

## THE KENYIAN INTERFAITH COUNCILS GUIDELINES ON THE REOPENING OF CONGREGATION WORSHIP CENTERS DURING COVID-19: A JURISTIC ANALYSIS

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### Abstract

*The cabinet secretary for health appointed the interfaith council to oversee the Re-opening of the places of worships. On 7th July 2020 the interfaith council released guideline which drew mixed reactions amongst the Muslim clerics and mosques committees; some decided to comply with the guidelines and re-opened their mosques; while others abstained completely from opening the Mosques. The aim of this study is to explore and discuss the restrictions, which raised tension among the Muslim clerics. The research methodology applied is inductive method for collecting data material related to the study, and descriptive and analytical methods to analyze the Kenya interfaith guideline and compare with Islamic jurisprudence in the matters related to performing devotional acts. Lastly, the study is expected to respond to all questions related to "social distancing of 1.5m between worshippers", "minimizing of worshippers attending congregational prayers", "Reduce physical Adhan", "purifying from home", "matter related to children to follow congregation online", and use of hand sanitizers".*

Key words: Covid-19, Kenya Interfaith, Congregation prayers, Islamic Law

### INTRODUCTION

The first case of Covid-19 was reported in the city of Wuhan china in December 2019. The investigation carried out by Chinese government identified the source of outbreak and linked it to hyper market stalls which stock and sell food. It emerged that many patients were employers and employees or visitors to this market; this lead to the closure of the markets on 1 January 2020 [WHO, 2019]. The virus was known as SARS-CoV-2 and disease was named by The International Committee on Taxonomy of Viruses (ICTV) as Covid-19 [Cui J, Li F, Shi Z-L, 2019]. The outbreak emerged from seafood market. The live animals sold such as bats, frogs, snakes, birds, marmots and rabbits infected more than 50 indigenous citizens [World organization for animal health, 2020].

The Chinese government isolated patients who were affected with virus and recommended that infected patients may have visited the seafood market where live animals were sold and consumed meals from infected animals as a

source of spread of this pandemic. Additional to that, further investigation showed that some people were affected even though they didn't visit the markets. These observations proved that person to person contact may accelerate spreading of this pandemic. This was consequently reported in Republic of Kenya, where confirmed number of deaths related to Covid-19 reached 225 due to personal contract. [Daily Nation, 18/7/2020]. This airborne droplet can infiltrate the human body (lungs) via inhalation through the mouth or nose. The symptoms of corona virus includes; coughing, sneezing, fever, fatigue sore throat, breathing difficulties, ache and pains, headache, stuffy nose and sneezing. [Australian Government, 14/7/2020]. In a renewed bid to stop the spread of corona virus disease (Covid-19), Kenyan government banned all places of worship after fifteen cases had been reported. At this moment, Interior Principal Secretary Karanja Kibicho gave an order to: *"Ensure all churches, mosques and temples were closed. If were found open within your area, you will be held personally responsible"*. [Daily Nation: Tuesday, March 24, 2020]. On the other hand, congregation prayer is mandatory to every sane, mature, male Muslim, and several legislated proofs that i.e. *"You (O Mohammad) are among them and lead them in the prayer, let one party of them stand up (in Salāh) with you"* [Suratul An-Nisaa, verse: 102]. From what has preceded it is clear that congregation prayer is compulsory in the battle field it therefore; becomes more obligatory during safety period. Moreover, Prophet Mohammad (pbuh) said to a blind person who sought permission to pray at home: *"Do you hear the call to the Salāt? He replied: Yes. Then the prophet ((pbuh)) said: "Then heed it"*. [Suleiman, nd] In this context, the situation of closing places of worship does not take a long time.

On Tuesday 12th June 2020 the interfaith committee was appointed by interior cabinet secretary in collaboration with Ministry of health which recommended reopening of places of worship on 14th July 2020. For congregational prayers to be permissible, guidelines and precautionary measures were put in place to adhere to such as; social distancing, hygiene, public health measures, sanitizer, wearing mask, fumigating worshipping areas, removing praying mats, closing of toilets and ablution areas etc. [Daily Nation: Tuesday, July 07, 2020].

