

## Phronesis Dimension (*Al-Syu'ūr Al-'Fadhillah*) As A New Manhaj Of Contemporary Fiqh: Case Study of Central MUI Fatwa No. 14 of 2021 and East Java MUI Fatwa No. 1 of 2021 on the Law of AstraZeneca's COVID-19 Vaccine Products

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### ABSTRACT

Before the vaccination movement, MUI evaluated the fiqh of various vaccinations in Indonesia, including the contentious AstraZeneca vaccine. The AstraZeneca vaccination was deemed halal by the Indonesian Ulema Council (MUI) of East Java in its Fatwa Number 1 of 2021. However, the law was deemed haram-mubah Fatwa Number 14 of 2021. Both *fuqaha* organizations believe they have compelling reasons. *First*, when analyzing the vaccine components, both take a scientific method. *Second*, while both adhere to the basic *manhaj ushul fiqh*, there are variances in how the legal *istinbath* is performed. Using the justification of *istihalah* (transforming impure items into something else), East Java MUI pronounced the AstraZeneca vaccination halal. By citing the Shafi'iyah *madhhab*, which upholds the principle of caution (*ikhtiyath*), and avoiding controversy, the Central MUI ruled the AstraZeneca vaccine to be haram-mubah because it did not accept *istihalah* in the process of *istinbath* pork products contaminated with pork elements and their derivatives (*khuruj minal khilaf*). Aristotelian phronesis, or the formation of the notion of the presence of righteous acts, is used to parse the two fatwa formulations through an examination of the literature. The two fatwas' construction of caution, or *as shu'ur al fadhillah*, is revealed through this study. The study makes use of the phronesis cubic diagram, which represents the accomplishment of practical ability (episteme), methodical ability (techne), and wisdom (sophia). It results in the philosophy of value as the result of the process. The goal of *maslahah wal fadhillah*, or maximizing profit by prudent and effective preventative measures, is the philosophy of *fiqh. Fadhillah*, which demands the absoluteness of transdisciplinary conversation as a full cautious attitude toward the right to live according to sharia, is the virtue of retaining the original when turned into *urf*.

**Keywords:** Fatwa, phronesis, vaccines, philosophy of fiqh

### Introduction

Through the Director General of Budget of the Ministry of Finance, the Government of Indonesia has budgeted 426.8 million doses of the COVID-19 vaccine. The preparation of this large number of vaccines - even exceeding the national vaccination target of 208.2 million people - is intended to alleviate the spread of COVID-19 and build herd immunity in Indonesia. The government's first move was to establish a partnership with the Chinese vaccine producers

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Sinovac Life Sciences Co. Ltd. and PT Bio Farma, whose goods have been deemed halal by the Indonesian Ulema Council. However, these businesses can only produce 122.5 million doses of vaccine, or 28.7% of the total amount of vaccines required for the country. (Rezkisari, 2021). In addition, the government has established partnerships with other vaccine producers, including. With a total of 113 million doses in 2021 or roughly 26.4% of the entire national vaccination program's fulfillment, thanks to commitments with vaccine manufacturers as well as bilateral and multilateral government cooperation, AstraZeneca products dominated the vaccine market in Indonesia as of October 2021. (Kominfo, 2021; Mediatama, 2021).

The Health Ministry said on August 24, 2021, 15.9 million doses of the AZD 1222 vaccine—or around 14% of its total stock in Indonesia—had been given to the general public, despite the substantial amount of orders for this British-made vaccine. Two occurrences can be used to interpret this reality. First, the government temporarily halted the distribution and use of the AstraZeneca vaccine batch CTMAV547, consisting of 448,480 doses, and directed the POM Agency to look into the product's toxicity levels and sterility. (Satgas Penanganan COVID-19, 2021); Second, despite the MUI's fatwa decision banning the AstraZeneca vaccine due to the use of pig trypsin in its manufacturing, restricted use of the vaccine is permitted (*mubah*) due to Indonesia's urgent need (*hajah syar'iyah*) and the country's emergency situation (*darurah syar'iyah*). (See: 'Asyur, 2012; Auda, 2008; Mustaqim, 2019; Syathibi, 2004) (Komisi Fatwa MUI, 2021).

The issue came to a head when the Fatwa Commission of the MUI of East Java Province legalized AstraZeneca vaccine products. The decision was based on two rationales; *First*, the trypsin enzyme taken from the pig pancreas has undergone a chemical process (*istihālah*) to become pure. (Abubakar & Abubakar, 2021); *Second*, the pig trypsin enzyme is invisible, so it is not unclean. Based on the above considerations, the Fatwa Commission of MUI of East Java Province decided that the law on the use of AstraZeneca's COVID-19 vaccine is halal, and emergency conditions do not limit its use. (Komisi Fatwa MUI Jatim, 2021). The different fatwa decisions suddenly become a legal paradox because these two institutions, Central MUI and East Java MUI, even though they use the same reference.

This article attempts to unravel the paradox of the two fatwas by observing the relationship between the dimensions of wisdom (*sophia*), knowledge (*epistemé*), and methodology (*techné*) in the *ijtihad* process. (Vanharanta & Markopoulos, 2020; Markopoulos dkk., 2021; Vanharanta dkk., 2021). The cubic analysis is included in the phronesis method (*al-syu'ūr al-'fadhillah*), which can be a new *manhaj* in the process of *ijtihad* in the contemporary era.

Departing from the problems that have been presented in advance regarding the differences between the decisions of the Central MUI Fatwa Commission and the East Java MUI Fatwa Commission—even though both of them use legal sources, *ushuli maxim-maxims*, similar *istinbath* methods and involve various experts who are competent in the field of sharia science and Islamic law—in deciding the law on the use of AstraZeneca's AZD 1222 vaccine which contains trypsin from pig pancreas, mainly when observed from the phronesis dimension (*al-syu'ūr al fadhillah*) which involves a synergistic-mutualistic relationship between wisdom (*sophia*), knowledge (*epistemé*), methodology (*techné*), there are three main questions that form the basis of the research, among others: How is the construction of phronesis, i.e. the cubic relation between the dimensions of wisdom (*sophia*), knowledge (*epistemé*), methodology (*techné*), and careful virtue-practice (*phronesis*), behind the two fatwas, and how does it impact on contemporary *fiqh*.

