

# LEGAL EXHAUSTIVENESS IN ADDRESSING THE IMPACT OF COVID-19 OUTBREAK IN SAUDI ARABIA

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## ABSTRACT

*This paper describes legal exhaustiveness based on the existing legal principles in order to address the impact of COVID-19 outbreak in the context of Saudi Arabia. Legal exhaustiveness refers to possible inclusion of essential legal principles in solving legal related issues of COVID-19 in Saudi Arabia. Indeed, a number of studies have been conducted from different perspectives in addressing the ongoing challenge of COVID-19 in various parts of the world including Saudi Arabia. However, little connection is made in harmonizing conventional legal principles with Islamic legal system in order to address the problem of COVID-19 in the country. This paper primarily aims at utilizing legal exhaustiveness by exploring legal principles that can be instrumental in solving the challenges of COVID-19. In so doing, systematic literature review (SLR) is used as methodology of the paper whereby five themes were generated which were subsequently presented as results of the study. The results indicated that, the Saudi Arabian government has cancelled mass gatherings such as Umrah as part of measures to curtail further transmission of COVID-19. It is reiterated that, the Sharī'ah legal system of Saudi Arabia can be harmonized with legal doctrines of force majeure, impossibility & frustration and impracticality) that are found in English law commonly in practice in England and USA which are similar to Sharī'ah doctrines of Quwa Qahira, Al-Zourouf Al-Tari'a and Istilaha. The result further showed that, the doctrine of impossibility is more appropriate and relevant in addressing the problem of COVID-19 in the context of Saudi Arabia as compared to the principle of frustration due to the fact that, COVID-19 hinders the performance of contractual activities by the parties that are involved in the socio-economic contract in the country. The implication of this paper is that, it provides substantial shape to employment and commercial laws in Saudi Arabia especially by providing safety to the employees in order to avoid unnecessary loose of job as a result of the COVID-19 pandemic. It is therefore suggested that, the government of Saudi Arabia should use the expertise of legal team in the country by utilizing the identified variables explored in this paper. Additionally, the conceptual framework investigated in this study can be empirically investigated by further studies. Lastly, the limitation of the paper is lack of accessibility to some studies on various variables that are explored in this study. Nonetheless, the paper has provided substantial direction for future and further studies.*

**Keywords:** COVID-19, Shariah Doctrines, Force Majeure, Impossibility & Frustration, Impracticality.

## INTRODUCTION

The prime purpose of this paper is to explore relevant legal principles that can be helpful in minimizing the impact of COVID-19 outbreak in Saudi Arabia. The paper explains different

aspects in order to explicitly elaborate on the overview of COVID-19; Islamic concept relating to COVID-19 specifically the Shariah doctrines of Quwa Qahira, Al-Zourouf Al-Tari'a and Istilaha and preventive measures undertaken by the Saudi Arabia government to curb or curtail the spread of the virus. Each of these is explicated upon in the subsequent paragraphs.

The outbreak of COVID-19 pandemic and its contagious spread on the 11th March 2020 from Wuhan in China to different parts of the world is considered as clinical and pathogenic respiratory infections that becomes viral in both developed and developing countries (Benkouiten et al., 2019; Chan et al., 2020; Tian et al., 2020). According to the World Health Organization (WHO) (2020a), COVID-19 is regarded as a Public Health Emergency of International Concern (PHEIC). This scenario of COVID-19 has been so severe to the extent that, World Health Organization (WHO) according to the Saudi Arabian Ministry of Health that there are 347, 656 confirmed cases, 334 and 5420 deaths cases (World Health Organization, 2020a). Nonetheless, as at 3rd November, the Statistical Research Department (2020) of Saudi Arabia estimates that COVID-19 cases have reached 348 thousand, 335 recovered cases and 5, 456 deaths. Literature such as Sallam et al. (2020) contends that COVID-19 has enormously caused high level of anxiety especially among the health workers in the country (Abolfotouh et al., 2020).

