqh*, there is a discussion about *ahliyah*. It is a discussion of the competent legal; someone's skill in the implementation of law. Someone's skill in the law implementation is actually influenced by the presence *masyaqqah* (difficulty).

Several causes of *masyaqqah* include: *al-safar* (on the long way), *al-maradh* (a diseased condition), *al-ikrah* (urgent situations), *al-nisyân* (forgotten), *al-nuqshân* (natural damage),¹⁹ *al-jahl* (ignorance), *al-'uzr*

¹⁵ See Firdaus, "Analisis Kedudukan Hukum dalam Alquran (Suatu Analisis Keadilan dan Kemanusiaan)." *DIKTUM: Jurnal Syariah dan Hukum* 10, no. 2 (2012): p. 136.

¹⁶ Amir Syrifuddin, *Usul Fiqh*, p. 323

¹⁷ Amir Syrifuddin, *Usul Fiqh*.

¹⁸ The fifth aspect is an aspect guarded and maintained by Syara 'to realize *maqasid al-shari'ah* See Fathurrahman Djamil, *Filsafat Hukum Islam*, p. 107

¹⁹ The purpose of understanding *al-nuqshân* are '*awaridh al-ahliyah*. The scholars of *fiqh* dividing barrier properties that can reduce or eliminate a person's competence to 2 (two) parts,

wa al-balwa (global disaster),²⁰ ie, disaster (*al-bala'*) occurs in societies where a person cannot avoid it or run away from it.²¹

The Categories and Forms of *Rukhshah*

Difficulty (*masyaqqah*) always comes along with some reliefs from Allah. According to al-Suyûti, ease, and lightness of the given law is based on the type of the reasons or excuses divided into six categories:

First, diminish a mandatory (*takhfif al-isqath*) thing, for example, the menstruating women may not perform prayer, Friday prayer, Hajj, Umrah, and Jihad. If all that work can not be done due to strong reasons with certain provisions, then the Shari'ah tolerated by removing the obligations. For the Friday prayer, it can be replaced with noon prayers as usual.

Second, reduce a mandatory (*takhfif al-tanqîsh*) thing, for example, the prayer for the traveler can be performed by *qasar*.

Third, replacing a compulsory obligation with another (*takhfif al-ibdal*), for example, *tayamum* instead of using water (take ablution) and shower. Another example is when performing prayer, if the people cannot stand, they can just sit, if sitting is not possible, they can even lay on the bed (*idhthija'*) and *idhthija'* can be replaced with gestures. Similarly, the freeing of a slave in *kaffarat* obligation that can be replaced with a

namely: (1). There is derived from the provision of God; beyond human power or ability to avoid it; called (*awaridh al-samawiah*). *Awaridh al-samawiah* it is given. Among other things: crazy, small children, idiots, forgetfulness, sleep, coma, bondage, pain, menstruation, parturition, died, and fainting. (2). And originating in or have a portion of their own deeds or effort mukallaf called *awaridh al-muktasabah*. Among other things: stupid, drunk, playing (banter), safih, by mistake, on the way, forced, death, and pain.

²⁰ Alaidin Koto, *Filsafat Hukum Islam* (Jakarta: RajaGrafindo Persada, 2012), p. 149.

²¹ Ulama Usul split into two needs, common needs (*al-hajjah al-ammah*) and special needs (*al-hajjah al-khasshah*). The first type of requirement, a requirement that can not be avoided by the majority of people at various levels. This requirement in order to achieve common kemaslahan for them. The need of this kind include common *al-balwa* to obtain relief in the running of the Shari'a. The special needs are needs that only the particular person or of certain circles and of certain conditions. For example, certain circles and under certain conditions it is like the case of war. Many *rukhsah* given to people in a state of war. See more Osama Muhammad bin Muhammad as-Shallabi, *al-Rukhsah al-Syar'iah: Abkamuh wa Dawabithuha* (Alexandria: Dar al-Iman, 2002), p. 303.

two-month-fasting, or replace the obligation of fasting by feeding sixty poor people. Most of Hajj and Umrah obligation can be replaced by *kaffarah*. All the above forms of replacement may be done if we face any difficulty in worship and have reasonable reasons and this is what is meant by *takhfif Ibdâl*.

Fourth, putting mandatory (*takhfif taqdîm*) obligation as the first priority, such as paying *zakat* (obligatory alms), before *haul*, paying *zakat* at the beginning of Ramadan.