The Covid 19 vaccine has created controversy in *fiqh*. However, controversy in *fiqh* is common among *fuqaha*. Interestingly, this difference brings *ijtimai* Institutions to legitimize it, such as the attitude of the Central MUI and the East Java MUI, which differ in their legal beliefs. The Chairman of the East Java Indonesian Ulema Council (MUI), Hasan Mutawakkil Alallah, said that the AstraZeneca vaccine is halal. He conveyed this in front of President Joko Widodo or Jokowi when reviewing the mass vaccination process at the Delta Wibawa Hall, Sidoarjo Regency, East Java, on Monday, March 22, 2021, and was outlined in the East Java MUI Decree No.1 of 2021. In its

argument, it is said that if the East Java MUI has a well-established ushul fiqh method, even in line with the results of the LPPOM audit and also the results of the Fatwa Commission deliberations, today it will provide a fatwa on the halalness of the use of AstraZeneca and the safety of its use, the East Java MUI agrees with the East Java Nahdlatul Ulama Regional Board (PWNU) which states that the AstraZeneca vaccine is halal in view of Islamic law. Previously, Katib Syafruddin Syarif said the fatwa was taken after a debate among scholars. Before the debate, the East Java PWNU was first given information about the process of making vaccines that might use pig elements. From the information received by his institution, Syafruddin explained that the pig element in the AstraZeneca vaccine is only needed in the breeding process. The unclean element was not mixed in, so the NU clerics agreed that the AstraZeneca vaccine was.

The statement of the Chairman of the MUI of East Java is different from the fatwa of the Central MUI, which previously stated that the AstraZeneca vaccine is haram because it utilizes pig trypsin in the manufacturing process, but it can still be used in emergency conditions. The statements by BPOM and the Central MUI not only invited internal pros and cons, but Astrazeneca, in particular, became outraged because their vaccine products were accused of using pork-derived trypsin.

In this regard, Astrazeneca clarified and conducted FGDs with East Java MUI if the trypsin element as a medium for breeding the virus did not come from pig derivatives, porcine trypsin, but Thermo Fisher, as the first party, used pig trypsin to remove host cells from the container in a short time. Through scientific studies from virology experts, AstraZeneca, said if:<sup>1</sup>

AstraZeneca Vaccine uses the enzyme trypsin, which comes from a fungus and is made specifically for the Covid-19 vaccine. This explanation is stated in the documents of AstraZeneca and the Oxford Team, which conducted clinical trials. Trypsin is also not included in the vaccine formula but is only used as a cutting tool for mammalian cells, which AstraZeneca purchased from a supplier of Bank Cells. AstraZeneca and Oxford purchased HEK 923 Cells from a supplier named Thermo Fisher as one of the ingredients for making the vaccine. The nature of the mammalian cell is attached to the container, so it will be difficult for the growth process of the number of cells to be more numerous, and researchers need trypsin enzyme protein to cut so that cells do not stick to the container.

AstraZeneca's did not change the central MUI's view on the AstraZeneca vaccine. As for East Java MUI continues to declare halal because there is an intervention of *istihalah* or decomposition of the form of unclean goods so that after changing, the unclean goods become not unclean. *Istihalah* is an alternative purification instrument for analyzing food and medicine products containing unclean elements such as pork, wine, blood, and the like. This rule of *istihalah* is not something new in fiqh but has been discussed by past scholars in their previous works in general, for example, in the Chapter on *Taharah* and *al-at'imah wa al-asyribah*.

However, the use of this term as a technical term in fiqh has only been used by contemporary scholars. Whereas in Science, is synonymous with *istihalah* theory, and several other terms have almost the same connotation, namely transformation and chemical decomposition. Transformation means changing the whole form or character of something. The word "chemical decomposition" means a state of decomposition or decay process. For example, the decomposition of water into hydrogen and oxygen. From the terminology aspect, it is described as the change and exchange of one material into another, including the exchange of substances and properties. (Radzi, 2009) (Ahmad Nuryani, 2914).

Sociologically, there are two opinions in responding to the AstraZeneca vaccine, namely as follows:<sup>2</sup>

<sup>1</sup> <https://www.world-today-news.com/not-animal-trypsin-this-is-used-by-astrazeneca-vaccine-okezone-lifestyle/>

<sup>2</sup> Raehanul Bahraen, M.Sc, Sp.PK Pro Kontra Hukum Imunisasi dan Vaksinasi, Sumber: <https://muslim.or.id/7073-pro-kontra-hukum-imunisasi-dan-vaksinasi.html>

**Table 1:**  
Opinions in responding to the AstraZeneca Vaccine

Counters	Pros
<ul style="list-style-type: none"> <li>• Vaccines are haram because they use the kidneys of monkeys, pigs, aborted babies, the blood of people who have contracted infectious diseases, alcohol use, anesthetic drugs and so on. These are all haram to use, according to Shari'ah.</li> <li>• Harmful side effects include mercury, thimerosal, aluminum, benzethonium chloride, and other harmful substances that will trigger autism, brain defects, and others.</li> <li>• There are more dangers than benefits and many side effects.</li> <li>• Immunity is already present in everyone. Now it is just a matter of maintaining it and living a healthy lifestyle.</li> <li>• It is believed that western countries fool and poison by destroying their young generation.</li> <li>• The big business is behind the immunization program for those with a vested interest by taking Muslims' money.</li> <li>• Getting rid of treatment and prevention methods from developing and Muslim countries, such as drinking honey, olive oil, dates, and <i>habbatussauda</i>.</li> <li>• Some scientists oppose the theory of immunization and vaccination.</li> <li>• Some report that their unimmunized children are still healthier than immunized children.</li> </ul>	<ul style="list-style-type: none"> <li>• Prevention is better than cure. Because there have been many cases of pregnant women carrying Toxoplasma, Rubella, and Hepatitis B viruses that endanger the mother and fetus, it can even cause newborns to die immediately. Moreover, it can be prevented by vaccines.</li> <li>• Vaccination is important to prevent infectious diseases from developing into outbreaks such as cholera, diphtheria, and polio. Especially now that the avian influenza virus has developed, this virus causes anxiety for the health workers who handle it. If they are not there, they will not want to go near. It also disturbs the surrounding community.</li> <li>• Although immunity already exists, humans live in developing countries with low environmental health standards—moreover, the lifestyle in modern times. Not to mention that humans cannot maintain a healthy lifestyle. So to anticipate exposure to infectious diseases, vaccination is necessary.</li> <li>• We can minimize harmful side effects by being responsive to conditions when we want to be immunized and finding out more about the types of vaccine brands and the correct schedule according to each person's condition.</li> <li>• Do not just believe unclear and unscientific rumours. For example, MMR vaccination causes autism. Whereas the results of other studies are more systemized, and with the correct methodology, autism cases have many causes. The cause of autism is multifactorial (many influential factors), and the leading cause still has to be researched.</li> <li>• If this is a conspiracy or subterfuge of western countries, they also have pros and cons. Especially the MMR vaccine. There was also a fuss, and finally given the freedom of choice. Until now, western countries also continue to apply vaccines according to environmental conditions and society.</li> <li>• Why do some western countries no longer use certain vaccinations or not at all? Because their health standards are higher than average, the environment is clean, epidemics (outbreaks) of infectious diseases have been eradicated, and awareness and education about healthy living are high. They already consume organic vegetables. Compare this with developing countries. Vegetables and fruits are full of pesticides if not washed thoroughly—foods with preservatives, colourings, artificial sweeteners, instant noodles, and others. Furthermore, please note that if we want to enter some developed countries, we must be vaccinated with certain types of vaccines. Because they also do not want to get a shipment of diseases from our country.</li> </ul>

