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## Maqāṣid Shari'ah Flexibility to Overcome COVID-19 in Indonesia: From Government Policies to Fatwā of Council of Indonesian Ulema (MUI), Nahdlatul Ulama (NU), and Muhammadiyah

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### Abstract:

Since its first appearance in Wuhan, China, the COVID-19 has become a worldwide concern, and now its impact as a pandemic has been felt globally. The number of cases, the death tolls, the steps that each country's government must take, and the activities of social life that must be practiced by all people, among others, are interesting phenomena to study. This paper tries to examine from the Islamic perspective, regulations issued by the Indonesian Government and edicts issued by religious institutions and organizations in Indonesia, especially of the Indonesian Council of Ulema (MUI), Nahdlatul Ulama (NU), and Muhammadiyah, in response to the COVID-19 outbreak in Indonesia. This study is qualitative research with a discourse analysis that discusses the legal-socio-contextual aspects of the rules and fatwās/edicts with the *maqāṣid shari'ah* (purposefulness of Islamic law) approach. The results show that the regulations and edicts are in accordance with fundamental values in the discourse of obtaining the objectives of Islamic law (*maqāṣid shari'ah*), and the necessity to preserve one's soul is prioritized over preserving one's religion since practicing religious teachings can only be conducted whenever one's soul is preserved.

**Keywords:** covid-19; fatwā; *maqāṣid shari'ah*.



**Abstrak:**

Sejak pertama kali muncul di Wuhan, China, COVID-19 telah menjadi perhatian dunia dan kini dampaknya sebagai pandemi sudah terasa secara global. Banyaknya kasus, jumlah korban meninggal, langkah-langkah yang harus diambil oleh pemerintah masing-masing negara, dan aktivitas kehidupan sosial yang harus dilakukan oleh semua orang menjadi fenomena yang menarik untuk dikaji. Tulisan ini mencoba mengkaji, dari perspektif Islam, peraturan yang dikeluarkan oleh Pemerintah Indonesia dan fatwa yang dikeluarkan oleh lembaga dan organisasi keagamaan di Indonesia, khususnya Majelis Ulama Indonesia (MUI), Nahdlatul Ulama (NU), dan Muhammadiyah, dalam menyikapi mewabahnya COVID-19 di Indonesia. Penelitian ini merupakan penelitian kualitatif dengan analisis wacana yang membahas aspek legal-sosio-kontekstual terhadap aturan dan fatwa dengan pendekatan maqāsid syari'ah (tujuan hukum Islam). Hasil penelitian menunjukkan bahwa peraturan dan fatwa tersebut sesuai dengan nilai-nilai fundamental dalam wacana pencapaian tujuan hukum Islam (maqāsid syari'ah) dan keharusan memelihara jiwa lebih diutamakan daripada memelihara agama karena mengamalkan ajaran agama hanya dapat dilakukan manakala jiwa seseorang terpelihara.

Kata Kunci: covid-19; fatwa; maqāsid shari'ah.

**Introduction**

Corona Virus Disease 2019, commonly known as COVID-19, is a disease related to severe respiratory illness, and in just a few weeks, it has become an international and humanitarian disaster. Contrary to other Coronaviruses (CoVs) discovered decades ago, COVID-19 was unknown before the December 2019 pandemic outbreak in Wuhan, Hubei Province, China which, at its peak on April 2020, had then spread throughout the world.<sup>1</sup> As Tomasi stated, CoVs themselves represent a vast family of viruses responsible for illnesses such as the common cold to more complex diseases like MERS (Middle East Respiratory Syndrome) and SARS (Severe Acute Respiratory Syndrome). They constitute the subfamily Orthocoronavirinae, in the family Coronaviridae, order Nidovirales, and realm Riboviria. Several known CoVs are circulating in animals that have not yet infected humans.<sup>2</sup>

Those infected by COVID-19 experience some common symptoms, including cough, fever, and breathing difficulty, while less common symptoms include muscle pain and sore throat. The virus can be transferred from one person to another through respiratory droplets during coughing or sneezing. The first patients were reported in Wuhan on December 31<sup>st</sup>, 2019.<sup>3</sup> Only a few days later, Chinese

<sup>1</sup> David Tomasi, "Coronavirus Disease (COVID-19). A Socioepidemiological Review - 1," *Proceedings of the National Academy of Sciences LV* (March 13, 2020): 1–7.

