

## Contemporary Ijtihād in Islamic Law: A Comparative Fiqh Analysis of the Indonesian Ulama Council (MUI) Fatwa on the Stoning of the Jamārāt during the Days of Tashrīq

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### Abstract

High crowd density during the Hajj pilgrimage, particularly during the ritual of stoning the jamarāt (ramy al-jamarāt) in Mina, poses serious safety risks for pilgrims, especially Indonesian pilgrims who are predominantly categorized as high-risk due to advanced age and health conditions. Responding to this challenge, this study examines the implementation of ramy al-jamarāt during the Days of Tashrīq from the perspective of contemporary Islamic legal ijtihād, focusing on the 2024 Fatwa issued by the Indonesian Council of Ulama (Majelis Ulama Indonesia, MUI) at the 8th Ijtimā' Ulama, which permits the ritual to be performed before dawn under certain conditions. This research adopts a qualitative library-based method using a comparative fiqh approach. Primary data consist of the official 2024 MUI Fatwa document, supported by classical fiqh literature from the four Sunni schools of law and contemporary scholarly works. Data are analyzed through content analysis to assess the legal reasoning underlying the fatwa. The findings indicate that Islamic jurisprudence provides legal flexibility through the principle of rukhsah (legal concession), allowing ramy al-jamarāt to be performed before zawāl when necessary, although the most virtuous time remains after zawāl. The permissibility is supported by the Ḥanafī school, early scholars, and contemporary jurists emphasizing the protection of life (ḥifz al-nafs) and the prevention of harm (darar). Accordingly, the MUI fatwa reflects a contextually responsive form of contemporary ijtihād for modern Hajj management.

**Keywords: Contemporary Ijtihad, MUI Fatwa, Jamarāt, Tashrīq, Comparative Fiqh.**



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### INTRODUCTION

The Hajj pilgrimage constitutes the fifth pillar of Islam and is obligatory for every Muslim who fulfills the requirement of istiṭā'ah (capability). Its performance involves a series of manāsik that are strictly regulated by specific temporal, spatial, and procedural provisions derived from Islamic legal sources (Indra et al. 2025). Nevertheless, social dynamics and the continuous development of modern contexts demand that Islamic law maintain the capacity to respond to newly emerging realities faced by the Muslim community (Sapriadi et al. 2025). One prominent issue in this regard concerns the performance of ramy al-jamarāt (the stoning of the jamarāt) during the Days of Tashrīq, which, although normatively bound to specific time regulations, empirically presents serious challenges to pilgrim safety due to extreme crowd density.

As the country that sends the largest number of Hajj pilgrims in the world, Indonesia faces distinctive complexities in organizing the pilgrimage (Rasyid, 2025). The demographic profile of Indonesian pilgrims predominantly elderly individuals and high-risk groups combined with

differences in climate and physical conditions between Indonesia and Saudi Arabia, significantly increases pilgrims' vulnerability during the peak phases of the Hajj rituals. Under these circumstances, pilgrim safety emerges as a critical concern that extends beyond technical management issues and calls for normative responses within the framework of Islamic law (Suhardi, Ibrahim, and Asni 2024). Accordingly, flexibility in the implementation of the manāsik, including the timing of ramy al-jamarāt, becomes a relevant and urgent subject for in-depth scholarly examination.

A number of previous studies have explored the role of the Indonesian Council of Ulama (Majelis Ulama Indonesia, MUI) in addressing Hajj-related issues through the issuance of fatwas. One such study is that of Setiawan (2023), which examines the efforts of the MUI of Bengkulu City in disseminating a fatwa on postponing Hajj registration for prospective pilgrims who have already attained financial capability (Setiawan, 2023). This research primarily focuses on the implementation of the fatwa and the strategies employed by the MUI at the local level, using an empirical-sociological approach. Setiawan's findings highlight the active role of the MUI as a mediator between state policies and the interests of the Muslim community in the governance of Hajj affairs.

However, Setiawan's study (2023) does not address the normative and methodological dimensions of MUI fatwas from the perspective of comparative fiqh. Its analytical emphasis lies on the effectiveness of fatwa dissemination and public response, rather than on the examination of the Islamic legal arguments underlying the fatwa itself. Moreover, the study does not situate MUI fatwas within a comparative framework of the four Sunni schools of law, leaving the issues of juristic legitimacy and the foundations of inter-madhab disagreement (ikhtilāf) insufficiently explored.

In contrast to previous research, this study focuses on the Fatwa of the Indonesian Council of Ulama issued through the 8th National Ijtimā' of the Fatwa Commission in 2024, which permits the performance of ramy al-jamarāt before dawn during the Days of Tashrīq. This research approaches the fatwa not merely as a product of religious policy-making, but as a form of contemporary ijtihād in Islamic law that requires normative analysis through a comparative fiqh approach encompassing the four Sunni schools of law. In doing so, the study seeks to address an existing research gap by examining the construction of ijtihād, the legal reasoning underlying the fatwa, and the relevance of classical juristic opinions in responding to contemporary challenges related to pilgrim safety in the modern era.

Based on this background, the present study aims to analyze the MUI fatwa on the performance of ramy al-jamarāt during the Days of Tashrīq through a comparative fiqh approach. The analysis focuses on three main aspects: the positions of the four Sunni schools of law regarding the timing of ramy al-jamarāt; the ijtihād framework employed by the MUI in formulating the fatwa; and the extent to which the fatwa can be understood as a form of contemporary ijtihād that possesses legitimacy within the Islamic legal system. The central argument of this study asserts that the MUI fatwa on ramy al-jamarāt during the Days of Tashrīq represents a contemporary ijtihād that is firmly rooted in the classical fiqh tradition while

simultaneously remaining adaptive to the needs and challenges of the Muslim community in the modern era.