Counters	Pros
	<ul style="list-style-type: none"> <li>• There are several fatwas on halal and the permissibility of immunization. There is also a refutation that the vaccine is halal because it is only a catalyst and does not become part of the vaccine. For example, the MUI Fatwa states that it is halal. And if it is haram, it is still allowed considering the emergency, rather than infectious diseases outbreaking in our country. It must be prevented immediately because many have contracted polio, Hepatitis B, and tuberculosis.</li> </ul>

Source: media data

### Construction of Reasoning: Between Manhaj Perspective and Philosophy of Value

There are numerous studies of the construction of reasoning with a manhaj perspective, as studied by Abubakar (2021), Moch. Nurcholis (2021), with the title *Fikih Maqasidi dalam Fatwa Majelis Ulama Indonesia tentang Penggunaan Vaksin Covid-19 Produk AstraZeneca*, also from Abdul Khaliq Napitupulu, dkk, (2021), with the title *Analisis Konsep Al-Darūrah Dalam Fatwa Dsn-Mui No. 14 Tahun 2021 Tentang Penggunaan Vaksin AstraZeneca*, selanjutnya M. Asrorun Niam Sholeh 2021, *The COVID-19 Vaccination: Realization on Halal Vaccines for Benefits*, Muhammad Mahmud Nasution, 2018, *Vaksinasi Dalam Perspektif Islam*, Miftahus Sa'diyah, Mowafg Abraham Masuwd Zawia Ach. Faqih Supandi, (2022) *Legal Problems Using AstraZeneca Vaccine: Hermeneutic Analysis of the Fatwa of the Indonesian Ulema Council Problematika Hukum Penggunaan Vaksin AstraZeneca: Analisis Hermeneutik terhadap Fatwa Majelis Ulama Indonesia*. These writers all explain that MUI's fatwa is following maqosid sharia, both methodically, the construction of arguments or arguments, and the purpose of sharia itself, which is to protect life. Currently, none has elaborated the fatwa reasoning in detail and its implications for the philosophy of value. In addition, no one has done a comparative analysis between the fatwa of East Java MUI and the fatwa of MUI central so that the differences and similarities can be known in detail and their consequences for the development of contemporary fiqh science. This article will test a different way of explaining all the writings above, using the diagrammatic analysis of cubic phroneses Aristotelian model.

There is a need to elaborate the cubic reasoning of phronesis behind the construction of the determination of vaccine fiqh of East Java MUI and Central MUI to explain in another way different from the writers about the fatwa, who have been aware of maqasid sharia only. At the same time, this article uses Aristotle's phronesis as a tool. Phronesis, or the act of ethical practice, is the basis of the birth of virtuous deeds based on knowledge, methodology, and wisdom, simultaneously building the arguments of virtuous deeds in finding a middle way between two extreme situations. The same thing also happens in fiqh, which is a set of knowledge, methodology of thinking, as well as wisdom and submission to God's law, finding a middle way from the two extreme poles between God's law and specific realities that humans must address without getting out of the central moral rules and God's law. Therefore phronesis as a legacy that was first present in philosophical civilization will be able to explain the practical actions of fiqh, which was later present, including dissecting these two fatwas. Learning the science of fiqh has excellent benefits for humans. Knowing the science of fiqh according to what is interpreted by fiqh experts will help humans to know what they are told to do and are prohibited from doing. It means that humans will always behave according to sharia because living according to sharia is a sign that human life is guaranteed to be correct and increase the degree of satisfaction and comfort of mukallaf life along with the act of getting closer to their relationship with God (ascetic). The act is called worship. Worship in its various aspects, human relations with each other both in family relationships, relationships with other people in the field of property and so on. Jurisprudence is the primary field of religious knowledge, after tafsir.

The study of phronesis is new in fiqh, and for this purpose, this study is to know ethical virtue (episteme). From the general knowledge of the need to find the middle between two extremes to live morally, one must infer the middle that is appropriate for oneself and placed in the hands of a wise person. It is the task of phronetic reason to find the middle for the respective situation, according to external circumstances and individual circumstances, as a practice of virtuous action. This side makes the analysis of fatwa more novel and contextual in method and the breadth of fields involved, namely fiqh, science, and philosophy.

This research used comparative and contrastive analysis (Frazier, 2020), as follow as: (1) 'archival' (exploring parallel but separate logical traditions within two fatwas), (2) 'equivalenting' (comparing logical traditions in terms of analogies and contrasts on two fatwas), and (3) 'problem-considering' (using multiple consideration facts to provide conclusion). Finally, (4) the overarching phronesis reasoning in fatwa's arguments and their logical. This entails the phronesis that philosophies drawing on multiple arguments are always implicitly engaged in fatwa which philosophy does its work.

### Fiqh Ethics

Fiqh, then, is not just logic but is also related to ethics, the practice of virtue based on reason and shara. In Nicomachean Ethics, Aristotle presents his conception of dianoetic virtue, or the virtue of the mind, which deals with insight. He separates this from ethical virtue, which deals with the rule of the moral will. Prohairesis or phronesis answers the questions of why and how something should be done. The pianetic virtues, for example, assess the virtues of praxis (phronesis), practical ability (techne), science (episteme) or wisdom (sophia).