<sup>2</sup> Tomasi, 1–7.

<sup>3</sup> Chaolin Huang et al., "Clinical Features of Patients Infected with 2019 Novel Coronavirus in Wuhan, China," *The Lancet* 395, no. 10223 (February 15, 2020): 497–506, [https://doi.org/10.1016/S0140-6736\(20\)30183-5](https://doi.org/10.1016/S0140-6736(20)30183-5); Manuel Battegay et al., "2019-Novel Coronavirus (2019-NCoV): Estimating the Case

researchers identified the etiologic agent known as the 2019 novel Corona Virus (2019-nCoV) and published the viral sequence.<sup>4</sup>

Due to its rapid spreading all over the world, on March 11<sup>th</sup> 2020 the World Health Organization (WHO) declared COVID-19 a pandemic, pointing to 118,319 confirmed cases of the coronavirus illness afflicting 114 territories and countries around the globe, with 4,292 people had lost their lives, and thousands more were fighting for their lives in hospitals and the sustained risk of further global spread.<sup>5</sup> As reported by the *Time*, at a media briefing, the WHO director-general, Tedros Adhanom Ghebreyesus, mentioned that COVID-19 was not a mere public health crisis, but it was a crisis that would impact every sector, hence, every individual and every sector must be involved in the fights.<sup>6</sup> As of June 15<sup>th</sup>, 2020, the WHO reported that there were 7,823,289 cases of COVID-19 with 431,541 deaths across the globe.<sup>7</sup> It is more than 66 times and 100 times of the cases and death numbers respectively compared to those recorded when he declared it as pandemic 3 months before, just to share an illustration of how malignant the virus is. Unfortunately, there is no specific vaccine or antiviral treatment for this disease yet; however, the WHO had issued several testing protocols.<sup>8</sup> Meanwhile, simple preventive measures to practice include 1) cleaning our hands regularly, either with alcohol-based rub or soap and water, 2) keeping our distance from someone who is coughing or sneezing, and 3) covering our mouth and nose with a tissue or our elbow when coughing or sneezing.

The widespread of COVID-19 pandemic that occurs in a very short time forces any country to take necessary measures to save their people. Some countries have ordered lockdown; some others carry out health isolation and quarantine for infected people to prevent the virus from spreading. Prior to the COVID-19 pandemic outbreak, the Government of Indonesia (GoI) had issued the Act No. 6 of 2018 on Health Quarantine regulating the limitation of activities and/or separation of people exposed to infectious diseases. As explained by Mona, such measures aim to prevent the possibility of spreading the diseases to other people around.<sup>9</sup> Relating to the COVID-19, the Indonesian government had passed a series of policies and regulations aimed at preventing its wider dissemination. They have

Fatality Rate – a Word of Caution,” *Swiss Medical Weekly*, no. 5 (February 7, 2020), <https://doi.org/10.4414/smw.2020.20203>.

<sup>4</sup> Fan Wu et al., “A New Coronavirus Associated with Human Respiratory Disease in China,” *Nature* 579, no. 7798 (March 2020): 265–269, <https://doi.org/10.1038/s41586-020-2008-3>.

<sup>5</sup> World Health Organization, “Coronavirus Disease 2019 (COVID-19): Situation Report, 42” (World Health Organization, March 2, 2020), <https://apps.who.int/iris/handle/10665/331353>; “WHO Director-General’s Remarks at the Media Briefing on 2019-nCoV on 11 February 2020,” accessed December 29, 2021, <https://www.who.int/director-general/speeches/detail/who-director-general-s-remarks-at-the-media-briefing-on-2019-ncov-on-11-february-2020>.

