

## ISLAMIC THEOLOGICAL PRECEPTS – THE CASE FOR COVID-19

Shaykh Dr Rafāqat Rashid, *Academic Director, Al Balagh Academy*

Correspondence: [drorafaqat@albalaghacademy.com](mailto:drorafaqat@albalaghacademy.com)

### Abstract

Diversity of opinion mainly related to theological and legal interpretations of one's faith, can sometimes lead to major conflicts amongst Muslims about how the COVID-19 pandemic should be handled, from scepticism to extreme measures. These differences and conflicts can cause confusion, panic, distrust, and unjustified aroused emotions. This is not to suggest that there is only one opinion, and everyone must follow it, but to make it clear that our faith requires that our conclusions are thought through, are informed by science, whilst adhering to the Islamic traditional approach.

Islam and Muslims should engage with emerging national and local public health policies to guide us through our conversations around necessary actions such as opening and closing mosques, suspending Friday congregational prayers and other similar decisions.

This article will focus on important theological positions and their interpretations in the context of the COVID-19 pandemic. How Islam views illnesses and disease and how this relates to reliance on God, the role of God's decree, and whether taking up physical means contravenes belief in such decree. These are just some of the important Islamic theological precepts which form the foundation to our response. I will describe how classical Muslim scholars viewed plagues and epidemics, and whether there are any stipulated rulings from them on how we should prevent harm to public interests. I will argue that even from a theological standpoint the COVID-19 pandemic is serious enough for Muslims to take up stringent preventative means to avert harm caused.

### Introduction

Spiritual and psychological interventions and approaches are a must in any calamity inflicting Muslim populations. Mental and physical health are considered essential blessings bestowed by Allah (swt) in Islam. To preserve life and health is a major trust and responsibility for all individuals and communities at large. Endemics and pandemics are a big threat to human life and wellbeing. The increasing death rates with consequential, detrimental physical, psychological, and spiritual impact on the wellbeing of society can be profound.

If an intervention or approach is not properly balanced, then there is a risk of further escalation of the problem. Sometimes we can be too focussed on mortality and morbidity figures to the detriment and harm of our spiritual coping mechanisms- individually and as a

community. Muslims accept that preventative means should be taken, coupled with trust in God, and the means are not just limited to the physical and material (*asbāb zahiriyyah*), but also transcend beyond that to the metaphysical and spiritual (*asbāb bāṭiniyyah*). It can be challenging to get this balance right especially when we are preserving our faith and spiritual wellbeing, by frequenting the mosque, and this conflicts with the need to socially distance during lockdown measures to reduce spread. Guidance on getting this balance right requires that we do not entirely rely upon just a secular approach, but we also refer to our Islamic tradition to advise us on important principles related to the degree of measures we should implement in both the physical and metaphysical realms.

There is a need to provide holistic, well informed Islamic advice to Muslim scholars, imāms, Muslim leaders,

health care professionals, the Muslim population, and Islamic organisations.<sup>1</sup> This advice needs to be consistent, easy to follow and authentic in its sources, both from the Islamic tradition and medical and public health perspectives. This article is an effort to try and address complex decision making around the COVID-19 pandemic using our theology as the framework. I will respond to important and pertinent theological questions which are sometimes confused and at the crossroads of our faith and medical science.

It is important for any working approach that deals with reducing harms to society to take into consideration theological concepts or principles that may regulate behaviour or thought in Muslims. How does Islam perceive illnesses and disease, and how does this relate to reliance on God? Other questions include the role of God's decree and whether taking up physical means contravenes belief in such decree. How does Islam describe and perceive plagues and epidemics, and whether there are any stipulated stringent rulings from classical Muslim scholars on preventing harm from them? All these considerations are important determinants, informed by the Islamic tradition, that frame the Muslim response to pandemics.