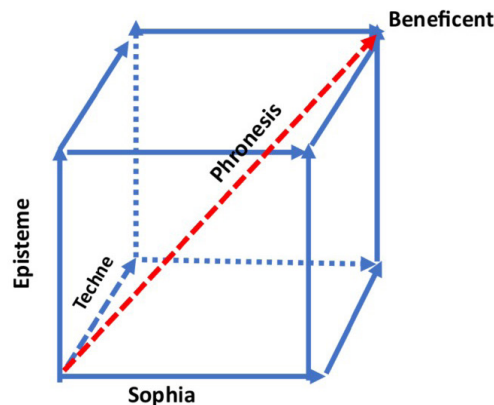
The assessment of the virtue of praxis entails the attitude of prudence as being crucial to moral life and the basis for happiness. This virtue should first be presented in more detail. In general, mindfulness is the ability to "be able to think rightly through what is good and wholesome" concerning "what concerns the good life as a whole." So it is not about thinking or advising about individual goals but the good life. So it is not about thinking or advising about individual goals, but about ultimate goals. Based Aristotle, the opposite of prudence is akrasia, which is not being able to restrain oneself in thinking patiently so that pure thinking is like that of animals. Hence the good and evil based on the conscious mind of phronesis. This situation causes humans not to act on their own judgment but instead on the benefits of the moment, not thinking consciously about the impact of their momentary actions.

For further systematization and establishment of prudence, Aristotle divides the rational part of the soul into something that deals with something fixed and that which deals with the contingent. He assigns prudence to the latter. For, as already mentioned, the exhortation is part of prudence. For Aristotle, however, it is inconceivable that a person consults about matters outside the scope of his actions and does not belong to the contingent area "who cannot possibly behave differently from what they do. Therefore, phronesis is assigned to this part of the soul.

The notion of prudence includes knowledge of the ultimate goal to be pursued. It is not possible to advise about this goal, as there is no alternative to it since it is already fixed. He who is wise has recognized the highest good and only advises on the ways and means that lead to it. In all areas of life, proper consideration is given to how the ultimate goal can be achieved through practical action.

This action requires prudence, the ability (techne) to conclude the general to the particular. This ability also comes into play when dealing with the Nomoi [Law]. The wise person must have used the law to the fullest to enjoy the freedom to interpret it for himself in the Act of wisdom (sophia). The relationship of the four concepts can be explained in a cubic diagrammatic relationship, adapted from Vanharanta and Evangelos Markopoulos (2020) in *Visualization of The Wisdom Cube Scientific Knowledge Space For Management and Leadership*, as follows:

**Figure 1:**  
Visualization of The Wisdom Cube Scientific Knowledge Space



The cubic diagram above is used as a foothold to analyze the operation of phronesis for two MUI fatwas, East Java MUI No. 1 of 2021 and Central MUI Fatwa No. 14 of 2021. Based on the cubic construction of phronesis, the results are as follow:

**Table 2:**  
The Cubic Diagram of Analyze The Operation of Phronesis for Two MUI Fatwas

Components	Fatwas	
	East Java MUI No. 1 of 2021	Central MUI No. 14 of 21
Episteme	<p>Scientific/microbiological evidence Vaccine production consists of preparation of HEK 293 host cells, inoculation of recombinant vaccine seed (ChAdOx1-S [recombinant]), preparation of vaccine production media, vaccine production using ChAdOx1-S [recombinant] vaccine seed inoculum in HEK 293 host cells on sterile media, separation and purification of bulk vaccine products, vaccine formulation with the addition of excipients, aseptic filtration and filling into ampoules.</p> <p>When preparing the viral host, pig material is used as trypsin derived from the pig pancreas. This material is used to separate the host cells from the microcarrier. (2) In the preparation of recombinant vaccine seeds (Research Virus Seed) until they are ready to be used for production (master seed and working seed stages) there is the use of trypsin from pigs as one of the components in the media used to grow E.coli to regenerate the transfected plasmid p5713 p-DEST ChAdOx1 nCov-19.</p>	<p>Hujjah ilmi / microbiology There is data from experts on the virus-host preparation process. The host cells were derived from a diploid human se1 (HEK293/human Epithelial Kidney Cells) set taken from human baby kidney tissue decades ago. The cells were grown on a Fetal Bovine Serum medium supplemented with amino acids, carbon sources, other additives and antibiotics.</p> <p>At this stage of virus-host preparation, pig material is used as trypsin derived from the pig pancreas. This material is used to separate the host cells from the microcarrier.</p> <p>Shar'i proof / Shari'ah basis Imam al-Nawawi's opinion in the book <i>Raudlatu al- Thalibin</i>, juz 2 page 65 states the prohibition of the use of pigs both alive and after death and the permissibility in emergency conditions:</p>

Components	Fatwas	
	East Java MUI No. 1 of 2021	Central MUI No. 14 of 21
	<p>Shari'ah basi Involving absolute <i>mustalahah</i> (decomposition) in reasoning based on <i>al-Mausu'ah al-Quwaitiyah</i> 29/108 and 20/35. The Hanafi and Maliki scholars believe that an unclean object can become pure by changing because religion establishes the nature of the unclean object. The essence of an unclean object can be changed by a partial change, let alone a complete change.</p> <hr/> <p>The Hanafi and Maliki scholars believe that an unclean object can become pure by changing because religion establishes the nature of the unclean object. The essence of an unclean object can be changed by a partial change, let alone a complete change.</p>	
Techne	<p>Document research LPPOM MUI assigned two Lead Auditors for Drugs and Vaccines with expertise in Bioprocess Engineering and Industrial Microbiology to audit Astra Zeneca vaccine dossier documents sent by WHO to BPOM. The result is a scientific journal: Assessment report COVID-19 Vaccine AstraZeneca Common name: COVID-19 Vaccine (ChAdOx1-S Procedure No. EMEAIHIC/005675/000, January 29, 2021, EMA/94907/2021, Committee for Medicinal Products for Human Use (CHMP) 3 The hearing from Dr. Rizman, director of AstraZeneca at the East Java MUI office, stated that AstraZeneca, while producing the vaccine, did not use pig elements, but Thermo Fisher, as the first party, used pig trypsin to remove host cells from the container in a short time. After that, it is cleaned by a chemical process to free it from pig elements.</p> <hr/> <p>Use pig elements, but Thermo Fisher, as the first party, used pig trypsin to remove host cells from the container in a short time. After that, it is cleaned by a chemical process to free it from pig elements.</p>	<p>The report and explanation of the LPPOM MUI auditor team submitted to the MUI Fatwa Commission explain the preparation of recombinant vaccine seeds (Research Virus Seed) until they are ready to be used for production (master seed and working seed stages). Recombinant organisms are prepared by inserting replication-deficient chimpanzee adenovirus (ChAdox1) into the chromosome of E.coli bacteria. At this stage, trypsin from pigs was used as one of the components in the media used to grow E.coli to regenerate the transfected plasmid p5713 p-DEST ChAdox1 nCov-19.</p>
Sophia	An urgent need ( <i>hajah shar'iyah</i> ) that overtakes a shar'i emergency ( <i>darurah shar'iyah</i> )	A precautionary attitude is practiced to avoid using haram items for treatment.
Phronesis	Halal	Haram- <i>mubah</i> / permissible