Furthermore, the Islamic concept relating to COVID-19 confirms that all precautionary measures put in place by the World Health Organization have relevance or being grounded in Islamic tenets. The Prophetic narrations have confirmed the need for quarantine during plague. For instance, it is specifically mentioned in the hadith narrated by Imam Buhari that, we should run away from (leper) contagious disease. Nonetheless, the current legal system in Saudi Arabia only focus on business and commercial laws that spell out the roles and responsibilities of parties that engage in contracts. However, prior to the outbreak of COVID-19, Saudi Arabia has been moving rapidly towards actualization of vision 2030 especially on economic and social developments in the country. For instance, report has shown that, there are several projects worth USD 1.6 trillion which is underway and more importantly, there is Red Sea Development and NEOM projects. But the outbreak of COVID-19, it has put a stop to most developmental projects in the country and priority has been giving to how to curtail the pandemic.

The current legal framework in Saudi Arabia is based on Shariah or Islamic law. The legal system is regarded as a reflection or manifestation of religious and sociocultural values of the country (Awed, 2020). The basic sources of law in Saudi Arabia are Shariah, Statutory Law and Royal Orders. Interpretation and adoption of Islamic law in the country is regarded as unmodified form. In 2018, the government released legal principles and precedents whereby Shariah was regarded as supplement to the regulations ((Bradley, 2005). Notably, Islamic law is considered as major source of family, criminal, commercial and contract law. More specifically, the commercial and contract activities are guided by Islamic law whereby Board of Grievances and Special Tribunals were established in order to find ways of circumnavigating the restive aspect of Islamic law (Vogel, 1999; Peters, 2005; Otto, 2010; Ramady, 2010). However, Saudi law identifies Company Law which recognizes corporate entity that was established under the Shariah or Saudi Company Law of 1982. In addition, the labour law has also been established which tries to spell out the obligations of employers towards employees. Onwards, land law also provides that all land in the country belong to the government and the property investments especially by non- Saudis whose capital investment is more than 30 million Saudi Royals is expected to get approval from the Council of Ministers (Alkhalawi, 2015). It is noted that, there are uncertainties in the content of commercial as a result of Shariah aspect of the commercial law

because there is disincentive for foreign investors to invest in Saudi Arabia. It should be reiterated that; Saudi Arabia has three different categories of land namely: developed land (e.g., built towns or land used for agricultural cultivation), undeveloped land (rough grazing, pasture) and protective zones (e.g., it is for protective buffer and for posturing livestock) (Awad, 2020).

Prior to the pandemic of COVID-19, previous studies have clamoured for the reform of legal system as a result of the need to holistically address the challenges of the 21st Century in Saudi Arabia (Cordesman, 2003; Alkhalawi, 2015). However, the need for this reform emanates from internal crisis within the kingdom (Bradley, 2005). More specifically, legal reform in business and commercial activities as identified in the early studies (Champion, 2003) have resurfaced in the recent time with the outbreak of COVID-19 which calls for the legal reform that will accommodate the occurrence of eventualities. Similarly, the study by Hafeez (2005) advocated for the reform of Islamic Commercial law towards economic development. More importantly, legal exhaustiveness is paramount in the aspect of business and commercial activities in the country during this critical period of COVID-19 because a number of previous studies have advocated for the reform of legal system towards consideration of values and sociocultural realities of the kingdom (Baamir, 2009 & 2016; Alkhalawi, 2015; Awad, 2020).

However, there is no specific provision for the inevitability of occurrence such as COVID-19 that may interrupt the business activities in the time of pandemic. In other words, Saudi Arabia has not adequately made legal provision for addressing the challenges of pandemic. However, there are Islamic legal principles relevant in addressing the challenge of COVID-19 namely: *Quwa Qahira* is a term used to explain an event that consequently affects one of the two parties that engage in business to discharge his responsibilities (Lauer et al., 2020). *Al-Zourouf Al-Tari'a* refers to frustrating condition that can lead to a breach of contract between two parties. It is essential to note that, COVID-19 has led to destabilization of different contractual agreement whereby there is need for legal action in addressing this kind of scenario. *Istilaha* is another important term in Islamic legal provision to consider the good interest of two parties that partake in business activities when there is possibility of discontinue the business contract. In other words, the justification for discontinuation of business contract should be based on mutual understanding of the two contracting parties.