### Islam and Illness

Islam informs us that all illnesses and diseases are tests from God and are the natural course of life. They have their benefits and rewards and should not be viewed as punishment in all cases. It is only through the instruction of Allah (swt) that life is saved and taken. It should therefore not be surprising when tests are real, because there is a purpose. Allah (swt) says, "We shall certainly test you with fear and hunger, and loss of property, lives, and crops. But, give glad tidings to those who are patient." [Q. 2:155]. These tests are not in vain but are rewarded if patience and steadfastness is maintained. The Prophet (saw) said, "Whatever trouble, illness, anxiety, grief, hurt or sorrow afflicts any Muslim, even the prick of a thorn, Allah (swt) removes some of his sins by it."<sup>2</sup> He further stated, "The plague is a punishment that Allah sends on whom He wishes, yet for those among the afflicted who believe, it is a blessing. None remains patient in a land in which plague has broken out and believes that nothing will befall him except what Allah has ordained but that Allah grants him a reward like that of a martyr."<sup>3</sup>

### Trust in Allah (swt) and Seeking Means to Treatment

Islam requires us to put both our trust in Allah (swt) (*tawakkul*) and utilize the means to protect ourselves

when possible. Allah (swt) says, "Say: Nothing will afflict us except what Allah (swt) has decided for us." [Q. 9:51]. A Muslim accepts that all is from Allah (swt) and recognises that the means to prevent harm are also destined by God. It is for us to utilize these means to overcome hardships. The means do not conflict with trust in God's decree, just like taking medicine does not reduce one's trust in God's plan; rather it is seen as part of the plan. During the lifetime of the Prophet (saw), some people thought that using medicine defies the trust and reliance in Allah (swt) (*tawakkul*). They therefore asked the Prophet, "Messenger of God, should we use medicine?" The Prophet replied, "Yes, you may use medicine. Allah (swt) has not created any disease without also creating its cure, except one: old age."<sup>4</sup> The Prophet clarified that the use of medicine is permissible and even recommended at times, and that this does not violate the concept of trust in God.

### Nature of Contagion

There are many examples in the Islamic tradition that suggest that physical or material means should also be taken to overcome harm when it ensues, and this is not to contravene the decree of God. This universe was created by Allah (swt) to operate according to systems; systems in which cause-and-effect is an observed key factor. Despite the existence of these systems, Allah (swt) remains in full and uncompromised control of all of it. The ordinary course of affairs, that relationship between cause and effect must be maintained, has never replaced the core belief in Allah (swt) as prime cause. Anas, the companion of the Prophet, narrates that a man asked: "O Messenger of God, shall I tie my camel and rely upon God, or leave it untied and rely upon God?" The Messenger of Allah (swt) replied: "Tie your camel and rely upon God."<sup>5</sup>

When the Prophet (saw) said, "There is no contagion (*lā'adwā*)", the purpose was to remind his companions that one should have trust in Allah (swt), and all of this is from God. Allah (swt) remains in full and uncompromised control of spread of disease and contagion is not due to superstitious beliefs because of bad omens and other beliefs which were prominent at the time. It would not be correct to infer from this that a disease does not pass on from one individual to the other or that one should not take precaution as these are the means Allah swt has chosen and they are because of His will. Hence the full ḥadīth states, "There is no *'adwā*, no *ṭiyarah*, no *hāmah*, and no *ṣafar*, and run from the leper like you would from a lion"<sup>6</sup>. In the same sentence the Prophet (saw) is negating prominent superstitions of

*ṭiyarah*, *hāmah*, and *ṣafar*, which are bad omens, and at the same advising caution by keeping distance from those infected i.e., lepers. The Messenger of Allah (swt) is telling us that there is no contagion, yet at the same time commanding us to run from the leper like you would from a lion. This suggests that disease can spread from one person to another but with the permission of Allah (swt). The Prophet also said, “An ill person should not mix with healthy people.”<sup>7</sup> and, “Avoid a [contagious] disease the way a person flees from a lion.”<sup>8</sup> Therefore, taking precaution by taking up means to avoid a bad outcome or the spread of infectious disease is something prescribed in Islam.