## RESEARCH METHOD

This study employs a qualitative approach based on library research, utilizing a normative legal research design within the framework of comparative fiqh analysis (Benuf and Azhar 2020). This approach is chosen to enable an in-depth examination of contemporary ijtiḥād in Islamic law as reflected in the fatwa of the Indonesian Council of Ulama (Majelis Ulama Indonesia, MUI) concerning the permissibility of performing ramy al-jamarāt before dawn during the Days of Tashrīq (Alawiyah, 2024)

The primary data source of this research consists of the official documents produced by the 8th National Ijtimā' of the Fatwa Commission of the Indonesian Council of Ulama, particularly Decision No. 10 of 2024, which sets out the legal considerations and rulings regarding the performance of ramy al-jamarāt before dawn. Secondary data are drawn from classical fiqh (turāth) literature of the four Sunni schools of law Ḥanafī, Mālikī, Shāfi'ī, and Ḥanbalī that address the timing of the stoning of the jamarāt, as well as from contemporary academic sources, including books, peer-reviewed journal articles, and scholarly publications relevant to fiqh manāsik al-ḥajj and the dynamics of modern fatwa formulation. Data analysis is conducted through several systematic stages. First, the study identifies and examines the legal reasoning (*ta'līl al-aḥkām*) and the methods of legal derivation (*istinbāt*) employed in the 2024 MUI fatwa. Second, the fatwa is compared with the positions of the four Sunni schools of law in order to map points of convergence, divergence, and the spectrum of *ikhtilāf al-fuqahā'* concerning the timing of ramy al-jamarāt. Third, a contextual analysis is undertaken by situating the MUI fatwa within the realities of contemporary Hajj administration, particularly issues of crowd density and pilgrim safety, to assess the relevance of the application of *uṣūl al-fiqh* principles such as *maqāṣid al-sharī'ah*, *raf' al-ḥaraj*, and *jalb al-maṣlahah*.

The final stage of analysis synthesizes all findings to assess the position of the MUI fatwa as a form of contemporary ijtiḥād in Islamic law and to evaluate its fiqh implications for the development of fiqh manāsik al-ḥajj that is adaptive and responsive to the challenges of the modern era. Through this approach, the study is expected to contribute theoretically to Islamic legal scholarship and practically to the formulation of Hajj governance policies grounded in both Sharī'ah principles and the imperative of pilgrim safety.

## RESULT AND DISCUSSION

### Analysis of the 2024 Decision of the Fatwa Commission of the Indonesian Council of Ulama

The performance of the Hajj pilgrimage during its peak phase, particularly between 9 and 13 Dhū al-Ḥijjah, brings together millions of pilgrims from various countries simultaneously in the areas of 'Arafāt, Muzdalifah, and Mina (Armuzna) (Hashifah and Anasom 2024). The concentration of approximately three to four million people within a limited spatial and temporal setting renders extreme crowd density a serious challenge in the organization of the Hajj. This condition not only poses logistical difficulties but also creates tangible risks to pilgrims' safety and health, especially during the ritual of ramy al-jamarāt in Mina throughout

the Days of Tashrīq. In practice, some Indonesian pilgrims choose to perform ramy al-jamarāt before dawn as an effort to avoid peak crowd congestion. This practice gives rise to juridical issues (*masā'il fiqhiyyah*), given that prophetic traditions indicate that the Prophet Muḥammad (peace be upon him) performed the stoning of the jamarāt after the sun had passed its zenith (*ba'da al-zawāl*). On the one hand, this practice offers a clear benefit by reducing physical risk and enhancing pilgrim safety; on the other hand, it raises questions regarding its juridical validity and its conformity with the Sunnah-based guidance governing the rites of *manāsik al-ḥajj*.

In response to this issue, the Indonesian Council of Ulama, through the 8th National Ijtimā' of the Fatwa Commission in 2024, issued a fatwa that reflects a form of contemporary ijtihād in Islamic law (Busyro and Maizul Imran 2025). The fatwa affirms that performing ramy al-jamarāt during the Days of Tashrīq constitutes an obligatory component of the Hajj; consequently, abandoning it without a valid Sharī'ah-based excuse necessitates the payment of *dam* as compensation. With regard to the determination of time, the MUI stipulates that ramy al-jamarāt may be performed from the break of dawn until the end of the night as a form of legal concession (*rukhsah*) intended to prevent harm arising from extreme crowd density. Nevertheless, the fatwa explicitly maintains that the most virtuous (*afdāl*) time for performing the ritual remains after the sun has passed its zenith, in accordance with the Sunnah of the Prophet Muḥammad (peace be upon him). Furthermore, the fatwa unequivocally states that performing ramy al-jamarāt before the break of dawn during the Days of Tashrīq is invalid (Ramadhan 2024). This assertion demonstrates the normative boundary established by the MUI in responding to contextual demands while preserving the foundational principles of *fiqh manāsik*. Within this framework, the MUI also accommodates pilgrims with physical limitations or other Sharī'ah-recognized excuses by permitting the delegation (*badal*) of the stoning ritual, whether with or without compensation, as an application of the principle of facilitation embedded in Islamic law.

From the perspective of Islamic jurisprudence, this MUI fatwa reflects an effort to strike a balance between adherence to textual sources and classical *fiqh* doctrines, on the one hand, and the realities of contemporary Hajj administration, on the other (Ismail 2025). The ijtihād underpinning the fatwa demonstrates a clear orientation toward the objectives of Islamic law (*maqāṣid al-sharī'ah*), particularly the protection of life (*ḥifz al-nafs*), through the application of principles such as *raf' al-ḥaraj* and *jalb al-maṣlaḥah*, without opening the door to violations of the essential requirements of worship. Accordingly, the 2024 MUI Ijtimā' fatwa functions not only as practical guidance for Indonesian pilgrims but also as a concrete illustration of the dynamics of contemporary ijtihād in Islamic law that is responsive to the challenges of the modern era.