The guideline drew mixed reactions among Muslim clerics and worshippers; some ignored Ministry Covid-19 rules and abstained from opening the Mosques; while others complied with the guidelines and opened their mosques. In response to religious implications of Covid -19 to Muslims` daily worship; the institution of Islamic fatwas across the world has issued fatwas, In Kenya, the Kenyan interfaith council on covid -19 adopted their own guidelines on the same. The study shall be Linking the jurisprudential rulings of pandemic covid-19 with their origins to

confirms that this Sharia is valid for every time and place, and that it is possible to practice the Sharia in devotional act. The remaining discussion of this academic paper will be divided into two segments. Section one will discuss Islamic provision on performing congregational prayer. Section two will evaluate guideline imposed by inter-faith on the national response to the corona virus pandemic in the matters related to performing devotional act by Muslims in the Republic of Kenya.

## 2. Congregational Prayers in Islam

Salāh is the second pillar of Islam to be instituted after the testimony of faith. prophet Mohammad (pbuh) propagated Islamic monotheism for ten years in Makkah while forbidding Shirk. When the correct belief embedded in hearts of Muslims, The Almighty Allah commanded his prophet to perform daily five prayers. Hence, prophet Mohammad (pbuh) said: *“Indeed between a man, and shirk and kufr, is abandoning the prayer”* [Ibn Majah, 2009]. Omar bin Khatab used to address his governors in isolated regions, saying *“indeed the most important of your affairs in my eyes is the prayer. Whoever preserves it has preserved his religion and whoever misses it, will be even more likely to miss performing anything else. There is no portion of Islam for the one who leaves the prayers”*. [Ibn Qayyim, nd] Performing five daily prayers is obligatory, as mentioned in the Qur’an, sunnah and consensus of the Muslim jurists. Salāh is a major reason leading to paradise. One of the companions of Prophet Mohammad (pbuh) asked to accompany him in paradise. The prophet replied: *“Then aid me in that by making many prostrations”*. [Al-twabarany, 1994]. Another virtue of Salāh is that it removes evil deeds. In this regard, Prophet Mohammad (pbuh) said: *“Don’t you see that if there was a river at the door of any of you, and from this river, one bathes five times daily, will there remain any dirt on him? They (the companions) replied, there won’t remain any dirt on him. He then said: “And that is the similitude of the five daily prayers, with them Allah expiates sins”*. [Ahmad bin Hanbal, 1995] Nevertheless, congregation prayers are compulsory to every sane, mature, male Muslim to pray at mosques. The benefits of the congregation prayers include; is to know each others, loving each others, seek advice from one another, seek help in removing any difficulties affecting them, through the congregation prayers, Muslims remove social differences and unifying the hearts of believers as they stand in same row without differentiating between white, black, Arab, non Arab, rich and poor behind one imam together and face same direction while performing the religious rites. In addition, performing congregation prayers attracts brotherhood and knowledge; the needy persons are identified and thereby helped. Another benefit of congregation prayers is keeping someone from hypocrisy and hell punishment. Prophet

Mohammad (Pbuh) said: *“Whosoever observes Salāh for Allah for forty days in congregation, observing the first Takbeer, has gained two freedom, both written for him: freedom, from hell and freedom from hypocrisy”* [Tirmidhy,1975]. In a nutshell, congregation prayers are better compared to performing it alone by twenty seven degree.

Subsequently, Muslim scholars are divided into three opinions regarding congregation prayers: The first opinion: congregation prayers are highly recommended Sunnah (Sunnah Muakadah). This is the opinion was seconded by Abu Hanifa, [Al-zalaī, 1313] Malik [Dasouqi, 1230] and Shaffy [Shirbiny, nd]. They support their opinion with the words of the prophet Mohammad (pbuh): *“Congregation Salāh is better than that observed alone by twenty seven degrees”*. [Al-siraj, 2002]. Congregation prayers are prescribed to attain virtue, and the virtues vary between congregation prayers and the one prayed alone in terms of rewards. [Ibn Hajar, 1379] Once again, congregational prayer is not compulsory, which means is not obligatory, therefore it is Sunnah. The preference in two prayers is that both prayers are permissible. If praying individually was not permissible; it would not have the virtue at all. [Ibn Daqiq Eid, nd] .The proponents of the first opinion use another proof recorded by Yazid that the messenger of Allah asked two persons sitting in the corner of the mosque, who didn’t pray; *“What prevented you from praying along with us? They replied: we have already prayed in our houses. He said do not do so. If any of you prays in his house and finds the imam has not prayed, he should pray along with him and that will be a supererogatory prayer for him”* [Ibn Hiban, 1992]. From what has preceded it is clear that repeated prayers is a supererogatory prayer, also the first obligatory prayers is permissible while it was performed individually. Furthermore, congregational prayer is not must; because the Messenger of Allah did not forbid his companions from performing it in their house. [Abadi, 1995]