There are many other examples witnessed amongst the companions of the Prophet, like that of Umar ibn al-Khattāb. During his caliphate, he went to Syria when the plague of ‘Amawās broke out in 18 A.H. He sought consultation from his advisors on whether to return to Madīnah or continue. One of them said, “You left for the sake of Allah (swt) so this plague should not stop you.” Others advised the opposite and ‘Umar decided to return to Madīnah. Abū‘Ubaydah rebuked him, “Are you fleeing from the decree of God?” ‘Umar responded, “Yes, I am fleeing from the decree of Allah (swt) to the decree of God. If you had camels and they entered a land with two sides, one fertile and the other barren, and you grazed them in the fertile area, wouldn’t you be doing that by the decree of God? And if you let them graze in the barren area, wouldn’t you be doing that also by the decree of God.”<sup>9</sup> ‘Umar’s response demonstrates how to balance relying on Allah (swt) with taking sufficient precautions.

‘Umar was informed by ‘Abd al-Rahmān ibn ‘Awf that he heard from the Messenger of God: “If you hear that it (the plague) is in a land, do not go there, and if it breaks out in a land where you are, do not leave, fleeing from it.”<sup>10</sup> Also Usāmah ibn Zayd said: The Messenger of Allah (swt) said: “The plague is a calamity (or a punishment) that was sent upon the children of Israel, or upon those who came before you. If you hear of it in some land, do not go there, and if it breaks out in a land where you are, do not leave, fleeing from it.”<sup>11</sup> This advice is in line with one of the higher objectives of the Sharī‘ah, which is to preserve life (*hifẓ al-naḥs*).

### **Describing plague (*al-ṭā‘ūn*) and differentiating it from an epidemic (*al-wabā’*).**

There have been many historical accounts of plagues in the Muslim world, and Muslim scholars have observed certain legal rulings that stem from advice sought from

these prophetic traditions. Classical Muslim scholars however, differed regarding the definition of a plague (*al-ṭā‘ūn*), differentiating it from an epidemic (*al-wabā’*).

There are two main understandings of *al-ṭā‘ūn* (plague). There are those who consider *al-ṭā‘ūn* as any fatal widespread disease, this includes every widespread, transmissible infectious disease that leads to death in significant numbers.<sup>12</sup> Some therefore do not differentiate it from *al-wabā’* (epidemic)<sup>13</sup>, because *al-wabā’* (epidemic) is seen by some as a contagious illness that has spread vastly beyond the norm.<sup>14</sup> It is when the epidemic’s spread becomes a fatal killer, that Muslim scholars call it a plague. So, the differentiation exists on basis of spread and severity of deaths of the contagious illness.

The other understanding describes *al-ṭā‘ūn* quite differently to that of *al-wabā’*, in that *al-ṭā‘ūn* refers to a specific disease with certain characteristic signs and symptoms. Muslim scholars describe it as an infection which results in sores, skin blisters, swollen glands, often behind the ear, armpits and other such areas.<sup>15</sup> Qāḍī‘Ayād (d. 544 AH)<sup>16</sup>, Ibn Hajar al-Asqalānī (d. 852 AH)<sup>17</sup> and Ibn Hajar al-Haytami (d. 974 AH)<sup>18</sup> state that the plague, although its literal meaning pertains to the aforementioned disease, can sometimes be attributed to other epidemics in its figurative sense, because it is a common illness that leads to excessive deaths. In this understanding, *al-ṭā‘ūn* is described as a fatal illness related to a specific disease with characteristics, whereas *al-wabā’* is not.

The Mālikī scholar, Abu al-Walīd al-Bājī (d. 474 AH) claims that the plague is a disease that harms many people... it so happens that it is attributable to one illness.<sup>19</sup> Ibn Ḥazm (d. 456 AH) asserts that it is when the death rate has increased more than the norm (due to an infectious illness).<sup>20</sup> Al-Nawawī (d. 676 AH) explains that *al-ṭā‘ūn* (plague) refers to swellings which cause severe pain, and sores which come out and flare, and the area around it is black, green or red-violet brownish in colour with associated heart palpitations and vomiting. He further adds that, as for *al-wabā’* (epidemic), al-Khalīl (d. 170 AH),<sup>21</sup> and others, said that it refers to the plague, and that it refers to any widespread disease. He asserts that the correct view, as noted by scholars, is that it is any sickness that affects many people in one part of the land, but not all of it. He adds that it differs from ordinary diseases in that many people are affected and that they are all affected by the same kind of sickness, unlike other common situations, when people suffer from different kinds of sickness. All plagues are epidemics but

not all epidemics are plagues and the epidemic that struck the region of Shām at the time of ‘Umar was the plague of ‘Amwās.<sup>22</sup> In a strictly biological sense, the plague is usually understood as an infection caused by the *Yersinia pestis* bacillus, identified in 1894 by Alexandre Yersin.<sup>23</sup> Many Muslim scholars also identified plague to a particular disease condition which resembled the bubonic plague.<sup>24</sup>