Notably, in the world over including Saudi Arabia, COVID-19 is felt and there have been strict measures in curtailing the spread of the pandemic. As a result of this, this scenario is also applicable in the context of Saudi Arabia whereby there was suspension of different national and international activities such as travelling, business activities, mass gatherings among other (Ebrahim & Memish, 2020a).

Onwards, as part of effort in curtailing the menace of COVID-19, there are several proactive steps and measures being imposed by the government of Saudi Arabia such as making restrictions on both national and international travelling. Similarly, those that have just arrived from foreign countries were being quarantined in order to curb further spread of the virus. In addition, the government of Saudi Arabia has been proactive especially with suspension of pilgrimage and tourist activities in the country (Ebrahim & Memish, 2020b). Also, there is an enlightenment and dissemination of information regarding healthcare and there was declaration of stay at home order and avoidance more mass gathering as part of the effort to mitigate the spread of COVID-19 but with an exception of security, military and health workers (Ebrahim et al., 2020).

Moreover, there are many other preventive measures undertaken by the Saudi Arabian government to curb or curtail the spread of the virus. In other words, the severity of the spread of coronavirus has made the government of Saudi Arabia to provide various measures. According to Al-Arabiya (2020), the government of Saudi Arabia has placed a total lockdown in the Kingdom in order to curtail the plight of the virus. Also, another measure that is being put in place in the country is that, for an unavoidable traveling, there is provision of quarantine for at least two weeks. Nonetheless, according to the Arab News (2020), there is a ban on bus transportation and local flights. Literature also adds that, there is a suspension of activities including social gatherings in order to avoid the spread of COVID-19 (Ahmed & Memish, 2020). Furthermore, there was also a ban on prayers in the mosques. More specifically, Arab News (2020) posits that, the grand mosque in Makkah and Prophet's mosque Makkah were shut down between night and morning. Nonetheless, in the later time, literature contends that, the performance of Hajj in the year 2020 was restrict to 10, 000 as contrary to the earlier projection of cancellation of the performance of Hajj (Gautret et al., 2020). In spite of the measures, social distancing and isolation are considered as integral part of preventive measures practiced in Saudi Arabia.

Undoubtedly, the aforementioned measures are in line with the international approach provided by WHO specifically in making restrictive physical contact or social interaction that may eventually lead to the spread of the virus. It is not disagreeable to posit that, the multifarious preventive measures such as quarantine, social distancing, face mask etc. in curbing the pandemic of COVID-19 may undoubtedly affect different spheres of the society such as business activities, suppliers and the labour in general. It is therefore reiterated that, the extent of the spread of pandemic attracts the attention of legal experts in addressing legal issues from different perspectives. There are various aspects of legal issues relating to COVID-19 and among others are: parties' contracts, legal consequences of bankruptcy.

Moreover, there are many companies in the context of Saudi Arabia that have been operating business activities while other ones may be new. Indeed, the operations of different companies that may not familiar with legal operation may even be more affected with the pandemic of COVID-19. It is therefore paramount that, legal exhaustiveness is used to address legal issues relating to COVID-19 in the country. Thus, the term legal exhaustiveness is used to refer possibility of including essential elements or components of legislation in addressing a particular problem. Thereby, the use vital legal principles are used to address the challenges of COVID-19 in the context of Saudi Arabia. It should be reiterated that, legal issues pertaining to COVID-19 is essential to be assessed especially in connection with the legal system of Saudi Arabia; triadic legal principles (i.e. Force majeure, impossibility & frustration and impracticality). Nonetheless, there is a gap in the recent literature that explores legal system in addressing the challenge of COVID-19 and implication of legal system is specifically related with employment and commercial laws. This paper therefore primarily exhausts or explicates on legal precepts in Saudi Arabia in order to address legal issues emanating from COVID-19. Hence, the current exploration of legal issues in Saudi Arabia in connection with COVID-19 is done with that of few places such as USA, England and New-York. Hence, methodology of the paper is explained in the subsequent paragraphs.