### **The Views of the Four Sunni Schools on the Timing of Ramy al-Jamarāt during the Days of Tashrīq**

The stoning of the jamarāt (*ramy al-jamarāt*) constitutes a central ritual within the sequence of Hajj rites and is obligatory for every pilgrim. This ritual involves the throwing of seven pebbles at each *jamrah*; failure to perform it entails the obligation to offer a *dam* as a

compensatory penalty. There are two obligatory instances of ramy al-jamarāt: the stoning of Jamrat al-‘Aqabah on the Day of Naḥr (10 Dhū al-Ḥijjah) and the stoning of the jamarāt during the Days of Tashrīq (11, 12, and 13 Dhū al-Ḥijjah). The majority of jurists agree that performing both Jamrat al-‘Aqabah and the jamarāt of the Days of Tashrīq is legally obligatory. A pilgrim who abandons the stoning of Jamrat al-‘Aqabah without a Sharī‘ah-recognized excuse is therefore required to pay a dam (Indra et al. 2025).

Nevertheless, jurists emphasize that this ritual is bound by a specific temporal framework that determines its optimal performance. For Jamrat al-‘Aqabah on the 10th of Dhū al-Ḥijjah, the most preferred time is after sunrise, whereas for the jamarāt during the Days of Tashrīq, the primary and most virtuous time is after the sun has passed its zenith (ba‘da al-zawāl). These temporal regulations are grounded in the prophetic traditions of the Prophet Muḥammad (peace be upon him), as evidenced, among others, in the ḥadīth narrated by Jābir ibn ‘Abd Allāh:

عَنْ جَابِرٍ قَالَ: رَأَيْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَرْمِي الْجُمُرَةَ ضُحَى يَوْمَ النَّحْرِ وَحَدَهُ وَرَمَى بَعْدَ ذَلِكَ بَعْدَ زَوَالِ الشَّمْسِ

(Jābir said: I saw the Messenger of Allah (SAW) perform the stoning at the jumrah [al-‘Aqabah] alone at mid-morning [ḍuḥā] on the Day of Naḥr. Then on the following days [11th–13th Dhū al-Ḥijjah] he performed the stoning at all three jumrah after the sun had passed its zenith.) (Reported by Muslim)

In view of the extreme crowd density during the stoning ritual on the three Days of Tashrīq, some groups of Indonesian pilgrims perform ramy al-jamarāt earlier, prior to the sun’s passing its zenith (qabla al-zawāl). However, as indicated in the aforementioned prophetic tradition, the recommended time for performing the stoning is after zawāl. In this regard, jurists of the four Sunni schools of law hold differing opinions on the permissibility of performing ramy al-jamarāt before zawāl (Harahap dan Fata 2022):

### The Ḥanafī School

According to the Ḥanafī school of law, it is permissible to perform the stoning of Jamrat al-‘Aqabah after the break of dawn on the Day of Naḥr (10 Dhū al-Ḥijjah). With regard to the stoning during the Days of Tashrīq, Imām Abū Ḥanīfah holds that the stoning may be performed before the sun passes its zenith (qabla al-zawāl). In this context, Shaykh ‘Alā’ al-Dīn al-Kāsānī al-Ḥanafī states:

وَرُوِيَ عَنْ أَبِي حَنِيفَةَ أَنَّ الْأَفْضَلَ أَنْ يَرْمِيَ فِي الْيَوْمِ الثَّانِيِ وَالثَّلَاثِ بَعْدَ الزَّوَالِ، فَإِنْ رَمَى قَبْلَهُ جَارَ، وَجْهٌ هَذِهِ الرَّوَايَةِ أَنَّ قَبْلَ الزَّوَالِ وَقْتُ الرَّمْيِ فِي يَوْمِ النَّحْرِ، فَكَذَا فِي الْيَوْمِ الثَّانِيِ وَالثَّلَاثِ؛ لِأَنَّ الْكُلَّ أَيَّامِ النَّحْرِ

(It is narrated from Imām Abū Ḥanīfah that the more virtuous practice is to perform the stoning on the second and third days [of Tashrīq] after the sun’s zenith, however, if someone performed the stoning before that, it is still valid. The reasoning behind this narration is that before zawāl is a valid time for stoning on the Day of Eid al-Adha [Day of Naḥr], and thus the same ruling applies to the second and third days of Tashrīq, since all those days are considered part of Eid al-Adha.) (Al-Kāsānī, 2003)

In line with the Ḥanafī school, early-generation scholars among the Tābi‘īn, such as Imam ‘Aṭā’ and Ṭāwūs, also affirm the permissibility of performing ramy al-jamarāt during the Days of Tashrīq unconditionally before the sun passes its zenith (qabla al-zawāl).

قَالَ عَطَاءٌ وَطَاوُسٌ: يَجُوزُ الرَّمْيُ مُطْلَعًا أَيَّامَ التَّشْرِيقِ قَبْلَ الزَّوَالِ

(Imām Aṭā’ and Ṭawus held that it is absolutely permissible to perform the jumrah stoning on the Days of Tashrīq before the sun’s zenith.) (Basyinfar, 1992)

The permissibility of performing ramy al-jamarāt before zawāl is grounded in two principal arguments. First, although the Prophet Muḥammad (peace be upon him) did not perform the stoning of the jamarāt on the Days of Tashrīq before zawāl, he also never prohibited it. His consistent practice of performing the ritual after zawāl therefore indicates a recommendation of virtue (afdaliyyah) rather than an absolute obligation. Second, if pilgrims are permitted to stone a single jamrah on the 10th of Dhū al-Ḥijjah during the time of duḥā, then, by stronger reasoning, the performance of stoning during the Days of Tashrīq which involve three jamarāt should entail a broader, rather than a more restrictive, time frame. On this basis, Imām ‘Aṭā’ and Ṭāwūs conclude that performing ramy al-jamarāt on the Days of Tashrīq (11th, 12th, and 13th of Dhū al-Ḥijjah) is permissible before zawāl.