<sup>6</sup> Jamie Ducharme, “World Health Organization Declares COVID-19 a ‘Pandemic.’ Here’s What That Means.” *Time*, March 11, 2020. Accessed on 11 August 2021. <https://time.com/5791661/who-coronavirus-pandemic-declaration/>

<sup>7</sup> WHO, “Coronavirus Disease (COVID-19) Situation Report-107.” *who.int*, May 6, 2020. Accessed on 11 August 2021. [https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200506\\_covid-19-sitrep-107.pdf?sfvrsn=159c3dc\\_2](https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200506_covid-19-sitrep-107.pdf?sfvrsn=159c3dc_2)

<sup>8</sup> WHO, “WHO Director-General’s Remarks at the Media Briefing.”

<sup>9</sup> Nailul Mona, “Konsep Isolasi Dalam Jaringan Sosial Untuk Meminimalisir Efek Contagious (Kasus Penyebaran Corona Di Indonesia).” *Jurnal Sosial Humaniora Terapan* 2, 2(2020): 117–125. <http://journal.vokasi.ui.ac.id/index.php/jsht/article/view/86>

also been integrated from the central government down to provincial and city/regency governments.<sup>10</sup> Policies and edicts were also followed by several Islamic religious organizations in Indonesia. Among these policies and regulations include limiting activities outside the house, schools and campuses learning activities are done from home, - the so-called *learning from home*, - working from home, even conducting worship activities at home. Such policies and edicts, according to Yunus and Rezki, had been through a lengthy and heavy analysis.<sup>11</sup> So, as a country with majority Muslim people, the Indonesian government had also issued some regulations concerning the religiosity practices in addition to other general regulations which were subsequently followed with *fatwās* and edicts issued by the MUI and major Islamic organizations.

In this information era, this pandemic is already known by most people in the planet. Many websites provide and update data about COVID-19 regarding the virus, its characteristics, and epidemiology which are available 24 hours a day and 7 days a week for all to get informed and they are often shared via informal platforms and media.<sup>12</sup> However, most main questions are not answered. The danger of the virus is that it is very contagious, and the human senses cannot detect it due to its microscopic size. The virus seems to spread very easily from person to person, especially in homes, hospitals, and other confined spaces. The pathogen can be carried on tiny respiratory droplets that fall as they are coughed or sneezed out. It may also be transmitted when someone touches a contaminated surface and he/she then touches his/her face.<sup>13</sup>

Some scientific data obtained shows that the transmission of this virus could take place easily from an infected person to anyone he/she socialized with unconsciously, which may eventually spread the virus into a wider community. Then, it is very possible that the virus might be transferred to new communities through human-to-human intermediaries during their daily life activities.<sup>14</sup> It seems more lethal than the flu, but the numbers are still uncertain. It hits the elderly and those with underlying conditions - not just those with respiratory diseases, - particularly hard. And, until the mid of 2020, there was no known treatment or vaccine yet for the disease, although clinical trials are underway in the United States, China, Europe, and many other countries. However, despite significant

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<sup>10</sup> Ahmad Muhtadi Anshor & Muhammad Ngizzul Muttaqin, "Kebijakan Pemerintah Indonesia dalam Pencegahan Penyebaran Corona Virus Disease 2019 (Covid-19) Perspektif Maqashid Syari'ah." *al Istinbath: Jurnal Hukum Islam* 5,2(2020): <http://dx.doi.org/10.29240/jhi.v5i2.1946>.