Fifth, putting mandatory obligations (*takhfif ta'khîr*) as the last priority, for example perform prayer in *jamak* ways and the travellers can replace their fasting after Ramadhan. Likewise Ramadan fasting obligation may be done in the months thereafter for people who are sick or traveler. May also end a prayer for someone who is saving the lives of others, either by drowning, fire and so forth.

Sixth, *takhfif tarkhîs* (ease to lighten the worship), for example, receive any treatments from *najis* things, something forbidden. Another case can also apply to those who mention any *kufur* things because of an insist. Likewise, someone who performs *tayamum* although her/his *hadas* are not disappeared but he or she is allowed to perform prayers, and those who *istinjak* using stone allowed to pray even though there are still dirt that can not be lost except by water.²²

The Categories and Forms of *Dharûrah*

Dharûrah comes from the word *dharra*, *yadhurru*, *dharran* which refer to damaging and harm. According to Ibn Nujaim (Hanafi), it is a situation when someone reaches her or his limit. If she or he does not do anything, it might harm her or himself (included religion, mind, descendant and property).

Emergency is a condition of necessity (which threatens the existence of religion (*dîn*), soul (*nafs*), mind ('*aql*), descendant (*nasl*), and property (*mâl*) or aspects maintained by *maqâshid al-sharî'a* that enable people

²² Al-Suyuti, *al-Aybah wa al-Nazhâ'ir fi al-Furu'* (Bayrut: Dar al-Fikr, 1996), p. 110.

do those prohibitions. There is a similar term to this condition which is called *ikrâh*. The second definition is the same. Emergency is a natural condition without any human involvement, for example: a state of starvation, thirst, and ill. While *ikrâh* is a necessity arose because of the human involvement, for example: people are threatened with guns to give false testimony. This emergency condition allow someone to do something banned/forbidden.²³

Terms of Emergency by Yusuf Qasim, as quoted by Aziz Nur Muslim as follows:

1. Danger
 - a. The danger actually has a forced-threatening and causes damage.
 - b. The danger had really happened and it is something no one expected.
2. Performer
 - a. The perpetrators do not do it because of their necessity in *Syar'i*, for example: killing for implementing *Qisas* law.
 - b. Performers do not want the danger happened.
3. Common actions to eliminate the danger.
 - a. Actions undertaken to eliminate the hazard is a must. If it is not done, it can cause damage and is also subject to sin.
 - b. Such actions must be adapted to the existing hazards; that is just necessary to eliminate damage.²⁴

Some methods or rules associated with emergency conditions are as follows:

1. *al-Dharar la yuzâl bi al-dharar* (damage cannot be eliminated with another damage). It cannot be removed/destroyed by similar damage. If not possible to eliminate it, it is better to choose/take a lighter one.
2. *Yatammal al-dharar al-khâsh lidaf'i dharar 'am* (suspended

²³ Dahlan Abdul Aziz, *Ensiklopedi Hukum Islam* (Jakarta: Ichtiar Baru Van Hoeve 1996).

²⁴ Aziz Nur Muslim, *Qawaid al-Dharurah*, in *Abkam: Jurnal Hukum Islam* 14, no. 2, (Nopember 2012), Tulungagung: Jurusan Syari'ah STAIN Tulungagung, p. 282.

- special danger for the sake of resisting common hazards).
3. *Dar-u al-mafâsid muqaddam 'alâ jalb al-mashalih*. If in case there is a benefit once the damage/*mafsadat* occurred, it should take precedence eliminate the damage in order to avoid the greater damage.
 4. *al-Dharûrah tubîhu al-mahzhûrât*. A state of emergency which makes the person may be doing something under the terms that are categorized as prohibited *Syara'*.²⁵
 5. *Mâ li al-dharûrah ubîhu yuqaddaru bi qadrihâ* (something is allowed because of emergency which is measured by some characteristics of urgency). The permissibility of the requirement is not for pleasure and just to avoid the situation which was not good and difficult, accidentally sin, and do not transgress. *Malikiah* among states may for example take something that is forbidden under emergency conditions until they are satisfied because something is (which had been forbidden at first) lawful for him. One might even take him for supplies. Unless they find a rich man before anything was discarded. According to the scholars that other states should not be taking it to the full (only allowed to simply avoid them from life-threatening condition), is again for supplies.
 6. *Idza ta'aradhat mafsadatâni ru'ya a'zhamuhuma dhirâran bi irtikâb akhaffihimâ* (What if there are two *mafsad*, it is anticipated that a larger *mafsadat* between them (not to happen), or to be taken more lightly.