### The Mālikī School

Within the Mālikī school of law, the stoning of Jamrat al-‘Aqabah on the Day of Naḥr (10 Dhū al-Ḥijjah) is permitted from the break of dawn. However, with respect to the jamarāt on the Days of Tashrīq, the majority of Mālikī jurists maintain that the stoning is not valid unless it is performed after the sun has passed its zenith (zawāl). Accordingly, performing ramy al-jamarāt before zawāl is not permitted, and if it is carried out, it must be repeated. In this regard, Ibn Rushd states:

وَأَجْمَعَ الْمُسْلِمُونَ أَنَّ مَنْ رَمَاهَا فِي هَذَا الْيَوْمِ فِي ذَلِكَ الْوَقْتِ، أَعْنِي بَعْدَ طُلُوعِ الشَّمْسِ إِلَى زَوَالِهَا، فَقَدْ رَمَاهَا فِي وَقْتِهِ. وَاحْتَلَفُوا فِيمَنْ رَمَى جُمْرَةَ الْعَقَبَةِ قَبْلَ طُلُوعِ الْفَجْرِ، فَقَالَ مَالِكٌ: لَمْ يَبْلُغْنَا أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ رَخَّصَ لِأَحَدٍ أَنْ يَرْمِيَ قَبْلَ طُلُوعِ الْفَجْرِ، وَلَا يَجُوزُ ذَلِكَ، فَإِنْ رَمَاهَا قَبْلَ الْفَجْرِ أَعَادَهَا؛ وَبِهِ قَالَ أَبُو حَنِيفَةَ، وَسُفْيَانُ الثَّوْرِيُّ، وَأَحْمَدُ

(The Muslims have unanimously agreed that whoever performs the stoning on that day within that time meaning after sunrise until its zenith has performed it in its proper time. They disagreed, however, regarding one who throws the Jumrah al-‘Aqabah before the break of dawn. Imām Malik said: It has not reached us that the Messenger of Allah (SAW) ever gave a dispensation (rukḥṣah) to anyone to throw before the appearance of dawn, thus it is not permissible. If someone threw before fajr, he must repeat it. This is also the opinion of Abū Ḥanīfah, Sufyān al-Tsaurī, and Aḥmad.) (Ibn Rushd, n.d.)

In summary, the Mālikī school aligns with the majority of jurists in affirming that although the stoning of Jamrat al-‘Aqabah on the 10th of Dhū al-Ḥijjah is permitted after the break of dawn, the performance of ramy al-jamarāt during the Days of Tashrīq (11th–13th of Dhū al-Ḥijjah) must be carried out after the sun has passed its zenith (zawāl). This ruling reflects

the Mālikī school's cautious approach in safeguarding the conformity of the manāsik with what is regarded as the strongest practice based on authoritative textual evidence and the living tradition ('amal) of the people of Madinah.

### The Shāfi'ī School

According to the Shāfi'ī school, the earliest permissible time for performing the stoning of Jamrat al-'Aqabah is after midnight on the night preceding the 10th of Dhū al-Ḥijjah. As for the latest permissible time, Imām al-Shāfi'ī concurred with by Imām Aḥmad ibn Ḥanbal holds that it extends until sunset on the final day of Tashrīq (13th of Dhū al-Ḥijjah). With respect to the timing of ramy al-jamarāt on the Days of Tashrīq, Khatib al-Shirbini explains as follows:

يَدْخُلُ رَمِي كُلِّ يَوْمٍ مِنْ أَيَّامِ التَّشْرِيقِ بِزَوَالِ الشَّمْسِ مِنْ ذَلِكَ الْيَوْمِ لِلِإِتِّبَاعِ... وَيَخْرُجُ أَيُّ وَقْتُهُ اخْتِيَارِيٌّ بَعْرُوبَهَا مِنْ كُلِّ يَوْمٍ. أَمَّا وَقْتُ الْجَوَازِ فَلَا يَخْرُجُ بِذَلِكَ... الْأَظْهَرُ أَنَّهُ لَا يَخْرُجُ إِلَّا بَعْرُوبَهَا مِنْ آخِرِ أَيَّامِ التَّشْرِيقِ

(The time for performing the stoning on each of the Days of Tashrīq begins when the sun has passed its zenith on that day, following [the example of the Prophet]... Its [preferred] time ends meaning the chosen [optimal] time with sunset of each day. As for the time of mere permissibility [jawāz], it does not end at that point... The most apparent [correct] view is that it does not end until sunset of the last Day of Tashrīq.) (Al-Shirbīnī, 1997)

Accordingly, within the Shāfi'ī school, the performance of ramy al-jamarāt on the Days of Tashrīq is deemed valid only if it is carried out after the onset of daytime, namely after the sun has passed its zenith (zawāl), with the stipulation that it must not be performed before dawn (qabla al-fajr). Although, from a technical perspective, the permissible time range begins after dawn, the practice recognized and recommended within this school consistently places the period after zawāl as both the threshold of validity and the most virtuous (afdāl) time.

As a consequence, pilgrims who fail to perform ramy al-jamarāt on the Days of Tashrīq within the prescribed time are considered to have neglected an obligatory component of the manāsik, thereby incurring the obligation to offer a dam as compensation for the incomplete performance of the ritual (Al-Shīrāzī 1995).

### The Ḥanbalī School

According to the Ḥanbalī school, the stoning of Jamrat al-'Aqabah is associated with two temporal categories: the time of merit (waqt al-faḍīlah) and the time of permissibility (waqt al-jawāz). The time of merit begins after sunrise, while the time of permissibility commences after midnight on the night of 'Īd al-Aḍḥā (the night of Naḥr). Imām Aḥmad ibn Ḥanbal further maintains that the final permissible time for stoning Jamrat al-'Aqabah extends until sunset on the last Day of Tashrīq (13th of Dhū al-Ḥijjah).