<sup>11</sup> Nur Rohim Yunus and Annissa Rezki. "Kebijakan Pemberlakuan Lockdown Sebagai Antisipasi Penyebaran Corona Virus Covid-19." *SALAM: Jurnal Sosial & Budaya Syar'i* 7, 3(2020): 227-238. <http://journal.uinjkt.ac.id/index.php/salam/article/view/15083>

<sup>12</sup> Joseph T. Wu, Kathy Leung, and Gabriel M. Leung. "Nowcasting and Forecasting the Potential Domestic and International Spread of the 2019-NCov Outbreak Originating in Wuhan, China: A Modelling Study." *The Lancet* 395, 10225(2020): 689-697. [http://dx.doi.org/10.1016/S0140-6736\(20\)30260-9](http://dx.doi.org/10.1016/S0140-6736(20)30260-9).

<sup>13</sup> "The Coronavirus Outbreak - Frequently Asked Question." *The New York Times*. (online). 2020. Accessed on 11 August 2021. [https://www.nytimes.com/news-event/coronavirus?action=click&pgtype=Article&state=default&module=styl-n-coronavirus-world&variant=show&region=BELOWMAINCONTENT&context=storyline\\_faq](https://www.nytimes.com/news-event/coronavirus?action=click&pgtype=Article&state=default&module=styl-n-coronavirus-world&variant=show&region=BELOWMAINCONTENT&context=storyline_faq).

<sup>14</sup> Robin N. Thompson, "Coronavirus Outbreak Novels in Wuhan, China, 2020: Intense Surveillance Is Vital for Preventing Sustained Transmission in New Locations." *Journal of Clinical Medicine* 9, 498(2020): 1-8. <http://dx.doi.org/10.3390/jcm9020498>

efforts spent to invent the vaccine, American officials and pharmaceutical executives said that a vaccine remains at least 12 to 18 months away.<sup>15</sup>

Many governments, non-government, and private institutions provide updated data through their websites regarding COVID-19 and, as of June 30<sup>th</sup> 2020, the data informed that this virus had spread to and overwhelmed 213 countries, - developed countries, developing countries, and underdeveloped ones, - and 2 conveyances - the Diamond Princess and MS Zandaam cruise ships. The Worldometers even recorded that on that date, the confirmed cases reached 10,936,522 with 572,879 of them lost their lives.<sup>16</sup> The United States and European countries are those hit worst. Their numbers of confirmed cases and death tolls stand firmly on the top positions of COVID-19 status report tables so far regardless the fact that they are developed countries with much better standard of people's health and health facilities. Globally, both figures have not yet shown the tendency of decreasing even though millions have lost their lives with other hundred thousand of new cases appear daily. Such a condition has posed as a terrifying disaster considering that efforts to conduct mass vaccination have not yet produced any promising result. So, the best effort that any state can do through their authorities to reduce and narrow the spread of the virus is by introducing and enacting some policies and strategies such as implementing *physical distancing*, *working from home (WFH)*, *learning from home (LfH)*, *praying from home (PfH)* and so forth.

In his essay, Dave noted that the COVID-19 had spread around the planet, sending billions of people into lockdown as health services struggle to cope with its impact. It is posing one of the biggest global challenges to the survival of society. He also figured that at least 93% of the world's population, or 7.2 billion people, live in countries with restrictions on people arriving from other countries who are neither citizens nor residents, such as tourists, business travelers, and new immigrants. Roughly 39% of the population, or 3 billion people, live in countries with borders completely closed to non-citizens and non-residents, according to a Pew Research Center analysis of border closure announcements and United Nations population data.<sup>17</sup> It is truly a very inconvenient situation as this pandemic has become an uncontested new ruler that governs billions of this planet's residents about how they should practice their day-to-day activities and how they must socialize even with their own close relatives.

There have been some previous studies about COVID-19 in Indonesia. Supriatna concludes that in the Islamic view, the COVID-19 pandemic is a test for people so that they may always draw closer to God.<sup>18</sup> Then, Hidayah studied about Muslim responses to the corona outbreak in Indonesia. The results of her study indicate that the influence of *Jabbariyyah* theology leads to fatalism. In contrast, the influence of *Qadariyyah* theology leads to the attitude of accepting the plague as a

<sup>15</sup> "The Coronavirus Outbreak - Frequently Asked Question."