Rukhshah Applications in the Life of Modern Society

The Quran is the holy book which in the procession of *tasrî* is very concerned with various aspects; natural, spiritual, cultural, social and aspects of people. In establishing the law, Qur'an always considers, whether mental, spiritual man is ready to accept the conditions that will

²⁵ See Husnul Khatimah, and Syarifuddin Syarifuddin. "Darurat & Realisasinya." *Lisan al-Hal: Jurnal Pengembangan Pemikiran dan Kebudayaan* 6, no. 2 (2014): p. 243.

be charged to him. It is closely related to the second principle, which is not to burden the people. Therefore, Shari'ah law in the Qur'an is not derived necessarily as the final format, but gradually, with the intention that the faithful are not surprised by the sudden shari'ah. Therefore, Qur'an always comes in accordance with the conditions and realities that occurred at that time. For more details, the followings are three periods of *tasryî al-Qur'an*:

1. Silence, when the Qur'an was about to forbid something, then the previously established laws nothing but provide an example. For example, to set the prohibition of drinks *khamr*. As a first step, conducted shari'ah '(Prophet Muhammad) is a bad habit of silence, but the Prophet himself avoided.
2. Alluding all the global benefits. In the example above, about *khamr*, as a second step, down verses that explain the benefits and *madllarat* of drinking wine. In this verse, Allah shows that the side effects outweighed its usefulness (Q.s. Al-Baqarah [2]: 219) which was immediately followed by offensive *khamr* effect for the implementation of worship (al-Nisa [4]: 43).
3. Setting a firm law. In this example, Syari '(Allah and His Messenger) lays down the law expressly forbidden drinking wine, as the final step (Q.s. al-Maidah [5]: 90).

Likewise in setting mandatory law, the obligation of prayer is for example. The first stage occurs beginning of Islam (in Mecca), when Muslims reap many torture and oppression of the inhabitants of Mecca, only two *rak'ah* prayer obligations were implemented, namely in the morning and afternoon. That was done in secret, the people were worried because of the humiliation from Qurasy tribe. As mentioned in the *surah Qaf*: 39

فَأَصْبِرْ عَلَىٰ مَا يَقُولُونَ وَسَبِّحْ بِحَمْدِ رَبِّكَ قَبْلَ طُلُوعِ الشَّمْسِ وَقَبْلَ الْغُرُوبِ
 "So be patient to what they say, and celebrate (pray) praising your Lord before sunrise and before sunset (it)."

Then *surah* al-Mu'min: 55

فَاصْبِرْ إِنَّ وَعْدَ اللَّهِ حَقٌّ وَأَسْتَغْفِرْ لِدُنْيِكَ وَسَبِّحْ بِحَمْدِ رَبِّكَ بِالْعَشِيِّ وَالْإِبْكَرِ

“So be patient, because the promise of Allah is true, and ask forgiveness for your sin and exalt (pray) while praises of thy Lord in the evening and morning.”

When the Muslim suffers have been receded with a boycott of Banu Hashim, *Dumulailah*, it is a second phase of the prayer. It began after the Isra 'and Mi'raj in which the Prophet brought the command of Allah. It is to implement the five daily prayers. In this regard the Prophet said, “On the night of Isra, Allah obligates fifty prayers of my people. Incessantly I ask for leniency, until then the obligation would be five (times) in a day and night.

Command in the verse clearly is then translated by the Prophet as the obligation to pray five times, as the command of the Prophet when sent Mu'adh Ibn Jabal to Yemen, “Tell them (residents of Yemen), Allah has obliged them to pray five times a day overnight. “Ultimately the only when Muslims have begun to feel the calmness in their new country, the medina, come down obligations that are more detailed, beginning with the terms of the prayer in the form of *wudhû* and *tayamum* (Q.s. Al-Maidah: 6), and in the harmony of prayer technically. Technical implementation of the prayer itself is the way taught by the Prophet. He said, “Please pray you as you see me praying.”²⁶

The followings are the examples of *rukhsah* in the life of modern society:

1. Marriage via telephone or the internet media which is called teleconference. There are scholars who allow marriage when the bride and groom are in a different place. They connect the audio via the telephone or internet audio-visual media in teleconference.