In conclusion, the use of the word *al-ṭā‘ūn* (plague) has been used interchangeably with *al-wabā’* (epidemic) by different people in different contexts because early historical sources were often unable to identify the source of the sickness as being the same and thus proven to be associated to the same cause.<sup>25</sup> This is evident from different accounts of definitions of *al-ṭā‘ūn* and *al-wabā’* as espoused by classical Muslim scholars. Hence when the signs were distinguishable like sores which come out and flare, and the area around it is black, green or red-violet brownish in colour, and it was widespread taking lives, it was termed *al-ṭā‘ūn*. When deaths were significantly more than normal and widespread but the signs were not characteristic and there could be multiple causes then it was termed *al-wabā’*.

In other words, epidemics (*al-wabā’*) have usually been ascribed to the spread of disease amongst the population affected where the source was not clear or spread limited and could be due to multiple sources or illnesses. Plagues were attributable to an exceptionally high number of deaths and the source was clear because the symptoms and signs were the same.

It was not always possible in the past to prove that the increasing rates of sickness or death, that had become widespread, were from the same infectious source, unless there was clear and unique characteristic symptoms and signs of the fatal disease, which was common amongst those affected. Plagues like the bubonic plague had their own defining characteristics, and hence there was some certainty that the source was the same, whereas this would not always be the case for many epidemics. Those suffering in an epidemic would normally present with multiple symptoms and signs, the causes of death would be more complex, and it would be difficult to ascertain that the deaths were from the same source and hence it would not be justified to command stringent rulings to contain the spread as there were multiple sources and reasons for the deaths, and so such stringent rulings were not certain to be effective. We now have advanced epidemiological research capabilities and advanced technology to accurately confirm the source of the sickness and so epidemics and pandemics would also be

included within the legal rulings of plagues if similar factors of spread, and fatality are confirmed.

### Rulings related to Plagues

Muslim jurists describe rulings related to leaving the country affected by the plague and fleeing from it. It is not permissible for a person to leave the country with the intention of fleeing from a plague, because the Prophet advised that if you hear of it in a land, then do not enter it, and if it inflicts a land where you are, then do not flee from it.

A group of Mālikī jurists interpret this instruction of the Prophet as just guidance (*ta’dīb wairshād*) and hence a recommendation. However, the correct view is that the ruling in the ḥadīth is of prohibition, and this is the view of most scholars, that one must not flee a place of plague. The prophetic traditions indicate that the prohibition applies specifically to the one who leaves with the intention of escaping from its effect. If, however someone was to leave a place of plague for a different reason or purpose, such as trade, study, or work, then the prohibition does not apply to him.<sup>26</sup>

The Mālikī judge and jurist Ibn ‘Abd al-Bārr (d. 463 AH), claims that this indicates that it is permissible to leave the place of the plague for ordinary travel if it is not with the motive of fleeing from the plague.<sup>27</sup>

The great Ḥanbalī jurisconsult Ibn Muflīh (d. 763 AH), claims that if the plague breaks out in a land other than where you are, then do not go to it. And if you are in the land of plague, then do not leave it, because of the sound report to that effect. What is meant by entering or leaving it, is doing so to flee from it, otherwise it is not prohibited.<sup>28</sup>

Scholars differ regarding the *reason* why Muslims are instructed not to leave or enter the country affected by the plague. Some scholars consider the matter a devotional matter. A matter that requires obeying and accepting the command of the Prophet as revelation without question - and not leaving this to reason.<sup>29</sup> This explanation is not problematic as all matters which have been instructed by the Prophet are devotional matters. It also does not suggest that the reasons for this command should not be sought, as the context to the ruling is vital to its application.