## METHODOLOGY

In academic research, different methods are commonly known and used especially quantitative, qualitative and mixed methods. Indeed, Systematic Literature Review (SLR) is an

integral part of qualitative research design. The SLR is used to critically explain and clarify different concepts and variables of a particular study as literature notes (Pittaway & Cope, 2007). Therefore, five major themes are generated in exploring legal exhaustiveness in the context of Saudi Arabia. The generated themes are as follows: COVID-19, legal system, force majeure, impossibility & frustration and impracticality-are considered as legal principles. More specifically, a number of studies have significantly investigated COVID-19 in different countries in general (Chan et al., 2020; Chen et al., 2020; World Health Organization, 2020a; World Health Organization, 2020b; World Health Organization, 2020c) as well as in the context of Saudi Arabia in particular (Ebrahim et al., 2020; Ebrahim & Memizah, 2020a & b). However, pertaining to the remaining themes, a number of studies have considered force majeure, impossibility & frustration and impracticality as legal principles (Firoozmand, 2007; Al-Tamimi & Company, 2020; Omar, 2020; Quin, 2020; Susan, 2018). The legal relevance of the aforementioned principles in addressing the challenge of COVID-19 becomes the focus of this paper. Hence, systematic literature review (SLR) approach has been employed in this paper. Nonetheless, despite the fact that literature such as Pittaway & Cope (2007) elaborately elucidate that, the use of SLR is to clarify ideas, the use of SLR in this study cannot claim a complete accuracy. Hence, there is a limitation ascribed with the use of SLR in this research. For instance, the chronological studies on various variables may not be accessible to the researchers. Nevertheless, it is indisputable that this study provides substantial focus for further exploration on legal exhaustiveness on various principles in addressing COVID-19 despite the fact that, the use of SLR has limitation. Thus, further studies may either quantitatively and qualitatively explore the legal framework in mitigating the impact of COVID-19 in Saudi Arabia.

## RESULTS AND DISCUSSION

This part presents the result and discussion of major findings which are presented under four major paragraphs according to different themes generated as mentioned in the methodology namely: COVID-19 and triadic legal principles (i.e. force majeure, impossibility & frustration and impracticality). Each of these is explicated in the subsequent paragraphs.

First, it is noteworthy to say that, the coronavirus disease otherwise known as COVID-19 is an outbreak from Wuhan in China that becomes a global pandemic (Tian et al., 2020; Yang et al., 2020; Zhu et al., 2020). A number of studies have explored COVID-19 and it has been found out that, it is clinical respiratory and human-pathologic virus with a typical pneumonia (Benkouiten et al., 2019; Chan et al., 2020; Chen et al., 2020; Jaffar, 2020). Studies have explored the need for community to strategize in mitigating the effect of pandemic especially, previous studies posit that, Umrah pilgrims have potential of spreading the virus further in Saudi Arabia (Ebrahim et al., 2020; Ebrahim & Memizah, 2020a). Therefore, the study of Ebrahim & Memizah (2020b) advocated for suspension of mass gatherings which is similar with agitation of earlier studies during the 2009 pandemic influenza A (H1N1) (Elachola et al., 2014). Since the outbreak of COVID-19, there have been several legal issues surrounding coronavirus at the international level. According to Dan Haris (2020), it is stressed that, coronavirus has been affecting all countries and economics throughout the world (Guy Ryder, 2020). Hence, several situation-reports by World Health Organization (WHO) have indicated that, there is a need to take precautionary measures in curtailing the menace of COVID-19 in different parts of the world (World Health Organization, 2020a; World Health Organization, 2020b; World Health Organization, 2020c). Hence, it is important to deal with all sort of legal issues arising from COVID-19 in the Kingdom.