²⁶ Abdullah bin Muhammad al-Thariqy, *Fiqih Darurat* (Jakarta: Pustaka Azzam, 2001), p. 28.

So that distances; different cities or even different countries can be approximated with the aid of earlier technology.

2. Praying in the bathroom. Most migrant workers got restrictions in worship by the employer where they work. For example prohibited by their employers to prayer. Among the legitimate requirements of prayer is sacred; unclean—his sacred body, clothes and a place of prayer from uncleanness. While the bounds of prayer is not his office, but a pedestal trampled. So logically, even in the bathroom as long as it does not get dirty, are eligible. At least in urgent situations, than not to pray and sin, still more unacceptable when the prayers on time, even in the bathroom. Provided that the bathroom was certainly not dirty.
3. Perform *jamak* and *qasar* praying. In a situation of traffic congestion in urban areas, a person may be stuck in traffic exhausting hours on the road. This condition causes them according to some scholars are entitled to relief in the implementation of worship.
4. *Fiqh* disaster. In the event of a natural disaster, then a lot of relief given to those affected by the disaster in performing worship. Whether it is in the matter of purification, prayer with clothing that is not sacred or not completely close the genitals, prayers during the disaster, did not fast in refugee camps, and more.²⁷
5. Changing the Friday prayers to *zuhur* prayer. This is related if a Muslim is in the area of non-Muslim majority community. If at the time Friday prayer needs to be performed, but he did not find a mosque, it could be replaced with *zuhur* prayer.
6. The regulation of Indonesian Ulama Council (MUI) Number 7 of 2009 on prayer for those who suffer from Ostomate is available. Ostomy is a type of surgery that is necessary to make a hole (stoma) on certain body parts, for patients with malignancies of the gastrointestinal tract (colon) or the urinary tract thus losing the ability to defecate or urinate normally. It which resulted in the

²⁷ MTT PP Muhammadiyah, *Fikih Kebencanaan* (Ttp.: MTT PP Muhammadiyah, 2015), p. 143-155.

patient must use an artificial instrument through some of their holes to collect the body disposal, either urine or feces. MUI decides that people with stoma can pray without cleaning their stoma. Whereas if it is not possible to implement the provisions in number one above, they are categorized as *daim al-hadats*. Accordingly they only need to take ablution before praying.

7. Animal mechanic slaughter with a modernization method called *pemingsanan* does *ihsân* to animals slaughtered in accordance with the teachings of the Prophet and fulfill the legal requirements and the provisions of *syar'i* legitimate and lawful, and therefore, the Muslims do not doubt it.²⁸ Mechanical slaughtering is done in the slaughterhouse who must supply the meat pieces in large numbers every day. This job will be difficult to do manually, but it helps to be done mechanically.
8. Injections of meningitis. MUI regulation number 05 in 2009 allows for treatment using the meningitis vaccine in the process of making contact or involve materials contaminated pork because of hajj or *umrah*. But after the discovery of a vaccine that is in the process of making contact or involve materials contaminated pigs, then the previous regulation (number 05 in 2009) was replaced with a regulation number 06 of 2010 dated July 16, 2010 concerning the Meningitis Vaccine or Umrah pilgrims.
9. Induction period. MUI dated January 12 decided that the use of anti-menstruation pill before hajj is considered *mubâh*. Use of Anti Menstruation pills enables the women to fast in a full fasting month which is considered as *makrûh*. However, for women with difficulty of changing their fasting on other days, it is *mubâh*. The use of pills is regulated apart from the two mentioned above depends on the intention. If the intention is not good, it is forbidden or *haram*.

²⁸ *Penyembelihan Hewan Secara Mekanis*, Fatwa Council of Ulama Indonesia on Monday, the 24th Syawa11396 H / October 18th, 1976.