Source: fatwa document of MUI



The phronesis analysis shows how the basis of episteme, techne, and sophia and their prohenesis work behind the two fatwas. The difference in episteme appeared, which is the construction of the basis of knowledge, both shar'i and scientific, for the AstraZeneca vaccine. The two initiatives have their postulates of knowledge, materially equal in degree, although the results of their decisions are different. While on the techne side, which is practical knowledge as the methodology of obtaining data, both institutions rely on the results of library research published by WHO, but for East Java MUI, they obtained the latest data through FGD with the director of AstraZeneca, who said that AztraZaneca did not use trypsin from pig pancreas, but came from fungi. However, Dr. Rizman admitted that he only briefly used porcine trypsin at the stage of releasing host cells from the container. Based on the data, East Java MUI linked the situation to the whole/mustalahah decomposition process, removing unclean elements from pork trypsin. Those two syllogisms are the reason the AstraZeneca vaccine is pure halal.

In contrast, the Central MUI in phronesis construction does not use pure mustalahah as the main thing because it has been stated by BPOM experts that legally, there is porcine trypsin in the phase of recombinant vaccine seed preparation, so it does not need mustalahah anymore. The decision is haram, but mubah, to save lives as a humanitarian reason to permit the use of AstraZeneca vaccine without cancelling the haram law on the pig but permitting it. That is the human reasoning behind the haram- mubah fatwa.

Phronesis in this context, namely the fatwa decision on halal and haram-mubah, turns out to be attached to value philosophy or ethics. Hence, the two fatwas are ethically separated into two streams; namely, the attitude of legalizing what is forbidden by law for the benefit of the wider community is the basic concept of utilitarianism because its nature is to achieve maximum benefit eliminating the attitude of prudence. This theory was pioneered by David Hume (1711-1776) and further developed by Jeremy Bentham (1748-1832) and John Stuart Mill (1806-1873). This theory reveals that an action can be good if it brings as many benefits as possible to community members, although the scope of these benefits is more on direct output, ignoring actual impact outcomes, let alone spiritual matters. This theory is also called a teleological theory. Thus, the measure of good and bad of one's actions is seen from the consequences, consequences, or goals of these actions directly felt benefits.

The ambiguity of utilitarianism is the radius of usefulness, whether the so-called usefulness refers to usefulness as a direct result (output) or usefulness as an indirect impact obtained in a particular time through certain conditions. The condition of the unclear radius of usefulness in output or outcome causes people to be trapped in that the so-called benefits are only direct, even though there are inherent harmful effects from using bad things by nature. However, because of the direct-benefit power, the original inhere value is aborted for the practice of achieving momentary utility. For example, if a person commits a crime in value is an immoral act. However, if the crime is used to save a life, then the crime will be considered good. This ambiguity is why the teleological school is considered a pragmatic school. The opposite theory is called deontology. Deontology comes from the Greek word deon, which means an obligation. This notion was pioneered by Immanuel Kant (1724-1804) and received support from the 20th-century philosopher, Scombe and her husband, Peter Geach. This theory states that whether an action is ethical or not has nothing to do with the purpose, consequences, or consequences of the action. According to this theory, actions are said to be good based on whether they are good for themselves or not. Thus the goodness of an action lies in the value base of the action itself, even though it will make it difficult in practice and even useless directly in life. For example, the act of stealing is conceptually wrong, but it is still bad even though the act of stealing is done to save lives.

East Java MUI's attitude shows more consideration of direct use or momentary utility, even though pork and its derivatives are harams by nature, but for the sake of utility, sacrificing the original value of shar'i, even with the technical argument of mustalahah, built justification that the process of decomposition can remove the shar'i prohibition. This case is like an evil act that

will have its evil value erased if intended to benefit and save lives.

By maintaining the original law on the inviolability of pork even with *mustalahah* treatment but with an emergency and referring to the opinion that the emergency condition of haram goods can be used as medicine, the Central MUI does not mean to change its status to halal. Haram goods remain haram but are allowed to be used as an exception. This view of MUI Center prioritizes the function of medicine from haram elements, such as considering stealing as a sin; although stealing can be a means to alleviate poverty or suffering, it is still wrong and haram. Judging from the process, Central MUI is more prudent (prudent full), while East Java MUI tends to be prudent less.

### **Syllogism is a Deductive Argument**

This paper differs from all the writings that discuss vaccines from the perspective of *maqasid sharia* Abubakar Abubakar (2021), Moch. Nurcholis (2021), Abdul Khaliq Napitupulu, et al. (2021), M. Asrorun Niam Sholeh (2021), Muhammad Mahmud Nasution, (2018), Miftahus Sa'diyah, Mowafg Abraham Masuwd Zawia Ach. Faqih Supandi, (2022). These authors focus on benefits but do not elaborate on *phronesis* as a reason, with a description of how to take *hujjah* and place *hujjah*, and insert arguments of science and *shar'i* simultaneously in building *ijtihad*, how the medical awareness that must place *sharia* remains unshaken when determining practical attitudes. It turns out that there is a space. Even though there have been attempts to expand (the meaning) of the text through various means, the basic tendency of textuality and the lack of empirical analysis of Islamic law discovery methods is still much empty. At least methodologically, it still leaves a space (distance) between itself and the surrounding reality. The textuality of the method of discovering Islamic law (*ushul al- fiqh*) mentioned above is certainly not a coincidence because it is a characteristic born of a system of epistemology and even a particular view of life (*weltanschauung*). On the other hand, certain general and special conditions are very exceptional, to be addressed by *fiqh* or *fatwa* to be given way by allowing or prohibiting it, but when the exceptional is destructive, hazardous, and there is no other way to deal with it, then the *fatwa* can be a guide to finding a solution.