The second opinion: congregation prayer is compulsory to every sane mature male. This is the opinion of Abu Hanifa [Al-kasany, nd] and some shaffy scholars like ibn Mundhir and ibn khuzeimah [Al-shirbinny, 1994] and seconded by Hanabila [Ibn Qudamāh, 1968]. The proponents of this opinion use some proofs from Qur’an and Sunnah. Allah said: *“And establish prayer and give zakah and bow with those who bow [in worship and obedience]”* [Suratu al-baqrah, verse: 43]. Allah commands one to bow with those who bow and this can’t be done unless a group of people participate in bowing, as this was an order to establish the congregation prayers. In this regards the prophet Muhammad (pbuh) said: *“The most burdensome of all Salāh on the hypocrites is that of fajr and Isha. If they knew what is there in rewards they would have attended it, even if they needed to crawl to it. Indeed, I wished to order that Salāh be called, then for it to be just about to be prayed, and then order a man to lead*

*the people in prayer. Therefore I would go with some men bearing fire-wood to those who did not observe Salāh and burn their houses over them*". [Albaghawiy,1983] Congregation prayers are mandatory because the Prophet Mohammad (pbuh) wished to burn those who didn't join congregation prayers; He also described them as hypocrites.

The third opinion: congregation prayer is fard kifāya (Communal Obligation). This opinion was seconded by Ibn Bashir Malik Scholar [Al-Mawaq,1494] and Shaffy [Zakariya, nd] They support their stand with the statement of prophet Mohammad (pbuh): *"If there are three men in a village or in the desert among whom prayer is not offered (in congregation), the devil has got the mastery over them. So observe prayer in congregation, for the wolf eats only the straggling animal"*. [Hamdaweih, 1990]. It is evident that congregation prayer is a communal obligation. Therefore, if some members of the community carried out the responsibility others are freed from same. Another argument is if the congregation prayer is compulsory for every Muslim then the prophet Muhammad peace be upon him would command the entire village instead he said: *"If there are three men in a village"*.

The more interesting thing was that the Kenyan Government shut all places of worship after experiencing an upsurge in covid-19 cases. On 12<sup>th</sup> June 2020, Mr. Mutahi Kagwe (Cabinet Secretary for Health) in collaboration with Dr. Fried Mwangi (Cabinet Secretary for Interior and Co-ordination of National Government) appointed the Inter-faith council on the national response to the corona virus pandemic to oversee the re-opening of the places of worship i.e. Mosques and churches for in-person congregational gatherings in a safe and sustainable manner. [Kenya Gazette, Vol. CXXII. No.113] Some of the Muslims clerics and leaders who were appointed included: (a) Sheikh Sukyan Hassan Omar (b) Sheikh Abdulatif Abdulkarim (c) Sheikh Ali Saidi Samojah (d) Al Hajj Hassan Ole Naado. The Terms of Reference of the Inter-Faith Council are to:

*"(a) Develop stringent protocols for the phased re-opening of the Places of Worship;(b) develop guidelines towards the gradual and progressive resumption of in-person congregational worship that adheres to physical and social distancing guidelines;(c) develop protocols for the celebration of weddings and other religious ceremonies in the Places of Worship in ways to comply with physical and social distancing guidelines;(d) develop protocols for religious funerals and gravesides/crematorial last rites and send-off;(e) develop a programme for Public Sensitization and Capacity-Building of all religious leaders and clergy on the protocols;(f) develop a prioritized implementation matrix, clearly stating the dates for re-opening*

and the numbers-capping applicable; and (g) conduct any other matter ancillary to or in furtherance of any of the foregoing Terms of Reference”. [Kenya gazette, 2020:2581].