Others claim the *ratio legis* (*illah*) is the danger of believing that it was the escaping from the plague that spared them, rather than God, or that it was the entry into the affected land that destroyed them and not God. This is to avoid subscribing the cause to other than God, which contravenes the Islamic theological belief that



Allah (swt) is the prime cause. To avoid such beliefs, it was deemed better for them not to be put in a situation that would potentially lead them to this belief. Refraining from acts that have the potential to lead to the belief that Allah (swt) is not the prime cause is a valid opinion, but this does not detract us from the important question about harm considerations to the public, which plays a fundamental role in our Islamic jurisprudence and how we are obligated to remove harm or prevent it.

Others suggested that the reason is for the interest of the remaining people, for fear of spreading infection, or for fear that there is no one left for the dead to prepare them for burial and take care of the sick and deal with their needed affairs- in other words, due to public harm considerations.<sup>30</sup> This is a more realistic explanation and resonates with our legal obligations of preventing harm to the society, rather than those which relate solely to theological beliefs.

Islam describes harms that impact essential public interests (*maṣlaḥah*). The concept of *maṣlaḥah* (public interest) has been discussed at length by several jurists in the past and increasingly more so today.<sup>31</sup> The two most prominent scholars known for their writings on the subject are the Shāfi'ī jurist and Ash'arī theologian Abū Ḥāmid al-Ghazālī (d. 505 AH) and the Mālikī jurist Abū Ishāq al-Shāṭibī (d. 790 AH). Al-Ghazālī was one of the first to provide the original formulation of the concept from its rudimentary form, whilst the latter developed and refined the concept.<sup>32</sup>

The institution of *maṣlaḥah* is derived from the survey and scrutiny of all Islamic teachings and injunctions found and derived from the Qur'ān and prophetic tradition (*aḥādīth*). This institution relates that the Sharī'ah in all its teachings aims at the attainment of good, welfare, advantage, benefits, etc., and the warding off evil, injury, loss, etc., for the public interest.

Obligations of preventing harm do not just relate to obligations not to harm, but also include obligations not to impose *risks* of harm. There are many examples of this in the *fiqh* literature and legal maxims<sup>33</sup> are used which guide on how competing harms should be judged ('Izzī al-Dīn, 1:64-5). One of the five leading maxims in Islamic jurisprudence relates to harm principles, "harm must be eliminated" (*al-ḍararuyuzāl*) or otherwise described as, "there is to be no harm and no reciprocating harm" (*lāḍararwalādirār*), and has subsidiary maxims (Ibn Nujaym, 1999).

The rulings stipulated by classical Muslim scholars regarding escaping and entering a zone of an epidemic

was to prevent harm to the public and was not obligated just based on it being a plague, because it was only when the plague was widespread and fatal that such stringent rulings would be implemented. Classical Muslim jurists have detailed many principles and elaborated on preventative means to avert harms to the public. These harms may lead to fatal outcomes which should be prevented. This requires Muslim scholars to elaborate how the sharī'ah views harm considerations that severely impact public interests during pandemics like covid-19 from both a theological and legal perspective.

## Conclusion

Islam informs us that all illnesses and diseases are tests from God and are the natural course of life. They have their benefits and rewards and should not be viewed as punishment in all cases. Islam requires us to put both our trust in Allah (swt) (*tawakkul*) and utilize the means to protect ourselves when possible. There are many examples in the Islamic tradition that suggest that the physical or material means should also be taken to overcome harm when it ensues, and this is not to contravene the decree of God.

Classical Muslim scholars differed regarding the definition of a plague (*al-ṭā'ūn*), differentiating it from an epidemic (*al-wabā'*). It has been shown that the use of the word *al-ṭā'ūn* (plague) has been used interchangeably with *al-wabā'* (epidemic) by different people in different contexts because early historical sources were often unable to identify the source of the sickness as being the same and so were unable to associate to the same cause due to lack of specific somatic characteristics of the disease. We now have advanced epidemiological research capabilities and advanced technology to accurately confirm the source of the sickness and so it can be argued that epidemics and pandemics would also be included within the legal rulings of plagues if these factors of spread and fatality are confirmed to be from the same source and severe.

Islam and Muslims should engage with emerging national and local public health policies, which inform us how conversations about necessary actions such as opening and closing mosques, suspending Friday congregational prayers and other important interventions should be addressed. Now that the theological precepts are clear in that harm to public must be removed using all means permitted in Islam, the next stage would be an ethico-legal framework on how this should be done.