The implications of the results of this study confirm that Aristotle's *phronesis* can help describe the operation of the virtuous practice, just as *maqasid sharia* also has the same goal. However, the postulation of *maqasid sharia* is abstract, so *fiqh* is needed to make it a concrete act of virtue in a specific time and space. Through the construction of *episteme*, *techne* and *Sophia*, it can be identified how the two *fatwas* have similarities and differences. The similarities are that both provide space for biochemical science to explain the process and elements of making the AstraZeneca vaccine, which has been beyond the reach of scholars. Through the method of hearing from the vaccine experts of BPOM and AstraZeneca, it is considered enough to give insight into vaccine knowledge. It is mentioned that the AstraZeneca vaccine, in the process of cell cultivation, uses porcine trypsin, which BPOM considers based on its analysis of pig pancreas. This opinion becomes the main argument for the MUI Center; as for the MUI of East Java, it gets input from the opinion of the director of AstraZeneca that the trypsin enzyme used is not derived from the pig pancreas. However, from *fungi/fungi*, this opinion then strengthens the East Java MUI to act virtuously by issuing a halal *fatwa*, in addition to being strengthened by the assumption of the operation of decomposition/absolute *mustalahah* in the process of vaccine production, so that the impurity of *mugaladah*, becomes lost, because of which the AstraZeneca vaccine is a halal product.

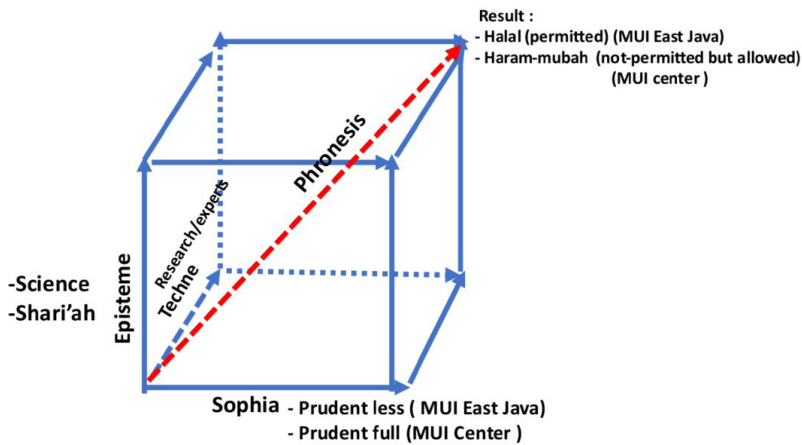
While the Central MUI is still cautious, not changing the status of the haram of pork or its derivatives, even though it has gone through decomposition/*mustalahah*, it is still haram, but the consideration is on the exceptional condition; namely, the haram thing has medicinal power that can be used at a critical time to save mass lives. So that the practical action that occurs as a

result of the fatwa still maintains the value of *Al Aslu* as a form of compliance with the ontological sharia, but in an unprecedented act, the belief that this vaccine can save millions of lives, that is why the result of the fatwa is *haram-mubah*.

One thing that Aristotle emphasizes in explaining episteme is that the construction of knowledge is not just phonetic or language expression but the result of observation and experience. It means that concerning the vaccine episteme, the scholars are only based on phonetic knowledge, not the knowledge they have discovered themselves, so the beliefs used as arguments are indeed the results of their tests, not the results of other institutions involved in vaccine politics in Indonesia. On the other hand, it also further develops knowledge about the world of vaccine production, that trypsin producers are not only pigs but can be taken from cattle or mushrooms. This data can be known if scientists, and scholars, conduct their research not based on literature review alone.

Generally, a syllogism is a deductive argument consisting of two premises (central premise and minor premise) and one conclusion. For example, how to give a fatwa on a vaccine or medicine. In this case, the AstraZeneca vaccine is ruled to be the same as *khinzir* called *Al-Aslu*, pigs even though there is no explanation that porcine trypsin is called *Al-Far'u* in the Koran and Hadith, but by inductive means, laboratory studies prove the origin of porcine trypsin from the pancreas of pigs. Moreover, the *illat* is equated in terms of haram / unclean *mughaladah*; on this matter, the conclusion / *natijah*, both MUI Institutions recognize the element of haram, but East Java MUI acted more courageous by making the production process as a rule of *istikalah*, the decomposition process of enzyme trypsin becomes lost. East Java MUI gives a fatwa halal, while MUI Center still gives a fatwa Haram, but allowed to be used for the sake of medical benefits it contains, so the fatwa phrase: *Haram-mubah*. Thus the cubic relationship on the operation of phronesis is as follows.

**Figure 2:**  
The Cubic Relationship on The Operation of Phronesis



Furthermore, the study of fiqh is finally not just the fulfillment of epistemic and techne requirements but also the fulfillment of sophia, namely wisdom or moral virtue. The meaning of wisdom is more likely to be intended as an attitude of prudence. It has been stated in Surah Furqan (25):

وَحَلَقَ كُلَّ شَيْءٍ فَقَدَرَهُ تَقْدِيرًا

“And He has created all things and set their measures with great care.” Qs Al-Furqan: 2

Also, in the hadith of Anas ibn Malik:

التَّائِي مِنَ اللَّهِ وَالْعَجَلَةُ مِنَ الشَّيْطَانِ

“Prudence comes from Allah, while haste comes from the devil.” Heard Abu Ya’la in his Musnad and Baihaqi in Sunan al-Qubro. Shaykh Al Albani in Al Jami’ Ash Shoghir said that this hadith is *hasan*)

This wisdom will be achieved if a fiqh expert has a spirit of virtue that is meticulously high. So that *istinbath* is not just fulfilling the requirements of knowledge or reasoning requirements, as well as methodology alone, but further fulfilling the value of appropriateness, the maximum impact of inner and outer, which is careful without destroying the standard sharia construction, by always finding a middle way or empty of two extreme poles, namely between *shar’i* and *urf*.