10. Alternative medical treatment with something that is forbidden. Treated with worms for typhus disease patients, head lice for hepatitis, as well as other treatment models are only allowed in emergencies. According to Mahmud Syaltut, medical treatment with something unlawful is only allowed on condition that is not containing any lawful drug, recommended by trustworthy Muslim doctor, and in emergency situations.²⁹
11. Heavy workers may not fast in Ramadan. The heavy workers in the building sector or construction, mining and other according to some scholars got dried for not fasting in *Ramadan*. They can replace it beyond the month when they are off or not working. It is hard for them to work full time during the month of Ramadan. Leaving the work to be fasting in Ramadan in full is also not an easy solution.
12. The imperfect cleanness is also another problem. Some jobs cause people difficulties in purification when they wanted to pray every time. For example artisan silk screening, workshop workers, painters, construction workers, and others. For example, a screen printing artisan always covered with dye inks, in which each will take ablution to remove ink dye attached to the limbs. Until one when he wearied at having to clean the body of the dye ink each time, then they can take only ablution although in his hand there were not clean ink stains. Is it valid to have *wudhu* for these people? The scholars stated that the person is possibly taking only ablution before praying.
13. Employed women may not cover part of her nakedness. For women working to overcome the difficulties in work, Hanafi allows the open arms. Likewise, those who work in a field or paddy, they might do the same.³⁰
14. Utilizing something mixed with unclean objects. Allowed to pray in

²⁹ Syaltut Mahmud, *al-Halal wa al-Haram fi al-Islam* (Cairo: Dar al-Fikr, t.t.).

³⁰ Ibrahim Hosen, *Bunga Rampai dari Percikan Filsafat Hukum Islam* (Jakarta: Yayasan IIQ, 1997), p. 76

the building whose floor is unclean or contaminated with something unclean.

15. Bring *Al-Qur'an* or jewelry with the word of Allah attached to it to the bathroom is prohibited unless it would be lost if left outside. This condition is *makrûh*. In the history Tirmidhi from Anas, the Holy Rasulllah always remove the ring when they wanted to go in a bathroom, because the ring is written the name of Allah. Shafi'i and Hanafi said it is *makrûh*. This includes currency as well. Maliki and Hanbali even say that is forbidden, except when it is feared lost when left outside.
16. For those who are in an area or a new place or somewhere unknown and they do not know the direction of *qibla*, it may face in any direction according to the results of *ijtihâd*.

The Criteria of *al-Haraj* or *Masyaqqah* to Get *Rukhshah*

In modern times, science and technology is developing very rapidly. Advances in science and technology have a broad impact in people's lives. These advances provide ease of life in its various aspects. It also creates a new dynamic in the field of life that was not there before.

These conditions would have an impact also in the worship of the Muslims. The things probably at first were once considered to be a hardship and distress, but then lightened and made easy come along with the help of the development of science and technology.

For example, if once the scholars provide travel limits 89 km entitled to obtain relief or *rukhsah*. Now with the development of transportation technology, one can travel for hundreds of kilometers with full comfort and without feeling tired and exhausted.

Formerly people consider coping with illness as a frightening specter. Diseases was even claimed the lives of sufferers without permission. Rapid development of medical science, diseases that were once considered dangerous can be cured completely. Even good health services lead to patients being treated there felt so good it is like staying at the hotel.

However, advances in science and technology have also resulted in a revolution in industry. The establishment of new industries be it industry, foodstuff, garments, pharmaceuticals, automotive, electronics, cosmetics, heavy equipment, and more.

While they are in the world are experiencing the advancement of science and technology rapidly, but still there is a kind of work that rely on physical and drain energy and power. This mechanization is not happening in all aspects of life.

In addition, there are circumstances that complicate life. Relation to the implementation of worship, in such difficult conditions, it is entitled to receive waivers or *rukhsah*.

The previous section described the conditions faced by the Muslims in modern times. Judging from causing trouble (*masyaqqah*) is encountered, it can be classified as follows:

1. Pain (*maradh*), among others:

Indonesian Ulama Council (MUI) Number 7 of 2009 regulates the rules of prayers for people with stoma. Stoma condition causes a person was getting *rukhsah* in terms of purification in the implementation of worship.

2. *Dharûrah* among others:

a. Treated with worms for sufferer of typhus disease, head lice for them lodger sick with hepatitis, as well as other treatment models are only allowed in emergencies. When a life-threatening illness, then in Islam, is entitled to receive *rukhsah* to be treated with something that is forbidden.

b. Performing prayer in the bathroom as it gets the restrictions on non-Muslim worship by the employer's place of work. The bathroom should not the place to practice their religion. But in *dharûrah* condition when someone gets threats or intimidation to practice their religion, rather than cause harm to his soul, then they can pray in secret place as in the bathroom.

c. MUI number 05 in 2009 allows for treatment using the meningitis vaccine in the process of making contact or materials

contaminated pork because of hajj or *umrah*. Meningitis is a disease that attacks the lining of the brain of a person. When these dangerous disease outbreaks occurred in Saudi Arabia, the Hajj or Umrah pilgrims need to be protected by immunization. Although this immunization using vaccines contaminated pigs are forbidden in the treatment process.