With respect to the stoning of the jamarāt on the Days of Tashrīq, the Ḥanbalī school holds that it is not valid unless it is performed after the sun has passed its zenith (ba'da al-zawāl). This position is articulated in al-Mughnī by Ibn Qudāmah, who states:

وَلِرَمِي هَذِهِ الْجُمُرَةِ وَقْتَانِ: وَقْتُ فَضِيلَةٍ، وَوَقْتُ إِجْرَاءٍ، فَأَمَّا وَقْتُ الْفَضِيلَةِ فَبَعْدَ طُلُوعِ الشَّمْسِ. وَأَمَّا وَقْتُ الْجَوَازِ فَأَوَّلُهُ نِصْفُ اللَّيْلِ مِنْ لَيْلَةِ النَّحْرِ، وَبِذَلِكَ قَالَ عَطَاءٌ، وَابْنُ أَبِي لَيْلَى، وَعِكْرَمَةُ بْنُ خَالِدٍ، وَالشَّافِعِيُّ

(There are two times for throwing this Jamrah [al-‘Aqabah]: a preferred time and a sufficient [permissible] time. The preferred time is after sunrise. The permissible time begins at midnight on the Night of Naḥr [Eid night] This was also the opinion of ‘Aṭā’, Ibn Abī Laylā, ‘Ikrimah ibn Khālid, and al-Shāfi’ī.) (Ibn Qudāmah, 1985)

Nevertheless, some Ḥanbalī jurists allow the practice of performing ramy al-jamarāt before zawāl on the Days of Tashrīq when necessity so requires. Ibn al-Jawzī, for example, permits the stoning of the jamarāt before zawāl. In al-Wāḍiḥ, it is stated that a pilgrim may begin the stoning after sunrise (except on the third day), and in his treatise on the manāsik it is mentioned that one may perform the stoning from the earliest permissible time, and that on the third day the stoning is carried out in the same manner as on the previous two days, after which the pilgrim proceeds to nafar.

وَجَوَّزَهُ ابْنُ الْجَوْزِيِّ قَبْلَ الزَّوَالِ، وَفِي الْوَاضِحِ: بَطُّوعِ الشَّمْسِ إِلَّا ثَالِثَ يَوْمٍ، وَأَطْلَقَ أَيْضًا فِي مَنْسِكِهِ أَنَّ لَهُ الرَّمْيَ مِنْ أَوَّلٍ، وَأَنَّهُ يَرْمِي فِي الثَّلَاثِ كَالْيَوْمَيْنِ قَبْلَهُ، ثُمَّ يَنْفِرُ

(Ibn al-Jawzī allowed it [the stoning] before zawāl. Al-Wāḍiḥ states: “[It is permissible] after sunrise, except on the third day.” He also stated unconditionally in his manual that one may begin the stoning from the earliest time, and perform the third day as on the two days before it, then depart.) (Ibn Muflih, 2003)

A similar view is articulated by Ibn Rajab al-Ḥanbalī, who cites the statement of Ibn al-Zaghūnī:

عَنْ ابْنِ الزَّاعُونِيِّ فِي مَنْسِكِهِ أَنَّ رَمِيَ الْجِمَارِ أَيَّامَ مِنِّي وَرَمِيَ جَمْرَةَ الْعَقَبَةِ يَوْمَ النَّحْرِ يَجُوزُ قَبْلَ الزَّوَالِ وَبَعْدَهُ، وَالْأَفْضَلُ بَعْدَهُ

(Reported from Ibn az-Zāghūnī in his Manāsik is that performing the jumrah stoning on the Days of Minā [Tashrīq], as well as the stoning of Jumrat al-‘Aqabah on the Day of Naḥr, is permissible both before and after zawāl, although doing it after zawāl is superior.) (Ibn Rajab, 2005)

The divergence of juristic opinions regarding the timing of ramy al-jamarāt constitutes a critical issue within the fiqh of Hajj. The Shāfi’ī and Ḥanbalī schools generally adopt a more restrictive position, requiring that the preferred time for stoning Jamrat al-‘Aqabah be after sunrise and prohibiting the stoning of the jamarāt on the Days of Tashrīq before the sun passes its zenith (zawāl), with the consequence that failure to comply entails the obligation to offer a dam. Nevertheless, within the Ḥanbalī school there exist transmitted opinions attributed to Ibn al-Jawzī and Ibn al-Zaghūnī that permit stoning before zawāl, although the most virtuous time remains after zawāl, and the time of permissibility for Jamrat al-‘Aqabah begins after midnight.

By contrast, the Ḥanafī school offers greater flexibility. It permits the stoning of Jamrat al-‘Aqabah after the break of dawn on the 10th of Dhū al-Ḥijjah. With respect to the Days of Tashrīq, although the preferred time according to the Ḥanafīs remains after zawāl, Imām Abū Ḥanīfah as well as early-generation scholars among the Tābi‘īn such as ‘Aṭā’ and Ṭāwūs allows the stoning of the jamarāt before zawāl. This concession is grounded in the argument that the Prophet (peace be upon him) did not prohibit such practice and in the rationale that the

performance of three jamarāt necessitates a broader temporal window in the interest of facilitation. Meanwhile, the Mālikī school aligns with the jumhūr (majority of jurists) in permitting the stoning of Jamrat al-‘Aqabah after dawn, while firmly maintaining that the stoning of the jamarāt on the Days of Tashrīq is invalid unless performed after zawāl.

Overall, the jurists are in agreement regarding the obligatory nature of ramy al-jamarāt. However, the spectrum of opinions outlined above provides scope for pilgrims to adopt positions that offer greater ease, particularly in light of the extremely congested conditions under which the Hajj rituals are performed.