That is why fiqh, in particular, no longer determines halal-haram and red-white but always finds a solution between *shar’i* and *urf* so that humans always get a way out of all life’s problems. Nevertheless, that does not mean, in the name of expediency, then dismiss the original common law; instead, fiqh becomes a new middle ground finder between halal-haram, not as a rationalization tool for the sake of momentary utility or interest. This situation is where the ability of fiqh is always adaptive rather than rationalization. On new contemporary issues, the *illat* / inner message study does not change the *shari’a* stipulation, even though the ‘*urf* conditions are very emergency.

So far, the objective truth of classical fiqh, in the form of wanting to see the utility or pragmatics of sharia, is the philosophy of sharia that has been understood, namely *maslahat*. Whereas the objective truth of fiqh should be coherent, namely consistency and adherence to *al aslu*, even in variations and special-exceptional dynamics, this is the essence of deontology from fiqh as a phronesian commitment, which is often forgotten in the pursuit of optimum benefits.

Technically and methodically, how the science of fiqh thinking is developed in the science of *ushul fiqh* so that fiqh, through its *ushuliyun*, will always explore dimensions that are always adaptive to dynamics without letting go of the rope, namely *illat*. So the results of *ushul fiqh* are creative and humanistic. In other words, the truth of *ushul fiqh* focuses more on the humanistic aspects of humanity. That is why *ushul fiqh* is considered unique in that it sees that human behaviour is not always the same. The truth of *ushul fiqh* is not designed for existing but must be sought in context. Finally, *Ushūliyyūn* only has a very administrative task, namely collecting, organizing, classifying, and managing *fiqhiyah* arguments and scientific arguments for fiqh purposes.

So far, fiqh has been in contact with philosophy in the epistemic direction, namely the construction of arguments and syllogisms, and in *istinbath*, namely logic, organizing maxims to find explanations as the basis for *ijtihad*. From the study of this article, *phronesis*, as a philosophy of fiqh, must also empower the highest or main wisdom as the highest potential of humans who are *kamilan* (perfect) involved in fiqh so that fiqh is not just knowledge of practicing sharia, but also a means for humans to approach Allah ta’ala, through halal or permissible ways of sharia or avoiding the haram.

Life upholding fiqh is not just the satisfaction of carrying out according to sharia alone. Furthermore, it becomes a human ladder to meet *Khaliq* by climbing the procedural ladder described in sharia messages as the Sufis approach Allah ta’ala. Thus awareness of practical action (as *surur al amalli*) is not enough because the practicality of action tends to emphasize the element of benefit and mere momentary usefulness sacrificing *al-aslu* as the standard norm of sharia. That is why careful awareness-practice-amalgamation-virtue is needed (as-*sururur al-fadhillah*). The word careful as the essence of *fadhillah* emphasizes the attitude of building sharia-compliant *hujjah*, the basis of wise virtuous actions. Thus the purpose of fiqh is to seek *maslahah* through virtuous careful action.

The study of fiqh philosophy is needed to strengthen ushul fiqh, which has only fulfilled episteme, techne and maxim-maxim, so that fatwa is very administrative dimension and even servants of interests, religious fatwa feels pro-power, anti-change, anti-culture, and anti-progress, humans are confined to classical century epistemic construction.

This study tries to remind us about fiqh as a discipline in Islam, which has been present since the Prophet until now, which then developed into a discipline that narrowed down to ushul fiqh, and only means Islamic law. In the beginning, Fiqh in Arabic means deep knowledge or comprehensive understanding of the Islamic religion related to transforming sharia into a system of practical action values so that humans can live according to sharia guidelines as a whole but contextual to the space-time conditions of society, a process of gaining knowledge about Sharia through behaviour, thought practice - law. As Levi notes, Ibn Khaldun's definition of Fiqh:<sup>3</sup>

Ibn Khaldun describes *fiqh* as “knowledge of the rules of God which concern the actions of persons who own themselves connected to obey the law respecting what is required (*wajib*), sinful (*haram*), recommended (*mandūb*), disapproved (*makrūh*) or neutral (*mubah*).” This definition is consistent among jurists.

Progress in theory and methodology happened with the coming of the early Muslim jurist Muhammad ibn Idris ash-Shafi'i (767–820), who codified the basic principles of Islamic jurisprudence in his book *ar-Risālah*.

On the other hand, the state of the times/culture, *urf*, has far exceeded the time of the *salaf*. In order to produce fatwas that are accommodating to the development of science and technology, and culture, it is necessary to fulfill the element of *sophia*, the attitude of virtue, so that on the cubic composition of the phronesian entity, fatwas will feel like providing solutions that are adaptive to the times, culture, and humanity. The word adaptive does not mean rationalization or the *hujjah* of science and *hujjah syar'i* as a justification for human interests so that the fatwa transgresses the fundamental law of sharia for the sake of interest. In this condition, the fatwa has a more humane aesthetic dimension without losing its transcendence.

Fiqh is part of human *ijtihad*. Fiqh is the work of *ijtihad* of Muslims in formulating laws relating to the law of human activities of *mukallaf*, from waking up to falling asleep again. Therefore, efforts to explain something not contained in the Hadith contextually require formulations. Technically called *ushul fiqh*, for example, the *qias* method.

In the *qias* method, for example, Imam Shafi'i came up with the pillars of *qias* such as *Al-Aslu*, *Al-Far'u* and *Illat*. This *qias* pattern is the same as the study of philosophy called a *sylllogism*, a type of indirect deduction reasoning. *Sylogism* is the greatest invention of the famous philosopher Aristotle. This reasoning is different from Audah (2008), who emphasizes the methodology (*techne*), which must be integrative- interconnective in a triadic manner, namely elements of science, sharia and *urf*, and still positions *fiqh* as identical to sharia, even though in this finding it is far different. Fiqh is a sub-knowledge under sharia, an act of virtuous practice, while sharia is an abstract fundamental law as the material of *fiqh*, which must involve elements of wisdom (*sophia*). It is on this side that Audah forgets.