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43. The legal maxims are not similar to uṣūl al-fiqh (principles of Islamic jurisprudence) since maxims are based on the fiqh itself and represent rules and principles that are derived from the detailed rules of fiqh on various issues. Uṣūl al-fiqh is concerned with the sources of law, the rules of interpretation, methodology of legal reasoning, dealing with the meaning and implication of commands and prohibitions and so on. On the other hand, a maxim is defined as “a general rule, which applies to all or most of its related particulars” Kamali, 2012.
44. Rāzī al-, Fakhr al-Dīn, *Al-Maḥṣūl fī 'ilm al-Uṣūl*, Mu'assasat al-Risālah, Beirut, 1997. 6 vols.
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3. <sup>3</sup>Bukhārī ḥadīth no.5734
4. <sup>4</sup>Abū Dāwūd ḥadīth no.3855
5. <sup>5</sup>Timidhī ḥadīth no.2517
6. <sup>6</sup>Muslim ḥadīth no.2220
7. <sup>7</sup>Muslim ḥadīth no.2221b
8. <sup>8</sup>Bukhārī ḥadīth no.5707
9. <sup>9</sup>Al-Khudārī Bak, Muhammad, *The History of the Four Caliphs*, (Turāth Publishing, London, 2012), p. 133
10. <sup>10</sup>Bukhārī ḥadīth no.5739 and Muslim ḥadīth no.2219.

11. <sup>11</sup> Al-Bukhāriḥadīth no.3473 and Muslim ḥadīth no.2218
12. <sup>12</sup> Ibn al-Athīr, *al-Nihāyah* 3:127; Ibn Manzūr, *Lisān al-‘Arab*, 13:267; al-Fayyūmī, *al-Misbāḥ al-Munīr*, 2:373
13. <sup>13</sup> al-Jawhari, *al-Ṣiḥāḥ* 6:2158; Ibn al-Mulqin, *al-Tawḍīḥ*, 6:434; al-Karmānī, *al-Kawākib al-Dirārī*, 5:42, 9:69; al-Qurtubī, *al-Mufḥam* 3:707; Ibn Ḥajar al-‘Asqalānī, *Badhl al-Mā‘ūn* 96; al-FayrawzĀbādī, *al-Qāmūs al-Muḥīṭ* 1213; al-‘Aynī, *Umdat al-Qārī* 5:171.
14. <sup>14</sup> Ibn al-Athīr, *al-Nihāyah*, 5: 14; al-FayrawzĀbādī, *al-Qāmūs al-Muḥīṭ* 2:85; Ibn Manzūr, *Lisān al-‘Arab* 1:189; Abū Bakr al-Rāzī, *Mukhtār al-Ṣiḥāḥ* 3:332
15. <sup>15</sup> Among those who express this view are Ibn ‘Abd al-Barr, *al-Istidhkār*, 3:68; al-Nawawī, *Tahdhīb al-Asmā’ wa al-Lughāt*, 3:187; al-Qāḍī ‘Ayāḍ, *Ikmāl al-Mu‘allim*, 7:132; Ibn al-Qayyim, *al-Ṭibb al-Nabawī* 31; Ibn Ḥajar al-‘Asqalānī, *Fath al-Bārī* 10:180; Ibn Nujaym al-Miṣrī, *Daḥṭ al-Naql* 4; al-Kharshī al-Mālikī, *Sharḥ Mukhtaṣar Khalīl* 4:155; Al-Zarqānī, *Sharḥ al-Muwaṭṭa’* 463; Ibn Ḥajar al-‘Asqalānī, *Badhl al-Mā‘ūn* 98
16. <sup>16</sup> al-Qāḍī ‘Ayāḍ, *Ikmāl al-Mu‘allim*, 7:132
17. <sup>17</sup> Ibn Ḥajar al-‘Asqalānī, *Fath al-Bārī* 10:180
18. <sup>18</sup> Ibn Ḥajar al-Haytami, *al-Fatāwa al-Kubra*, 4:67
19. <sup>19</sup> Abū al-Walī al-Bājī, *al-Muntaqa Sharḥ al-Muwaṭṭa’* 7:198
20. <sup>20</sup> Ibn Ḥazm, *al-Muḥallab ‘il-Āthār* 3:403
21. <sup>21</sup> Al-Khalīl ibn Aḥmad al-Farāhīdī (d. 170 AH), was an Arab philologist, lexicographer and leading grammarian of Basra
22. <sup>22</sup> Al-Nawawī, *Sharḥ Muslim*, 14:204
23. <sup>23</sup> Guido Alfani and Tommy E. Murphy, “Plague and Lethal Epidemics in the Pre-Industrial World,” *Journal of Economic History* 77 (2017): 314–43.
24. <sup>24</sup> Bubonic plague is one of three types of plague caused by the plague bacterium (*Yersinia pestis*).  
  