On 7<sup>th</sup> July 2020 Inter-faith council on the national response to the corona virus pandemic released guidelines to be observed before reopening of places of worship; the announcement drew mixed reaction within Muslim clerics. Some of them decided to resume congregation prayers while others adamant to continued closing Mosques for congregational prayers. In this situation, Sheikh Mubarak Ali Busia Muslim Council illustrates some of the challenges facing mosque management as follows:

They can't afford to purchase Thermo gun and hand sanitizers and as long as the situation is unsafe for congregants due to the high probability of transmission of pandemic. Lastly, some of the Inter-faith restrictions contravene with the intent of Sharia law by observing the maximum number of congregants permissible for a congregation prayers. Social distancing of 1.5m between worshippers, Reduce physical Adhan, encouraged children to follow online congregation, and use of hand sanitizers [Personal interview with Sheikh Mubarak 13/7/2020]

### **3. An Analysis of Inter-faith Guidelines in Islamic law Perspectives**

3.1 According to the above discussion, majority of Muslim scholars agreed that congregational prayers are mandatory to every sane, mature male. In this scenario, it is allowed to leave congregation prayer if an excuse occurred. Some scholars have listed 40 excuses that allow a Muslim to pray at home, some of these excuses includes; heavy rain, strong wind, and extreme heat and cold. [Nawawy, 1412] They supported this view based on the following proofs: (i) Allah said: “Allah does not require of any soul more than what it can afford” [Suratul Baqarah, Verse: 286] attending congregational prayer with fear of contracting the virus is tantamount to forcing one to do something out of his capacity. The prophet Mohammad (pbuh) said: “if anyone hears the summons and does not reply to it, he has not credited with having prayed unless he has some excuse”. [Ibn Majah, 2009] Ibn Hazmi reported that Muslim consensus agreed that fear of oneself is an excuse to leave congregation prayer. [Ibn Hazmi, nd] Therefore, the adoption of precautionary measures and the commitment of all congregants in the mosque for the fear of transmitting the covid-19 does not remain an excuse for leaving congregation prayers. In this regards interfaith council allowed offering congregation prayers in

the Mosques with gaps for fear of spreading corona virus. This was captured in the guideline as follows: “Distancing of 1.5 between congregators”. Therefore; it is compulsory to comply with this rule until the pandemic is over and return to normal life. The regulation is not complying with Islamic law in term of standing close to one another in straight rows and filling the gaps. The proofs demonstrating that straighten the rows is legislated in Islam are: *“Straighten your rows as the straightening of rows is essential for perfect and correct prayers”*. [Al-Albany, 2002] *“Keep your rows straight (during salat in congregation), for keeping the rows straight is part of the perfection of Salat”*. [Ibn Majah, 2009] *“Stand close together in your rows, bring them (the rows) near one another, and stand neck to neck (in straight lines)*. [Ibn Hiban, 1992] In general, the aforementioned hadiths emphasize on the significance of standing closely in the straight line and ensuring there are no gaps between the rows otherwise the prayers will be unacceptable because of omitting an action that is compulsory. However, this applies in normal situation. In the event of emergency or extraordinary situation such as an outbreak of virus whereby the disease can be transmitted by airborne droplet via inhalation through the mouth or nose by close physical contact, it is mandatory for congregants to keep distance between themselves in 1.5 meters during congregation prayers. This is in line with the higher objective of Islamic law, which is preservation of the self/soul. Allah says: *“And do not throw yourselves with your own hands into ruin”*. [Suratul Baqarah, verse: 195]. Based on significance of congregation prayers Allah changed format of prayers while in fear (battle field) *“When you (o Muhammad) are among them and lead them in the prayer, let one party of them stand up (in Salāh) with you”*. Hence, gaps between congregants in prayers during pandemic period do not affect the validity of prayers. Furthermore, some scholars viewed those gaps between congregants as not a condition for the validity of prayers, but is recommended act (Sunnah):