## Conclusion

From the case of these two fatwas, many things can be done to improve *ushul fiqh* in the future. As is known, there are three arguments that *ushul fiqh* uses to reveal the truth, namely normative arguments (*al-Qur'an* and *Sunnah*), empirical arguments (*ijma'*, *urf*, *syar'u man qablanā* and fatwa of companions) and methodological arguments (*qiyās*, *istihsān*, *istishāb*, *mashālih mursalah* and *sadz al-dzari'ah*). Based on these three propositions, three methods are then used in the

<sup>3</sup> Levy, Reuben (1957). *The Social Structure of Islam*. UK: Cambridge University Press. ISBN 978-0-521-09182-4

process of discovering Islamic law, namely the method of linguistic interpretation (*al-thurūq al-bayāniyah*), the method of causation (*ta`lil*) and the method of harmonization (*al-taufiq*). In the process of applying the method of legal discovery, there should be three areas of awareness that underlie the mujtahid, first, historical awareness (*al-syu`ur al-tārikhī*) in the form of the validity of the texts of revelation, which serves to ensure the validity of the texts of revelation in history. Second, eidetic consciousness (*al-syu`ur al-ta`ammuli*) in the form of hermeneutic understanding and interpretation that serves to understand the texts of revelation and its interpretation starting with the maxims (rules) of language and *asbāb al-nuzūl*, and the third is praxis consciousness (*al-syu`ur al-amali*) which serves to relate the values of the rule of law in life in the world and manifest the tendencies of revelation in history.

Now, it is found that the concept of practical awareness (*al syuur al amali*) will only see the function of the law on the principle of momentary benefits. However, imperceptibly sacrificing *al-aslu*, because that is why in this study, a new azar is found, namely the principle of *al-syuur al amali*, must be tightened with mindful awareness of the virtuous practice, this careful word that locks if *al-aslu*, will always be maintained, but not in rigidity because it can find a space that can be adapted (*alfaru*) without losing the norm *aslu*, (*illah*). The right term is *al shu`ur al fadhillah*.

In addition, the philosophy of fiqh explains, among other things, the secrets, meaning, wisdom and values contained in the science of fiqh so that people implement the provisions of fiqh accompanied by high understanding and awareness. With this public legal awareness, high obedience and discipline will be achieved in implementing fiqh. With the philosophy of fiqh, it can be distinguished which laws *as-aslu*, which are eternal and do not change over time that direct human life as a whole so that uncertainty disappears, and which are subject to change (*alfaru*) which ensures the acquisition of responsible human freedom within. As well as finding the connection between *al aslu* and *urf* through *illah* (main message), coupled with sophia / *fadhillah*, so that fiqh will always be adaptive throughout the ages without hesitation regardless of sharia, living freely but always in harmony with sharia.

Therefore, truth in fiqh is relative (*zhanni*) (*mukhtalafih*) and adheres to the law of probability (*ijtihādiyah*). The starting point of *ushūliyyūn* is intelligent, creative truth and not blaming others such as judging wrong, heresy, *jumūd*, and so on. If the truth of objective science prefers logical explanation, then the philosophy of fiqh presents the foundation of the philosophy of value, the philosophy of science and methodology and logic-*irfani*, which pivots on the Koran and hadith.

Thinking activities in fiqh are philosophical activities, not just thinking about the rules of interpretation and contemplation on sharia, but thinking logically, broadly, and structured and not only looking from one theory or point of view but thinking through various possibilities from various points of view. It must also be able to account for the results of its thinking on science, morals and, of course, God, because thinking in philosophy must explore the roots of a problem. It is characteristic of philosophical thinking in Islam with the analytical tool of phronesis, which is applied to the philosophy of fiqh. Its main characteristic is that building its episteme must be based on the sacred texts of the Qur'an and Hadith (Prophetic philosophy). The rationality of the philosophy of jurisprudence lies in its ability to use the potential of free, radical thinking in building a scientific knowledge system. As well as transcendence consciousness which comes from the ability to use the heart and imaginative intuition to penetrate and unite in supernatural truth directly and witness the presence of Allah SWT and the reality of life; this is the main virtue of the philosophy of jurisprudence, *al'syu`ur al fadhillah*.

The philosophy of fiqh is a derivative of *maqsyd* sharia, or the philosophy of sharia, which focuses on the benefit of *wa mursalah* only, while the philosophy of fiqh realizes that to achieve *maslahat*, it must go through a thought process that is free of knowledge, methods, and believes in obeying *al-Aslu*, when responding to circumstances, both normal and special or exceptional. Fiqh provides a foundation always to be prudent and obedient to the sharia in finding a middle ground: *maslahah*, called *fadhillah*.

This study is limited to providing critical notes on two different fatwas from one case, namely the AstraZeneca vaccine. The arguments built by the two fatwa institutions, namely Central MUI and East Java MUI, are described with Aristotle's phronesis analysis, namely finding traces of the operation of the three essential elements of virtue practice, episteme, techne, and Sophia. Those three elements can be used as a comparative analysis of the similarities and differences in *istinbath*/reasoning. This paper will not say which is right or wrong, but it is enough to provide a systematic study of how phronesis works in the two fatwas. The reason is that each fatwa institution or *fuqaha* have a different method of *istinbat* according to their knowledge base, method and understanding of wisdom. By learning from these two fatwas, there is a need for the science of fiqh, namely the philosophy of fiqh, as a new discipline to provide efforts to fulfill the sharia so that it is not driven by rationalization of an interest in an emergency, but instead remains as a careful middle ground-virtue (*al wasitul alfadhillah*) sourced from the basic law of the unchanging sharia (*al Aslu*). The thing for its scholarship is finding traces of things that can be adjusted to the situation (*al- faru*) without losing the basic message of the sharia (*illah*). This situation makes the philosophy of fiqh very deontological, not *maqasidy* or utility or usefulness that has the potential to supersede *al-aslu*.

This virtue consciousness is only fulfilled if the element of wisdom (sophia) is fulfilled, including when responding to the sense of comfort of the body contaminated with porcine trypsin. Phronesis, in this situation, factually must be recognized as a *mustalah* process, complete decomposition by the body. Vaccines that are injected at

0.5 ml per dose will produce the optimum level of vaccine efficacy work. While other enzymes derived from porcine trypsin will be decomposed entirely naturally by the body's metabolism, then will be secreted in various forms, sweat, feces, and so on. Thus, everything in the body will be clean again from the haram element.

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