One to seven days after exposure to the bacteria, flu-like symptoms develop. These symptoms include fever, headaches, and vomiting. Swollen and painful lymph nodes occur in the area closest to where the bacteria entered the skin. Occasionally, the swollen lymph nodes, known as "buboes", may break open and are commonly found in the groin, but may occur in the armpits or neck, most often near the site of the initial infection (bite or scratch). Pain may occur in the area before the swelling appears and gangrene of the extremities such as toes, fingers, lips, and tip of the nose. Bubonic plague is mainly spread by infected fleas from small animals. It may also result from exposure to the body fluids from a dead plague-infected animal. The plague was the cause of the Black Death that swept through Asia, Europe, and Africa in the 14th century and killed an estimated 50 million people. The disease was also responsible for the Plague of Justinian, originating in the Eastern Roman Empire in the 6th century CE, as well as the third epidemic, affecting China, Mongolia, and India, originating in the Yunnan Province in 1855. See, Didier R, Nadjat M, Idir B, Renaud P, Michel D, Plague: History and contemporary analysis, *Journal of Infection* (2013) 66, 18-26
25. <sup>25</sup> an epidemic today is defined as “the occurrence in a community or region of cases of an illness . . . clearly in excess of normal expectancy” A pandemic is defined as “an epidemic occurring over a very wide area, crossing international boundaries, and usually affecting a large number of people” Porta M., ed. 2014. *A Dictionary of Epidemiology*. 6th ed. Oxford: Oxford University Press
26. <sup>26</sup> Al-Nawawī, *Sharḥ Muslim*, 14:205; Ibn Qayyim, *Zād al-Ma‘ād*, 4:39
27. <sup>27</sup> Ibn ‘Abd al-Barr, *al-Tamhīd limāfi al-Muwaṭṭamin al-Ma‘ānīw’al-Asānīd*, 21:183
28. <sup>28</sup> Ibn Muflih, *al-Ādāb al-Shar‘īyyah* 3:367
29. <sup>29</sup> Ibn Ḥajar al-‘Asqalānī, *Badhl al-Mā‘ūn*, 302-30; Ibn Ḥajar al-Haytami, *al-Fatāwa al-Kubra*, 4:27; al-Qarāfi, *al-Dhakhīrah*, 13:325
30. <sup>30</sup> Ibn Ḥajar al-‘Asqalānī, *Badhl al-Mā‘ūn*, 302-30; Ibn Ḥajar al-Haytami, *al-Fatāwa al-Kubra*, 4:27; al-Qarāfi, *al-Dhakhīrah*, 13:325



31. <sup>31</sup> Some recognised figures include Ibn al-Muqaffa (d. 139 AH), Abu Bakr al-Jaṣṣāṣ (d. 370 AH), al-Juwaynī (d. 478 AH), Fakhr al-Dīn al-Rāzī (d. 606 AH), al-Qarāfī (d. 684 AH) and Najm al-Dīn al-Ṭūfī (d. 716 AH)
32. <sup>32</sup> For a good analysis of the historical development of the concept of *maṣlaḥah* see: Opwis, F., *Maṣlaḥa and the Purpose of the Law*, Studies in Islamic Law and Society, Brill, Lieden 2010.
33. <sup>33</sup> Unless they re-affirm a ruling of the Qur’ān or Sunnah, the legal maxims do not bind the jurist in delivering a judgment, but they do provide an