<sup>16</sup> "COVID-19 Coronavirus Pandemic", *worldometer.info*, September 1, 2020. Accessed on 2 September 2021. <https://www.worldometers.info/coronavirus/>

<sup>17</sup> R. K. Dave, "Global Stockpile for Health Emergency Response (GSHER) - A Conceptual Framework." *academia.edu*, April 4, 2020. [https://www.academia.edu/42645401/COVID-19\\_Global\\_Stockpile\\_for\\_Health\\_Emergency\\_Response\\_GSHER\\_-\\_A\\_conceptual\\_Framework](https://www.academia.edu/42645401/COVID-19_Global_Stockpile_for_Health_Emergency_Response_GSHER_-_A_conceptual_Framework).

<sup>18</sup> Eman Supriatna, "Wabah Corona Virus Disease (Covid-19) Dalam Pandangan Islam." *SALAM: Jurnal Sosial dan Budaya Syar'i* 7, 6(2020): 555-564. <http://dx.doi.org/10.15408/sjsbs.v7i6.15247>

disaster and attributing the pandemic to human error in managing nature. The influence of progressive Islamic theology, as Hidayah finds, leads to the flexibility of Islamic interpretation which is rooted in the concept of *maqāṣid sharī'ah* to prioritize the prevention of *maḍarāt* (harms) rather than searching for *maṣlahah* (benefits).<sup>19</sup>

Another research by Indriya about the concept of *tafakkur* (contemplation) in the Qur'an in dealing with the COVID-19 pandemic concludes the following: 1) quarantining those affected and isolating the affected area are an appropriate action, 2) urging people to be patient, kind, and conduct maximum efforts, and 3) drawing closer to God.<sup>20</sup> From these previous studies, the authors came to a root problem: to what extent do government policies and religious organizations' edicts synergize with the objectives of Islamic law (*maqāṣid sharī'ah*)? Differing to the previous research that only provides a mere perspective, this study aims to provide a perspective that has implications for the methodological contextualization of *maqāṣid sharī'ah* in the prevention of the COVID-19 pandemic. In so doing, it discusses the concerned regulations, *fatwās*, and edicts in the perspective of *maqāṣid sharī'ah* in a purpose to align them with the values and objectives contained in Islamic law.

This study is qualitative research using a normative and empirical-judicial approach. The primary data source used were the Indonesian Government policy documents and the Indonesian Islamic organizations' *fatwās* and edicts including those of MUI, NU, and Muhammadiyah, related to efforts in addressing and preventing the COVID-19 pandemic. Even though the Indonesian central government had issued more than 10 regulations dealing with this issue in addition to other existing regulations regarding public health, the researchers only focused on 10 of them, which were: 1) the Act No. 6 of 2018 on Health Quarantine, 2) the Government Regulation in lieu of the Act No. 1 of 2020 concerning the State Financial Policy and Financial System Stability for Handling Covid-19 Pandemic and/or in the Context of Facing Threats that Endanger the National Economy and/or Financial System Stability, 3) the Government Regulation No. 21 of 2020 concerning the Large-Scale Social Restrictions (Pembatasan Sosial Berskala Besar or PSBB, *Ind.*), 4) the Minister of Health Regulation No. 9 of 2020 concerning Guidelines for PSBB, 5) the Circular of Minister of Religious Affairs No. 6 of 2020 on Guidance to Worship during the Pandemic, 6) the Minister of Transportation's Regulation No. 25 of 2020 concerning Transportation Control during the Eid Homecoming Period of 1441 AH, 7) the National Police Chief's Edict No. Mak/2/III/2020 about the Compliance with Government Policies in Handling the Spread of Corona Virus (COVID-19), and 8) the President's Decision to enact the Enforcement of Limitation on Community Activities (Pemberlakuan Pembatasan Kegiatan Masyarakat or PPKM, *Ind.*).