*“It is recommended to fill up the congregational prayer rows (ṣufūf) and not to continue with a second prayer row until the first one is properly filled by allowing individuals to fill in the gaps. This practice is recommended and part of the Sunnah, and is not a condition for the validity of prayers”*. [Al-Ghamrawy, nd]

Moreover, Imam al-Ramli from Shaffy School illustrated that gaps between congregants do not affect the validity of the prayers based on the following grounds (i) prayers are conducted within the mosque’s area, (ii) congregants are not standing in front of the imam, and (iii) congregants are capable to hear the imam’s recitations and watch his activities. [Ramly, 1984]

Another different juristic opinion “congregation prayers are highly recommended sunnah, therefore, it is permissible to offer an obligatory prayer at home to reduce the risk of COVID-19 transmission rather than breaching the

prayers regulation to leave the gaps between congregants which it will effects the validity of the prayers by avoiding compulsory action". [Sheikh said Abu Aziz, 27/March/2020] They support their stand with the statement of Prophet Mohammad (pbuh): *"The prayer of a person who prays alone behind the rows is not accepted"*. [Al-Mawardi, 1991]. Straighten the rows is legislated based on the following hadiths; (i) *"Straighten your rows (during Salāh) or Allah would create dissension amongst you"*. [Ibn Majah, 2009] (ii) *"Make your rows straight and stand close together, for I can see you behind my back"*. [Twahir Al-Mukhlis, 2008].

After close observation of the two opinions, the researcher concludes that; Standing closely in straight line and ensuring there are no gaps between congregants shall be applied in normal circumstance away from pandemic. The congregants will revert back to the tradition way of performing prayer once the pandemic is over as taught by the Prophet (Pbuh) him. This is a better way rather than closing mosques completely. This in line with Islamic legal Maxim principle that states: *"Whether a law exists or not depends on the factors that influence it"* [Al-Ghazy, 2003] Additional to that; if the congregants were unable to comply with covid-19 restrictions they may be allowed to pray at home except for imam, Muadhni and cleaners who continue performing congregation prayers at mosque.

3.2 The interfaith council reduced the numbers of congregants to a maximum of 100 persons to be accommodated at the place of worship as it was illustrated in the guideline *"Regulate the number of congregants per session to a maximum of 100 persons and ensuring social distancing"*. Based on that, the committee excused some group of people from performing congregation prayers like (i) children under 13 years (ii) The elderly over 58 years (iii) those have chronic conditions such as difficult of breathing, cough and high fever. This is in line with Islamic legal maxim *"warding off detriments takes priority over the acquisition of benefits"*. [Al-Wansharasy, 2006]. Another legal maxim *"Harm must be removed"* [Al-Ghazy, 2003] means you should not harm others, neither should you put yourself in harm. The group of people restricted from performing congregation prayers during the pandemic period was given concession to pray at home instead. The legislative of seeking permission has been mentioned in the Qur'an: *"Allah intends for you ease and does not intend for you hardship"*. [Suratul Al-Baqarah, verse: 185]. It was also reported by Prophet Muhammad (pbuh) said: *"The religion is easy, and whoever makes the religion a rigor, it will overpower him, so follow a middle course in worship, if you can't do this, do something near to it and give glad tiding and seek help of Allah at morning and at dusk and some part of night"*. [Hamkūn, 1986]. The interfaith committee took consideration on this to avoid the higher risk of contracting the virus as well as ensuring public safety.