It is further reiterated that, there has been a set-up of cross-border legal team drawn from China, United States and Spain in order to help most companies specifically in addressing legal issues that are directly or indirectly related to the coronavirus. Literature identifies that, the establishment of cross-border legal expert is expected to judiciously utilize knowledge and experience of legal experts especially from multidisciplinary approach to international trade law in order to determine suitable practices that can be drawn from other jurisdictions (Dan Haris, 2020). Literature contends that, the pandemic of COVID-19 has become a peril to global health and this scenario is also applicable to the context of Saudi Arabia as literature expounds (Ebrahim & Memish, 2020b). Since there is no medical provision as a counter-measure to the spread of pandemic, hence, suspension of mass gatherings such as Umrah in the context of Saudi Arabia in order to mitigate the further spread of the pandemic (Ebrahim & Memish, 2020a). The proactive measure of Saudi Arabian authorities in suspending Umrah is considered as a limelight in order to quantify cancellation of mass gatherings as part of measure to curtail the transmission of COVID-19 in the country (Ebrahim & Memish, 2020a). However, despite the fact that this position is clearly mentioned in the existing literature, the legal framework in addressing the issue of mass gathering remains a gap in the existing literature to be bridged. Therefore, there is need to provide legal direction whereby the cancellation of suspension of Umrah and other mass gatherings would clearly be mentioned in the law. Hence, it should be reiterated that, COVID-19 has directly or indirectly indicated that the country should initiate a legal enactment pertaining to pandemic in order to have adequate mechanism and proper plan for unforeseen occurrence of future pandemic in the country.

Second, the current and fundamental legal system in Saudi Arabia is embedded in the application of Islamic legal system. Nonetheless, the government has enacted other laws such as civil, commercial and financial laws which are serving as complementary legal systems to the Islamic laws. On one hand, Islamic law derives its source from the Qur'ān, Hadīth, consensus of scholars (Ijamā') and analogical deduction (Qiyās) as literature contends (Susan, 2018). It should be reiterated that, the predominant school of thought in the interpretation of Islamic legal system in the context of Saudi Arabia is based on Hanbalī school of thought. Since Saudi Arabia law is considered as a common law in legal matters, however, there are several concerns since few decades whereby courts have been pressed in using precedents as justifications for making decisions in legal matters. It is noteworthy to say that, there are some circumstances that legal system may not foresee, however, there are legal principles that can be incorporated into civil and commercial laws as part of complementary legal system in the context of Saudi Arabia (Omar, 2020). It should be reiterated that, as a result of COVID-19, certain conditions might affect the contracting parties in playing their roles which may result to legal action against each other. It should be noted that, some scholars are of the opinion that the aforementioned legal principles (i.e. force majeure, impossibility & frustration and impracticality) found in English law commonly in practice in England and USA. Indeed, Muslim scholars have extensively elaborated on codification of Islamic principles or Sharī'ah doctrines of Quwa Qahira, Al-Zourouf Al-Tari'a and Istilaha (Omar, 2020; Quin, 2020; Susan, 2018) that are relevant to the aforementioned legal doctrines found in English law. Therefore, Saudi Arabia may borrow from English law that emphatically stressed on the Force Majeure, frustration & impossibility and impracticality specifically in addressing the challenges of COVID-19 in the country.

Third, the concept of force majeure literarily means greater force as majorly exists as part of contract. This is considered as an occurrence of exceptional events which affect the two parties that involve in the contract (Al-Tamimi & Company, 2020). Non-performance of

business transactions as a result of eventuality arising for example from COVID-19. It is noteworthy to say that, the principle acknowledges the likely impediment for one party to perform its duties accordingly as stipulated in the contractual agreement. It should be noted that, there are multifarious impediments to the performance which can be considered as an integral part of force majeure. For example, of such impediments are rebellions, riots, war, natural disasters etc. More recently, COVID-19 is an example of natural disaster that can be considered as part of impediments that legal system should address during the time of pandemic. Undeniably, the scenario of COVID-19 is an obvious reality and a clear proof that the performance of contractual obligation can be affected due to pandemic (Quinn, 2020). Hence, violation of contract agreement cannot be established by parties that are involved because COVID-19 has been affecting the performance of business activities. Notably, according to the Sharī'ah doctrines, Quwa Qahira is similar with force majeure which is considered as part of an unforeseeable event that may affect the contract such as natural disaster. In addition, Quwa Qahira is fundamentally considered as a way of protecting the interest of the two parties that tend to involve in contractual activities especially looking at the liabilities or damages that are involved due to the inability of each party to perform its role up to the expectation. As a result of this explanation, it should be stressed that, inability to discharge obligation relating to contract may lead to suspension or partial performance of the activities. Inferably, COVID-19 can be considered as an integral part of natural disaster that virtually affects humanity which can consequently affect contractual parties (Lauer et al., 2020). This inferably means that, the legal principle explains the impossibility arising from differences that occur which are contrary to the initial agreement of the parties that are involved in the contract.