- d. MUI dated January 12 regulates the use of anti-menstruation for women. The use of this pill to fast in a full Ramadan month which is *makrûh*. However, for women with difficulty to change their fasting on other days, it is *mubâh*. Induction of menstruation for women who are still having periods, it is important to say *dharûrah* even when the pilgrimage to remember the consequences that must be experienced when for example they should be separated from the group or divisions (when she menstruated when it comes to *tawâf*). The conditions in which the complexity of the arrangement of accommodation in the implementation of the pilgrimage because Hajj is a worship that is very complex package.³¹
- e. Senile conditions or global catastrophe (*wa al-balwâ*), among others:
 - a. Perform *jamak* or *qasar* prayer in a traffic condition. In a situation of traffic congestion in urban areas, a person may be stuck in traffic exhausting hours on the road. Such conditions should obtain relief in the implementation of worship.
 - b. *Fiqh* disaster. In the event of a natural disaster, then a lot of relief given to those affected by the disaster in performing worship.
 - c. Changing the Friday prayers to *zuhur* prayer. This is related if a Muslim is in the area of non-Muslim majority

³¹ Starting from the quarters, rations, vehicles, mentors, conducted a series of worship, and others; all of which are pre-programmed into the system programmed settings. Out of a system like this is a problem that is not easily resolved.

community. If at the time of Friday prayer, but he did not find a mosque, it could be replaced with *zuhur* prayer.

- d. Heavy workers may not fast in Ramadan. The heavy workers in the building sector, construction, mining and other according to some scholars got dried for not fasting in Ramadan. Tough choices they face when working in the month of Ramadan. Physically intolerable remain abstinent if while working. Fasting of Ramadan is also not possible because of the deadly livelihoods of their subsistence resources. For they can replace his fast outside Ramadan worship when they are off or not working.
- e. Some jobs cause people difficulties in purification when they wanted to practice their religion every time. For example artisan silk screening, workshop workers, painters, construction workers, and others. For example, a screen printing artisan, his body is always filled with dye inks. Each will have *wudhû* certainly have to clean the ink dye attached to the limbs. It would have been very difficult for them. For that they were given relief in terms of purification when it will carry out worship. Since it is very difficult for them to clean the body as one hundred percent of the ingredients commonly used in the work. Moreover, the materials-based paint that deters the water reaches the body when performing ablution.
- f. Employed women may not cover part of her nakedness. For women who work to overcome difficulties in the work, Hanafi allows them to open arms. Likewise, those who work in the fields or rice paddies calf are allowed to open. This is a relief given to avoid them having difficulty or distress in the work.
- g. Utilizing mixed with unclean objects. Allowed to pray in the building whose floor is contaminated with unclean material. This is allowed because it is difficult to avoid mixing something with contaminated objects.

- h. Bring *Al-Qur'an* or jewelry with the word of Allah attached to it to the bathroom is prohibited unless it would be lost if left outside. This condition is *makruh*. In the history Tirmidhi from Anas, the Holy Rasullah always remove the ring when they wanted to go in a bathroom, because the ring is written the name of Allah. Shafi'i and Hanafi said it is *makrûh*. This includes currency as well. Maliki and Hanbali even say that is forbidden, except when it is feared lost when left outside.
- i. Marriage via telephone or the internet media which is called teleconference. There are scholars who allow marriage when the bride and groom are in a different place. They connect the audio via the telephone or internet audio-visual media in teleconference. So that distances; different cities or even different countries can be approximated with the aid of earlier technology.
- j. Animal mechanic slaughter with a modernization method called *pemingsanan* does *ihsân* to animals slaughtered in accordance with the teachings of the Prophet and fulfill the legal requirements and the provisions of *syar'i* legitimate and lawful, and therefore, the Muslims do not doubt it.³²Mechanical slaughtering is done in the slaughterhouse who must supply the meat pieces in large numbers every day. This job will be difficult to do manually, but it helps to be done mechanically.
- k. For those who are in an area or a new place or somewhere unknown and they do not know the direction of *qibla*, it may face in any direction according to the results of *ijtihad*.