3.3 In Islamic law it is not obligatory for children to perform Salāh until they reach the age of maturity, it requires continued efforts and pushing them to start offering prayers regularly. However, the proper training and education is highly recommended to get them to the stage where they start offering their Prayers regularly in the manner prescribed for the prayer. In this regard, Prophet Muhammad (pbuh) said: *“Command your children to perform Salah when they are seven years old, and beat them for (not offering) it when they are ten, and do not let (boys and girls) sleep together”*. [Al-Baghawiy, 1983] When a child attains seven years, the proper method of Swalah should be educated to him. He should be influenced to accompany the parents and join congregational prayers at mosque. This will help children start copying the movements of their congregants naturally, and thus become affinity with Prayers, and will safeguard the habit of Prayer in the following generation. But In the event of pandemic situation whereby the disease can be transmitted to vulnerable groups the interfaith council encouraged children to pray at home. This was mentioned in the regulation as follows: *“The vulnerable groups (under 13 and above 58 years) should be encouraged to stay at home and follow online congregation worship”*. This guideline was supported by Islamic legal maxim *“Rulers may restrict permissible things within specific areas to preserve the public interest”*. Means authority have the right to impose some restrictions regarding covid-19 which will help encirclement of the diseases and prevents its spread to vulnerable groups. It also reconciles with the Quranic verse: *“...Allah does not give anyone legal responsibility for anything except what is within his capacity...”* [Suratul Al-Baqarah, verse: 286]

3.4 In the premature day of Islam there was no specific way to call Muslim and remind them on keeping prayer time. In this regard the prophet consulted his companions on what should be done when announcing time for prayer. Some of them said “let us use the bell like Christians.” Others suggested use of a horn like the Jews. Then Omar gave his opinion; “Why don’t we send a person to announce when prayer time approaches?” Then another companion dream of the word of Adhan, then Prophet Muhammad (pbuh) said: *“O Bilal get up and give the call to prayer”*. [Ahmad Bin Hanbal, 2001] Adhan was legislated to demonstrate the slogan of Islam, the word monotheism, informing Muslim the time and place of prayers and supplication to the congregation. The Muadhin should stand and while facing right and left towards the Qiblah and recite the Adhān in loud voice. These days a loudspeaker system is used to call Adhān. In the event of outbreaks of Covid-19 whereby the virus can be transmitted by airborne droplet, the interfaith committee insisted to reduce live Adhān and instead use recorded where

possible as stated clearly in the guideline. *“Reduce physical singing and instead use recorded music where possible”*. The proper solution is to sanitize the microphone after each Adhan and Iqamah. [Personal Interview with Dr Abdi, 19/8/2020]. besides that, Recording Adhān is inconsistent with Islamic law based on the following grounds: (i) Ignoring the order of the prophet Muhammad (pbuh) who said: *“When the time of Salāh comes, one of you should announce the Adhān.”* [Al-Albany, 2002] (ii) it will also deprive the rewards to the Muadhlin. The prophet Muhammad (pbuh) said: *“The Muadhlin will have the longest neck on the day of resurrection”*. [Ibn Majah, 2009] This position was supported by fiqh council Jeddah in a released a statement on (7th/12/1406 AH) as follow:

*“Adhān is the devotional act, and it is known as religion necessity; through Qur’an and Hadith text and consensus of Muslim. For this reason; Adhān is the distinguished sign between Islamic and non-Islamic countries. Besides that, Muslim jurists agreed to fight those leaving out Adhān. What Muslims inherit from others since the day of enactment of sharia to date is that they continue to announce for Adhān on daily five prayers in every mosque even if there are many mosques in the same country. The intention is one condition for Adhān, and this reason; it is not valid for the insane, the drunk, and so on, because they are missing intention in performing it, this also applies for recording. Adhān is a physical act of worship. Ibn Qudamah explains in Al-Mughni (1/425), “A man cannot use Adhān of anyone else, because it is a physical act of worship, so it is not valid for two people, such as prayer. There are several prohibitions in unifying the Adhān using the voice recorder as follows: (a) considered as a fatality of Sunnah and etiquette, at the same time the condition of intention will not appear in recording Adhān(b) It opens for Muslim to temper with religion commands and introduce innovations in devotional act; which it will leads to abandoning with Adhān”*. [The Islamic Fiqh Council of the Muslim World League,19/7/1406]