### Contemporary Scholarly Opinions on Stoning the Jamarāt before Dawn

Over time, and in response to the realities of millions of pilgrims participating in the Hajj, a range of contemporary scholarly views has emerged regarding the permissibility of performing ramy al-jamarāt before dawn as a means of alleviating congestion and facilitating ease for pilgrims. One prominent Shāfi‘ī jurist who addressed this issue is Tajuddin al-Subkī (14th century). He maintains that performing the stoning of the jamarāt on the 11th of Dhū al-Ḥijjah (the second day of Tashrīq) before zawāl and extending into the night is valid, whether it is regarded as qaḍā’ or as adā’ (i.e., performed within its valid time):

وَأَنَّهُ يَجُوزُ فِي الْيَوْمِ الثَّانِي الرَّمِي قَبْلَ الزَّوَالِ وَفِي اللَّيْلِ سَوَاءٌ قُلْنَا قَضَاءً أَمْ أَدَاءً

(Indeed, it is permissible on the second day [of Tashrīq] to perform the stoning before zawāl and at night, whether we consider it a makeup [qaḍā’] or a timely performance [adā’].)  
(Al-Subkī, 2012)

A number of Shāfi‘ī jurists lend support to al-Subkī’s position. al-Rāfi‘ī, for example, permits the stoning of the jamarāt on the Days of Tashrīq before zawāl. Although this opinion is considered weak within the school, it was nevertheless adopted by al-Isnawī, who describes it as a ma‘rūf (recognized) position within the Shāfi‘ī tradition. On this basis, he concludes that it should be permissible to perform ramy al-jamarāt from the break of dawn.

وَجَزَمَ الرَّافِعِيُّ بِجَوَازِهِ قَبْلَ الزَّوَالِ كَالْإِمَامِ ضَعِيفٌ وَإِنْ اعْتَمَدَهُ الْإِسْنَوِيُّ وَرَعَمَ أَنَّهُ الْمَعْرُوفُ مَذْهَبًا وَعَلَيْهِ فَيَنْبَغِي جَوَازُهُ  
مِنَ الْفَجْرِ

(Imām al-Rāfi‘ī asserted the permissibility of (stoning) before zawāl, following the view of (al-Imām) (this view is weak) even though al-Isnawī relied on it and claimed that it is a well-known position in the madhhab. Based on that, it should be considered permissible from fajr.) (Al-Haytami, 2001).

Furthermore, Sayyid Muḥammad ‘Alawī al-Mālikī proposes a practical solution for pilgrims who wish to perform the stoning before zawāl by adopting the opinions of scholars who permit it. He acknowledges that such views are considered weak by some jurists; nevertheless, he argues that they are highly beneficial and appropriate, as they resolve serious difficulties and open many avenues of mercy and facilitation. In particular, following incidents in which hundreds of pilgrims lost their lives due to crushing in the jamarāt area after zawāl, the urgency and practical strength of this opinion become even more evident:

لَكِنْ جَوَّزَ الْعُلَمَاءُ مِنْ أَرْبَابِ الْمَذَاهِبِ الرَّمْيَ قَبْلَ الزَّوَالِ، وَهُوَ وَإِنْ كَانَ ضَعِيفًا فِي نَظَرِ بَعْضِهِمْ لَكِنَّهُ مُفِيدٌ وَسَدِيدٌ وَيُحَلُّ مَشَاكِلَ عَظِيمَةً وَيُفْتَحُ أَبْوَابًا كَثِيرَةً لِلرَّحْمَةِ وَالتَّسْهِيلِ. خُصُوصًا بَعْدَ سُقُوطِ مِمَاتٍ مِنَ الْحُجَّاجِ فِي سَاحَةِ الْجَمْرَاتِ عِنْدَ الرَّمْيِ بَعْدَ الزَّوَالِ وَمَوْتِ أَكْثَرِهِمْ تَحْتَ الْأَقْدَامِ مِنْ شِدَّةِ الرَّحَامِ

(However, scholars from across the madhhabs have permitted stoning before zawāl. Although this view is considered weak by some of them, it is in fact beneficial and sound, as it solves enormous problems and opens many doors of mercy and ease especially after the incident in which hundreds of pilgrims fell in the Jamarāt area when stoning after zawāl, and most of them died underfoot due to the extreme crowding.) (Al-Mālikī, 2003)

In a similar vein, ‘Alī Jum‘ah (former Grand Mufti of Egypt) emphasizes that permitting the stoning of the jamarāt before zawāl is critically important for the protection of pilgrims’ lives an objective that must take precedence over other considerations. According to him, anyone who chooses to engage in dangerous crowding that endangers life despite the existence of a Sharī‘ah-based concession for safety commits a sin, and there is even concern that such a person’s Hajj may not be accepted.

While avoiding juristic disagreement (khilāf) is commendable and recommended, safeguarding human life is far more obligatory, as the sanctity of a Muslim’s blood is more exalted in the sight of God than the sanctity of the Ka‘bah. Therefore, adopting a fatwa that permits the performance of ramy al-jamarāt throughout the day rather than restricting it to a narrowly defined time constitutes a Sharī‘ah obligation for Hajj pilgrims in order to prevent disaster and preserve life.