In simple terms it can be stated that the form of the condition above can be categorized as reasonable reason or excuse to get *rukhsah*.

³² *Penyembelihan Hewan Secara Mekanis*, Fatwa Council of Ulama Indonesia on Monday, the 24th Syawal 1396 H / October 18th, 1976

Shifting Criteria *al-Haraj* or *Al-Haraj* in Islamic Law Implementation in the Life of Modern Society

This section will then analyzes some criteria of *al-masyaqqah* or *al-haraj* experienced by modern people who experienced the development of science and technology.

Criteria *al-haraj* who have been there before are formulated by experts of *Ushûl Fiqh* science which is flexible. The criteria are as follows:

1. *Al-Safar* (on the way). The scholars provide travel limits 89 km entitled to obtain relief or *rukhsah*. Even with the development of transportation technology, one can travel for hundreds of kilometers with full comfort and without feeling tired and exhausted. But travel by land and sea transportation is still exhausting.
2. *Al-Maradh* (pain conditions). Formerly people consider coping with illness as a frightening specter. Diseases was even claimed the lives of sufferers without permission. Medical science has progressed very rapidly with very admirable and diseases that were once considered dangerous, deadly, scary, and a scourge can be cured completely.³³ Even good health services lead to patients being treated there felt so good it is like staying in hotels. That health services for those people who the have. For those who lack or can not afford not necessarily be able to get the full pari services.
3. *Al-Ikrâh* (forced circumstances), this forced condition can be constituted by various motives. In the example presented earlier on Indonesian Workers who get pressure by employer intimidation in the non-Muslim worship place of work. The bathroom should not the place to practice their religion. But in *dharûrah* condition when someone gets threats or intimidation to practice their religion, rather than cause harm to his soul, then he can pray in secret as in the bathroom.

³³ Although it is stated that the conditions were not feeling sick condition, discomfort, and exhaustion experienced and felt by the sufferer in general. Despite advances in medical science is so rapid and great service, it's still a healthy condition is preferable.

4. *Al-Nisyân* (forgotten). It is the human condition. Human beings were called in Arabic for forgetful nature (*nisyân*).
5. *Al-Nuqshân* (conditions of deprivation which is natural).
6. *Al-Jahl* (condition ignorance/do not understand) are conditions that cause a person to be in difficult conditions so that religion makes it easy for them. Advances in science and technology have indeed been growing very admirable. Still, there are few people who do not or have not been touched by the modernity. So that they belong to a group of *al-jahl* (conditions ignorance/do not understand).
7. *Al-'Uzr wa al-balwa* (senile conditions or global catastrophe),³⁴ ie, a condition that is not good (*al-bala'*) occurs in societies where a person cannot avoid it or away from it.³⁵ This aged criteria can be said to be very flexible. Conditions that cause a person is stuck in trouble are not contained in the previous criteria included in this criterion. For example, someone who could be stuck in traffic traveling exhausting hours on the road. Although the trip is the calculation of the distance is not a far trip for just a few kilo meters. Highway traffic jams can occur due to many factors, among them: the flood in the rainy season, traffic accidents, road improvements, road narrowing, road damage, riots residents, and others. This condition causes the person to get distress, fatigue, and difficulty so that according to some scholars they are eligible for relief in the implementation of worship.

Conclusion

Based on the previous description, it can be concluded that as follows. *First*, some Islamic scholars considerably set the implementation of *masyaqqah* based on the personal case by each person. Some causes of *masyaqqah* include: *al-safar* (on the way), *al-maradh* (pain conditions),

³⁴ Alaidin Koto, *Filsafat Hukum Islam*, p. 149.

³⁵ Osama Muhammad bin Muhammad as-Shallabi, *al-Rukhas al-Syar'iah: Abkamuha wa Dawabituha*, p. 303.

al-ikrah (urgent situations), *al-nisyân* (forgotten), *al-nuqshân* (conditions of deprivation that are natural), *al-jahl* (conditions ignorance/do not understand), and *al-'uzr wa al-balwâ* (senile conditions or global catastrophe). *Second*, there are differences in the causes or conditions of *al-haraj* criteria or *masyaqqah* so that a person is entitled to *rukhsah*. This difference is due to the differences between the circumstances of the times when once science of *Ushûl Fiqh* age formulated by scholars and the condition of Muslims in modern times.

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