Fourth, the doctrines of impossibility and frustration as found in the English law can be complemented with the existing Islamic legal system in the context of Saudi Arabia. It should be specifically mentioned that, literature makes a slight distinction between the doctrines of impossibility and frustration (Richard, 2020). On one hand, the principle of impossibility refers to a situation where unexpected events inhibit the performance and obligation of a particular party. On the other hand, frustration is a doctrine where an unanticipated event occurs as a result of the fact that there is no default from the party that frustrated the essence of the business contract or agreement (Richard, 2020). With the scenario of COVID-19, both doctrines of impossibility and frustration are interrelated but when considering the slight difference between the two principles, it can be said that, the doctrine of impossibility is more appropriate in addressing the challenges of COVID-19 as compared to the principle of frustration (Quinn, 2020). This is because COVID-19 hinders the performance of contractual activities by either one or both parties. These legal principles consider the unforeseeable circumstances or events that go beyond the control of the contracting parties in performing their obligations. It should be stated that; the aforementioned legal principles are relevant in addressing the current challenges of COVID-19 in the context of Saudi Arabia. It is noteworthy to say that, the essence of the principles is to ascertain that, business activities are being operated during the period of crisis such as the scenario of COVID-19 by re-allotting losses and risks which indeed contrary to the initial terms of agreement between the two parties (Dan Haris, 2020). In addition, the operation and interpretation of law should emphatically address the responsibility of the supplier in the contractual chains. This is important because in the business activities, one of the two parties must accept the loose that arise as a result of the crisis. This should form the basis by which the legal system should be addressed during the period of pandemic of COVID-19 in Saudi Arabia. For instance, one of the contractual parties may not deliberately breach the agreement especially

in performing the expected responsibility but lack of adequate performance may arise as a result of a situation without the contractors engaging in default.

Furthermore, in a situation where a particular contract is considered impossible or frustrated, the two parties involved are to be inevitably discharged from adequately performing their obligations. It is henceforth noted that, there is a kind of reluctance by the courts for judicious application of the aforementioned principles in the interpretation of law. Nonetheless, literature contends that, the principles are applied in certain circumstances such as in the current situation of COVID-19. Of an essential consideration is that, prior to the application of the legal principle of impossibility, it is paramount that, the genuineness of impossibility is rightly established. Nevertheless, the two parties must try as much as possible to fulfill the agreement initially made without any hindrance or burden. However, the scenario of COVID-19 is an inevitable scenario that impedes the continuity of business activities in the recent time. It is on this note that, Saudi Arabia can incorporate these principles into its legal system in order to address the challenge of COVID-19. For instance, the aforementioned principles have been judiciously harmonized into American legal jurisdictions which is also similar with its application in England as literature expounds (Quinn, 2020). Richard (2020) specifically mentioned that the principle of impossibility can manifest especially as a result of coronavirus in any of the following:

- The unexpected occurrence of an intervening act;
- That the risk of the unexpected occurrence was not allocated by agreement or custom; and
- That the occurrence made performance impossible.

The foregoing explication is related with the concept of Al-Zourouf Al-Tari'a which is regarded as unexpected situations (i.e. frustration). It should be reiterated that it is restricted to claims relating to contract especially it is considered as a defense to claims relating to breach of contract between the two parties. Undeniably, during the period of COVID-19, this scenario cannot be repudiated because it is an unforeseen incident that affects the contracting parties to carry out their duties. Nevertheless, the consequences emanating from the incident must be shared by the parties involved in the contract as literature posits (Quinn, 2020).