أَمَّا مَا يُخْصُ الشَّقَّ الْأَخِيرَ فِي السُّؤَالِ وَهُوَ مَا الْفَائِدَةُ بِالْأَخْذِ بِقَوْلِ مَنْ قَالَ بِجَوَازِ الرَّمْيِ قَبْلَ الزَّوَالِ؟ فَالْجَوَابُ الْفَائِدَةُ هِيَ صِيَانَةُ النَّفْسِ الْبَشَرِيَّةِ وَحِمَايَةُ الْمُسْلِمِينَ مِنَ الْقَتْلِ وَلَا يَخْفَى تَرْجُحُ مَنْعِ مَفْسَدَةِ مَوْتِ النَّفْسِ عَلَى أَيِّ مَصْلَحَةٍ أُخْرَى. فَإِنَّ مَنْ فَضَّلَ الْمُرَاحَمَةَ الَّتِي تُؤَدِّي إِلَى مَوْتِ نَفْسِهِ أَوْ مَوْتِ غَيْرِهِ عَلَى الْعَمَلِ بِقَوْلِ وَإِنْ كَانَ مَرْجُوحًا قَدِيمًا إِلَّا أَنَّهُ تَرْجَحَ فِي أَيَّامِنَا هَذِهِ صِيَانَةُ لِلنَّفْسِ الْبَشَرِيَّةِ فَهُوَ أَثَمٌ شَرَعًا، وَخُشْيٌ عَلَيْهِ مِنْ عَدَمِ قَبُولِ حُجَّتِهِ، إِذْ لَا يَجُوزُ لَهُ بِحَالِ الْإِصْرَارِ عَلَى قَوْلٍ مُخْتَلَفٍ فِيهِ إِذَا تَيَقَّنَ مَوْتُ كُلِّ هَؤُلَاءِ الْمُسْلِمِينَ، فَإِنَّ الْخُرُوجَ مِنَ الْخِلَافِ مُسْتَحَبٌّ وَلَيْسَ بِوَاجِبٍ، وَقَتْلُ النَّفْسِ مِنَ الْكَبَائِرِ اتِّفَاقًا، وَحُرْمَةُ دَمِ امْرِئٍ مُسْلِمٍ وَاحِدٍ أَعْظَمُ عِنْدَ اللَّهِ مِنْ حُرْمَةِ الْكَعْبَةِ، فَقَدْ ثَبَتَ عَنْهُ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ نَظَرَ إِلَى الْكَعْبَةِ فَقَالَ لَهَا: أَنْتِ حَرَامٌ، مَا أَعْظَمَ حُرْمَتَكَ وَأَطْيَبَ رِيحِكَ وَأَعْظَمَ حُرْمَةً عِنْدَ اللَّهِ مِنْكَ الْمُؤْمِنُ، فَمَا بِاللَّهِ بِكُلِّ هَؤُلَاءِ الْمُسْلِمِينَ الَّذِينَ يَمُوتُونَ كُلَّ عَامٍ. وَعَلَى ذَلِكَ فَإِنَّ الْأَخْذَ بِقَوْلِي إِجَارَةَ رَمْيِ الْجَمْرَاتِ فِي سَاعَاتِ الْيَوْمِ كُلِّهِ وَلَيْسَ الرَّمْيُ فِي وَقْتِ مُحَدَّدٍ وَاجِبٌ شَرْعِيٌّ عَلَى الْحُجَّاجِ؛ تَفَادِيًا لِحُدُوثِ تِلْكَ الْكَوَارِثِ

(As for the last part of the question namely, what is the benefit of adopting the opinion of those who permit stoning before zawāl? the answer is that the benefit lies in safeguarding human life and protecting Muslims from being killed. Undoubtedly, preventing the harm of loss of life is paramount over any other consideration... Indeed, whoever prefers

crowding that leads to the death of himself or others over acting upon an opinion which may have been less preferred in the past but has become the superior view in our time for the preservation of human life such a person is sinning in the Sharī'ah, and it is feared that his Hajj may not be accepted. For under no circumstance is it permissible for him to insist on a disputed opinion if he is certain that it will result in the death of all those Muslims... The inviolability of the blood of a single Muslim is greater in the sight of Allah than the sanctity of the Ka'bah... Therefore, adopting the fatwa that permits stoning the Jamarāt throughout all hours of the day rather than restricting it to a set time is a Sharī'i obligation upon the pilgrims, in order to avoid those catastrophes.) (Ali Jum'ah, 2005)

A similar position is taken by the Jordanian Fatwa Department in Fatwa No. 3118 of 2015. It permits pilgrims to perform ramy al-jamarāt before zawāl when there is a reasonable fear of harm or hardship due to severe crowding, constraints related to group departure schedules on the day of nafar, or comparable circumstances. This rukhsah (legal concession) is grounded in reports from several eminent authorities, including Ibn 'Abbās among the Companions, as well as Ṭāwūs and 'Aṭā' among the Ṭābi'in.

Although this concession is not the most well-known position attributed to him, Imām Abū Ḥanīfah is also reported to have transmitted this leniency, and it is explicitly reinforced by al-Rāfi'i of the Shāfi'i school. Their argument is supported by the ḥadīth of 'Abdullāh ibn 'Amr ibn al-'Āṣ, in which the Prophet (peace be upon him) said: "The Prophet was not asked about anything that was done earlier or later except that he replied, 'Do it, and there is no harm.'" (Muttafaquun 'alayh) The jurists are in agreement, however, that even when this rukhsah is adopted, the performance of ramy al-jamarāt on the Days of Tashrīq must not begin before the break of dawn.

فَإِذَا حَشِيَ الْحَاجُّ الْأَدَى وَالْمَشَقَّةَ بِسَبَبِ الرَّحَامِ وَكَثْرَةِ الْحُجَّاجِ، أَوْ تَقَيَّدَ بِسَفَرٍ رُفِقْتِهِ يَوْمَ النَّفْرِ وَحَوِّ ذَلِكَ؛ فَلَا حَرَجَ عَلَيْهِ فِي الرَّمْيِ قَبْلَ الزَّوَالِ؛ اسْتِنَادًا لِلرُّخْصَةِ الْمَرْوِيَّةِ عَنِ ابْنِ عَبَّاسٍ مِنَ الصَّحَابَةِ، وَعَنْ طَاوُسٍ وَعَطَاءٍ مِنَ التَّابِعِينَ، وَرُوِيَ عَنِ الْإِمَامِ أَبِي حَنِيفَةَ فِي غَيْرِ الْمَشْهُورِ عَنْهُ، وَجَزَمَ بِذَلِكَ الرَّافِعِيُّ مِنَ الشَّافِعِيَّةِ، مُسْتَدِلِّينَ بِحَدِيثِ عَبْدِ اللَّهِ بْنِ عَمْرٍو بْنِ الْعَاصِ قَالَ: فَمَا سُئِلَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ شَيْءٍ قُدِّمَ وَلَا أُخِّرَ إِلَّا قَالَ: افْعَلْ وَلَا حَرَجَ. مُتَّفَقٌ عَلَيْهِ. وَلَكِنْ مَنْ أَخَذَ بِهَذِهِ الرُّخْصَةِ فَلَا يَبْدَأُ رَمِيَهُ إِلَّا بَعْدَ الْفَجْرِ كَمَا نَصَّ عَلَيْهِ مَنْ أَجَازَهُ