3.5 Wudhu (Ablution) means washing some parts of the body with intention of purification for the sake of performing Salāh, otherwise the prayer will be null. The verse from Qur’an clearly instruct how to wash some parts of the body: *“O you, who have believed, when you rise to [perform] prayer, wash your faces and your forearms to the elbows and wipe over your heads and wash your feet to the ankles”*. [Suratul Maidah, verse: 6] This ablution (using water) applies for the healthy person. In the case of illness or non-accessibility of water there is an alternative known as a Tayammum (dry ablution) using dust. The national Muslim Covid-19

response collaborate with the interfaith council encouraged those going to mosque to worship to purify and take ablution from their homes. As stated clearly in the checklist. *"The mosque toilets and place of ablution closed with directives given to the congregants to make ablution from home/office"*. This was a precaution measure to mitigate any risk through infected water used by victims of the virus. This coincides with Islamic law. The prophet Muhammad (pbuh) said: *"Should I tell you that by which Allah erases the sins and elevates the ranks? Then he said: "Performing the wudhu thoroughly despite whatever odds, to make many steps (to walk from a far distance) towards the Masjid, and waiting for the next obligatory prayer after observing a prayer. That is steadfastness"*. [Hanbal, 1995] Having said that, interfaith guideline concurs with Islamic law as per the aforementioned tradition. However, it is difficult to comply with it because the current life style. In that it is too difficult to maintain Wudhu from the morning to the evening. As wudhu can be nullify by one of the following factors: (i) urinating (ii) farting feces and wind (iii) Touching the private parts directly (iv) Skin contact with opposite sex. The prophet Muhammad (pbuh) said: *"Allah will not accept the Salāh from any of you when he is (ritually) impure until he performs wudhu"*. [Hanbal, 1995] For this reason it was necessary to open the wudhu area. This is in line with the Health Ministry's advice to the public to maintain personal hygiene such as washing hands with soap and water. Moreover part of ablution is to wash hand which will assist minimizing the risk of infection.

3.6 Hand sanitizers are highly recommended by interfaith committee to stop the spread of corona virus disease before entering to the Mosque; this was stated in the guideline *"Where possible places of worship to provide 70% alcohol-based hand sanitizers in designated places"*. In Islamic law, alcohol consumption is prohibited. This is the opinion of Hanafy, [Al-kasany,1986] Malik, [Al-Dasuqi, nd] Shaffy [Nawawy, nd] and Hanbaly [Al-Mawardi, nd] they support their opinion use some proofs from Qur'an and Hadith. Allah said: *"O you who have believed, indeed, intoxicants, gambling, [sacrificing on] stone alters [to other than Allah], and divining arrows are but defilement from the work of Satan, so avoid it that you may be successful"*. [Suratul Al-Maidah, verse:90] one of the companion of the prophet Muhammad (pbuh) ask him: *"O messenger of Allah, we live with Jews and Christians, they cook in their pots wine and drink wine using their glasses."* The Messenger of Allah said: *"If you find any other pots, then eat in them and drink, but if you don't find any other, then wash them with water and eat and drink"*. [Abu Daud, 2009] The impurity of alcohol was proficient by the companions of the prophet Muhammad (pbuh) they therefore asked for a solution in its regard. Another proof to show the impurity of alcohol is when the Messenger of Allah commands us to wash the vessel used in drinking wine.

Other Muslim scholars are of opinion that alcohol is pure as a substance but impure as a drink. This is opinion being held by, Daud Al-Dhahiry, and supported by Al- Shawkany, and Al- Swan'ani [Nawawy, No Year: 520]. They argue their opinion based on this Hadith *"I was the butler of the people in the house of Abu Talha and in those days drinks were prepared from dates. Allah's apostle ordered someone to announce that alcoholic drinks had been prohibited. Abu Talha ordered me to go out and spill the wine. I went out and spilled it and it flowed the street of Madina some people were killed and wine was still in their stomachs. Revelation came regarding the wine; those who believe and do good deeds, there is no blame for what they ate"*. [Abu yaa'la, 1984]. If indeed alcohol was impurity substance, they would not shed it on the paths; the paths used by Muslims should not be a place for shedding and dumping of impurities.