Fifth, the principle of impracticability is explained and there is slight difference between American and England applications of the principle. More specifically, America has tried to include the events relating to impracticability into legal status in the country. For example, the principle of impracticability has been given an important recognition by statute in New York where uniform commercial code expectedly provides substantial legal frame for consideration of the principle. The principle of impracticability is stated based on transatlantic Financing Corp. v. United States, 363 F.2d 312 (D.C. Cir., 1966 as follows:

There must be an occurrence of a condition, the nonoccurrence of which was a basic assumption of the contract, the occurrence must make performance extremely expensive or difficult; and this difficulty was not anticipated by the parties to the contract (note: some jurisdictions require that there be no measure within the contract itself to allocate risk between the parties).

This means that, the doctrine of impossibility is applicable in a situation where an unanticipated scenario occurs specifically when performance of contract is still considered possible. However, it must be mentioned that the roles of court in determining the principle according to legal explanation cannot be underestimated. It is not deniable fact that, the contract remains valid but the scenario of COVID-19 inhibits the performance or makes the performance



burdensome to anyone of the party to discharge its responsibility. It is reiterated that; the occurrence of a contingency can make the contract impracticable or it can even lead to the breach of agreement in performing the task as expected. The domestic regulation or order in Saudi Arabia should be cognizance of the fact that, the contractual business activities are compliant with the culminated principles of necessity (i.e. impossibility, frustration and impracticability) as literature posits (Omar, 2020; Quinn, 2020; Susan, 2018). In addition, the foregoing explanation is related with the concept of *Istilaha* in Islamic legal system which is considered as impossibility as known in common law. It is not disputable that the doctrine is used by taking into cognizance that the parties involved in the contract have no fault with regards to the discontinuity of the contract. This means that the discontinuity made on the performance of contract impossible either physically or legally. The Islamic principle explains that, whenever an event occurs where there is no opportunity for continuity of contract, the two parties must understand the underlining reasons for discontinuity of the contract. In summary, the overall explanation has demonstrated that, the legal doctrines can be instrumental in practically addressing the challenge of COVID-19 in the country. Hence, legal implications of the study are explained.

### **Legal Implications of the Study**

This part elucidates on legal implications of the research specifically on employment and commercial laws in Saudi Arabia. Based on the foregoing findings of the five themes generated in this study. More importantly, the relevance of legal principles in addressing the challenges of COVID-19 cannot be underestimated. For instance, legal matters relating to employment law arising from COVID-19 is that, in most countries, the employers wish to ascertain whether they can terminate the employment of some employees as a result of the contagious outbreak of coronavirus (Jaffar, 2020; Quin, 2020). Nonetheless, the legal experts are of the opinion that, it is much depending on the provision of employment contract of each country. However, the enactment of new laws to deal with coronavirus may emerge by harmonizing legal doctrines that have been explained earlier. Nonetheless, it is noted that, there is a less risk with respect to employee's appointment termination in the United States compared to China and Spain (Quin, 2020). In US, the employment law or labour law clearly stated the roles of employer, employee and the union. More specifically, the government agencies such as Employment Standards Administration were charged with the responsibility of enforcing labour law in the aspects of legislation, regulation and judicial (Department of Labour, 2015). In China, the government used to control All-China Federation of Trade Unions which is considered as the only legal labour in the country. It can thereby be inferred that, the risk of employee's termination of appointment should be given legal clarification in the context of Saudi Arabia specifically with the emergence of COVID-19.

Onwards, it is also noted that, the employers may be interested in knowing the possibility or legal implication of reducing the work hours and wages of their employees in order to make the business activities reflect the realities of the economic downturn in the country which is caused by coronavirus (Quin, 2020). Since, there is no provision for coronavirus in the employment contract, it is therefore paramount that, new laws should be enacted in order to deal with an emerging legal matter in the aspects of employment and commercial laws relating with coronavirus. Furthermore, there may be questionability of safety in the workplace as a result of the COVID-19 outbreak. This issue undoubtedly may vary from one state to the other specifically in Saudi Arabia despite the fact that the government provides the same safety measures (Quinn, 2020).