(If a pilgrim fears harm or hardship due to the crowding and the great number of pilgrims, or is bound by his group's travel schedule on the Nafar day, and the like, then there is no sin on him in performing the stoning before zawāl, relying on the concession narrated from Ibn 'Abbās among the Companions, and from Ṭawūs and Aṭā' among the Followers. This concession is also narrated from Imām Abū Ḥanīfah [in a report other than his most famous view], and Imām al-Rāfi'i of the Shāfi'i madhhab decisively affirmed it... However, whoever takes this rukhsah must not begin his stoning until after fajr, as explicitly stated by those scholars who permitted it.) (Fatwa Council of Jordan, 2015)

An analysis of the various juristic opinions discussed above demonstrates the presence of legal flexibility within Islamic jurisprudence to accommodate practical realities on the ground. The majority of jurists represented, for example, by the Shāfi'i school determine that the valid time for performing ramy al-jamarāt on the Days of Tashrīq begins after the sun has passed its

zenith (zawāl), and they consider stoning performed before dawn to be invalid (Ismail 2025). Nevertheless, alternative views advanced by scholars such as Tajuddin al-Subkī, a number of Ḥanafī jurists, as well as ‘Aṭā’ and Ṭāwūs, allow the stoning of the jamarāt after dawn or even before zawāl on the Days of Tashrīq.

Within the Shāfi‘ī school itself, al-Rāfi‘ī reinforces the permissibility of performing the stoning before zawāl. Although this opinion is classified as weak, it is considered more contextually relevant in light of the welfare (maṣlahah) of Hajj pilgrims. This perspective is further strengthened by the fatwas of Sayyid Muḥammad ‘Alawī al-Mālikī and ‘Alī Jum‘ah, both of whom emphasize that permitting the stoning outside the zawāl timeframe constitutes a crucial measure for saving lives and preventing disasters caused by severe crowding. Indeed, ‘Alī Jum‘ah regards this concession, under certain conditions, as a Sharī‘ah obligation (Kusuma et al. 2024).

Accordingly, the MUI fatwa and the cross-madhab flexible legal views outlined above are expected to serve as an important reference for the Ministry of Hajj and Umrah of the Republic of Indonesia in regulating the scheduling of ramy al-jamarāt. Such guidance would enable high-risk pilgrims to perform the ritual safely and validly without concern for violating Sharī‘ah requirements. Adopting the option of performing ramy al-jamarāt after dawn on the grounds of safety is thus legally justified, and may even become obligatory in order to avert harm (Hashifah and Anasom 2024).

## CONCLUSION

This study concludes that within the corpus of Islamic jurisprudence there are significant differences of opinion among the four Sunni schools of law regarding the timing of ramy al-jamarāt on the Days of Tashrīq. The Shāfi‘ī and Ḥanbalī schools generally adopt a strict position by requiring that the stoning on the Days of Tashrīq be performed after the sun has passed its zenith (zawāl), with the consequence that neglecting this requirement entails the obligation to offer a dam. Both schools also stipulate that the stoning of Jamrat al-‘Aqabah should be performed after sunrise. Nevertheless, within the Ḥanbalī school there are transmitted opinions that permit the stoning before zawāl on the Days of Tashrīq. The Ḥanafī school, by contrast, provides greater flexibility by allowing the stoning of Jamrat al-‘Aqabah from the break of dawn on the 10th of Dhū al-Ḥijjah, and regarding the Days of Tashrīq Imām Abū Ḥanīfah, along with ‘Aṭā’ and Ṭāwūs, permits stoning before zawāl. The Mālikī school, while allowing the stoning of Jamrat al-‘Aqabah after dawn, firmly maintains that the stoning on the Days of Tashrīq must be performed after zawāl. These divergent views demonstrate a spectrum of ijtihād that offers alternative legal options for pilgrims confronting conditions of extreme crowd density.

In the contemporary context, Islamic law also recognizes the concepts of rukhsah (legal concession) and ḍarūrah (necessity), which allow for flexibility in performing ramy al-jamarāt before zawāl under certain conditions in order to safeguard pilgrim safety. Although such flexibility is grounded in alternative opinions such as those of Tajuddin al-Subkī, segments of Ḥanafī jurists, and the views of ‘Aṭā’ and Ṭāwūs, as well as recognized opinions within the Shāfi‘ī school these positions, despite being classified as weak by some jurists, prove to be

more relevant when assessed through the lens of welfare (maṣlahah) and pilgrim safety. Contemporary scholars such as Sayyid Muḥammad ‘Alawī al-Mālikī and ‘Alī Jum‘ah further emphasize that permitting the stoning outside the primary time frame constitutes a crucial measure to preserve life and prevent disaster, and may even rise to the level of a Sharī‘ah obligation under specific circumstances.

Accordingly, the 2024 Fatwa issued by the Ijtimā‘ of the Indonesian Council of Ulama (MUI), which permits the performance of ramy al-jamarāt before dawn on the Days of Tashrīq, can be understood as a form of contemporary ijtiḥād grounded in robust comparative fiqh reasoning and aligned with the objectives of Islamic law (maqāṣid al-sharī‘ah), particularly the protection of life (ḥifẓ al-nafs). This fatwa provides a normative foundation for the Ministry of Hajj and Umrah of the Republic of Indonesia to regulate the scheduling of ramy al-jamarāt with greater flexibility, thereby enabling high-risk pilgrims to fulfill their religious obligations safely and validly. In situations of necessity, the application of such concessions may even become imperative in order to avert harm, in accordance with the legal maxim that preventing danger takes precedence over maintaining ritual forms that pose a serious risk to human life.

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