From the two different opinion alcohol that is not produced through the process of making liquor is not unclean but haram (not acceptable) to be consumed, whereas alcohol from the process of making liquor is considered haram and unclean. Therefore, it may definitely be said that, alcohol-based hand sanitizer is permissible when performing prayers as it is considered a necessity and forgivable in reducing the risk of Covid-19 infection. This in line with Islamic legal maxim *"Necessity renders prohibited things permissible"*. [Al-Suyuti, 1990]

#### 4. Conclusion

The study concluded that; Muslim scholars differed on issue pertaining congregation prayers: firstly, they said congregation prayers are highly recommended Sunnah, therefore, it is permissible to offer an obligatory prayer at home to reduce the risk of COVID-19 transmission rather than breaching the prayers regulation. another juristic opinion is Congregational prayers is compulsory for every Muslim, male, sane and mature, It is therefore prudent to liaise with government decision pertaining guidelines of reopening mosques such as "social distancing of 1.5m between worshippers", "minimizing of worshippers attending congregational prayers", "reduce physical Adhan" "purifying from home", and use of hand sanitizers". These are temporarily measures put in place to mitigate spread of the deadly pandemic covid-19 and subjected to review periodically. The measures are supported by Islamic legal maxim *"Rulers may restrict permissible things within specific areas to preserve the public interest"*.

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#### Notes:

1. Sheikh Sukyan Hassan Omar was born on 14<sup>th</sup> August, 1973 in Wajir County of northern Kenya and pursued both primary and secondary educations both in secular and religious in the local institutions of learning. In 2001 obtained a BA degree in Islamic studies and LL.B (Hons) in Shariah and Law from international Islamic University in Islamabad, Pakistan. In 2011 obtained post graduate diploma from Kenya school of law after successful completion of Advocate Training Program (ATP) and admitted to the bar as an advocate of the High Court of Kenya and in 2015 obtained masters of law (LL.M) in Law, Governance and Democracy from the UoN. Have participated in numerous conferences and workshops both

- locally and internationally and presented many papers. Also attended and got trained in many short courses including courses in Islamic banking and finances. Worked for various organizations but notably have been a Kadhi since 2005 and rose to the current position of the Deputy Chief Kadhi of Kenya in 2016. Besides employment I also do some consultancy work and a member of the shariah boards of some local financial institutions and as well as charitable organizations.
2. Sheikh Abdulatwif Abdulkarim was born on 23<sup>rd</sup> December 1965 Malindi Kenya, he obtained bachelor degree in Islamic Sharia at the Islamic University in Madina also he obtained BBA Hons(Marketing), Diploma and Higher National Diploma in Applied Statistics currently he study the MBA (Strategic Management). Sheikh Abdulatwif worked at (a)The Islamic Foundation Kenya, as the Executive Secretary (CEO) (b) Al-Muntada Development Project, as the Executive Director (c) Kenya Council of Imams and Ulamaa,- National Programme Coordinator (d) Supreme Council of Kenya Muslims, - National Program Evaluator (e) Al-Furqan Training Institute, - Principal (e) AMA Printing Press, - Administration Manager. Currently, his the member of Inter-Faith Council on the National Response to the Coronavirus Pandemic (b)Vice Chairman, National Muslim Covid-19 Response Committee (c) Chairman, Shariah Advisory Board, Taqwa SACCO (d) Chairman, Family Resource Centre, Jamia Mosque, Nairobi (e) Shariah Advisor, Kenya Bureau of Halal Certification (f) Management Committee member, Muslim Education Council (g) Member, Board of Trustees, Islamic Online University – Kenya.
  3. Sheikh Ali Saidi Samojah was born and raised in Bungoma County. Studied Islam and Arabic language at Rasul Al Akram Islamic centre in Nairobi, for four years and then proceeded for further studies in Islamic seminary (Hawzailimiya) in Lebanon. I then did a Bachelors degree program in Islamic Sharia (Law) at International Colleges for Islamic Sciences, London, for four years. His currently in the final stages of my MA in Islamic Law at islamic College for Advanced Studies (ICAS) in London. Besides this I have been a teacher for several years at Rasul Al Akram Academy, Nairobi and held several administrative duties. Currently am the Chairman of Rasul Al Akram Academy management board. I am a Resident Imam of Jaffery mosque at Lavington, Nairobi. He continues teaching Islam and Arabic language. He attended and participated in several seminars, workshops, crash courses locally and internationally.
  4. Al Hajj Hassan Ole Naado: Not Received his Bio Data