Further still, the safety in the workplace is important, because customers may run away from employees that are known with symptoms of coronavirus. Hence, the clients may be concerned about what should be done to an employee who does not want to attend to customers as a result of fear of being infected with the COVID-19. On one hand, it can also be argued that, there is a tendency for an employee to contact coronavirus at workplace who ordinarily can work at home but the employer disallows him/her from working at home. On the other hand, it is not disagreeable to say that, employer can grant permission for an employee to work from home but he does not possess competence to work from home. Similarly, there is need to clarify legal confusion that can arise from employees that get contacted of coronavirus from work place and then infecting others who may die from it. It should be further reiterated that, there is need for provision of new health insurance plan that will cover coronavirus as an emerging trend that needs legal explanation in the context of Saudi Arabia.

Furthermore, the pandemic of COVID-19 has virtually affected all aspects of human endeavours especially the seller's capacity to adequately perform its task and the allocation of production and deliveries among customers as an integral part of contractual agreement as part of requirements for manufacturing. In doing so, fairness and reasonability are essential to be taken into consideration. An inference can be drawn from the aforementioned principles that; business risk is being considered as an integral part of business contract. Since COVID-19 has caused an unforeseen shutdown to the major business activities in the country, it is important to take the doctrine or principle of impracticality into consideration. Nonetheless, literature contends that, the increase in the cost of a particular product is not sufficient to justify the concept of impracticality as an excuse of non-performance (Susan, 2018). However, the unforeseen contingencies such as in the case of COVID-19 is an essential factor the legal jurisdiction should be taken into consideration because it has inevitably affected the market in Saudi Arabia in particular and the entire world in general. Since COVID-19 has led to the collapse of business contracts in different parts of the world including Saudi Arabia. More importantly, there is hike in the price of raw materials for the production and manufacturing of various products. With this shutdown which eventually prevents the smooth marketability of products and consequently affects the performance of the market. As a result of this scenario, it is important to take into consideration the principle of impracticality in relation with the COVID-19 in the country. It is thereby, important that the country should constitute legal team from various states that can use their knowledge and experience from other jurisdictions in addressing the legal issues raised in connection with employment law especially in order to mitigate the impact of COVID-19.

## CONCLUSION

This paper elaborately explicates on legal exhaustiveness pertaining to the impact of COVID-19 in the context of Saudi Arabia. The paper explores various studies specifically on COVID-19, legal system in Saudi Arabia and legal doctrines (i.e. force majeure, impossibility & frustration and impracticality). Similarly, the legal exhaustiveness is significantly in solving the challenge and impact of COVID-19 in the context of Saudi Arabia. It has demonstrated that, the government has suspended mass gatherings such as Umrah in order to avoid the spread of COVID-19 in the country. The paper has clearly shown that the legal principles (i.e. force majeure, impossibility & frustration and impracticality) indicated in English laws which are in practice in England and USA are undoubtedly similar to Sharī'ah principles of Quwa Qahira, Al-Zourouf Al-Tari'a and Istilaha. Thus, the paper has advocated for the harmonization between the two doctrines in order to substantially address the problem of COVID-19 in Saudi Arabia. It has

been argued that, COVID-19 is a disaster that impeded all facets of human endeavours, which has affected the contractual agreement between the parties that are involved in the contract which is an emphasis of the principle of force majeure. Also, the principle of impossibility and frustration deals with an unexpected scenario where COVID-19 is also relevant. Thereby, suggestions are provided on the discourse of the paper.

### Suggestions

Based on the overall findings of the study, the following suggestions are made: That Saudi Arabia should take a proactive step especially in constituting multi-jurisdiction legal team in addressing legal matters emanating from the COVID-19 outbreak.

It is essential that, handling legal matters from coronavirus is paramount especially in the aspect of employment law issues as a result of the economic downturn caused by the coronavirus.

Further research can empirically explore various variables identified in this research by using theoretical framework in exploring legal perspective on COVID-19 in the context of Saudi Arabia especially by integrating legal principles in addressing COVID-19 in the country. Thereby, conceptual framework of the study which can be empirically investigated in future research.

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