<sup>19</sup> Nur Hidayah, "Dari Jabariyah, Ke Qadariyah, Hingga Islam Progresif: Respons Muslim Atas Wabah Corona Di Indonesia." *SALAM: Jurnal Sosial Dan Budaya Syar'i* 7, 5(2020): 423-438. <http://journal.uinjkt.ac.id/index.php/salam/article/view/15365>

<sup>20</sup> Indriya. "Konsep Tafakkur Dalam Al-Quran Dalam Menyikapi Coronavirus Covid-19", *SALAM: Jurnal Sosial Dan Budaya Syar'i* 7, 3(2020): 211-216. <http://journal.uinjkt.ac.id/index.php/salam/article/view/15050>

Meanwhile, the religious *fatwās* and circulars used in this study include: 1) the MUI's Fatwā No. 14 of 2020 about Conducting Worship in the Occurrence of COVID-19 Pandemic, 2) the Circular of NU's Central Committee (PBNNU) No. 3953/C.I.034/04/2020, 3) the Circular of NU's Central Committee of Islamic Boarding Schools (PPRMI) No. 835/A/PPRMI/SE/III/2020, and 4) the edict of Muhammadiyah Central Committee No. 02/MLMA/I.0/H/2020. Furthermore, in observing the contextualization of *maqāshid sharī'ah* in the efforts to prevent the COVID-19 spread, the authors analyzed some books and journals that discuss contemporary *maqāshid sharī'ah*, especially those related to pandemic issues. The data collection techniques used was the descriptive one, then the data obtained were analyzed using content, comparative, and critical analysis.

## Results and Discussion

### Global Pandemic is a Common Phenomenon

Being declared as a pandemic by the WHO, Corona is actually not the only pandemic ever experienced by mankind. Prior to SARS pandemic in 2003, West African Ebola in 2014-2016, Zika and MERS in 2015, throughout human history, plagues and epidemics have ravaged humanity and their existence and they even often changed the course of history and, at times, signaled the end of entire civilizations. As mentioned by Jarus, it even dated back as far as 5000 years ago as studied by archaeologists when an epidemic at that very time managed to wipe out a prehistoric village in China. The archaeological site was later known as *Hamin Mangha* and the anthropological and archaeological study concludes that the epidemic occurred so quickly that even people there had no time to conduct proper burials for the deaths and after that the site was never inhabited again.<sup>21</sup>

Before *Hamin Mangha* was discovered, the archeologists also found another prehistoric mass burial in the northeastern China called *Miaozigou* that dated back to approximately the same period of *Hamin Mangha*. These two archeological discoveries show that an epidemic had destroyed the whole regions. After that, mankind experienced various plagues and epidemic. Around 430 BC, not long after a war between Sparta and Athens started, an epidemic, which then lasted for five years, took place in Athens and many Athenians became its victims. Some estimation by scientists concluded that the number of the deaths reached as many as 100,000 people.<sup>22</sup>

In the late of 19th century (i.e. 1889-1890 AD), the flu pandemic took place. Due to the modern industrial age at that time with the presence of new transport links and devices, influenza viruses got easier to wreak havoc. Only in a couple of months, the disease occurred around the planet and killed around one million people. The epidemic only took five weeks to reach its peak mortality. Russia was reported as the first place of outbreak. The virus spread fast in the entire St. Petersburg before it struck the European countries and the rest of the world even though at that time air transportation didn't yet exist.<sup>23</sup>

<sup>21</sup> Owen Jarus, "20 of the Worst Epidemics and Pandemics in History." *LiveScience.com*, March 15, 2020. Accessed on 11 August 2021. <https://www.livescience.com/worst-epidemics-and-pandemics-in-history.html>.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*



Then, earlier in the last century, two plagues broke out: the American epidemic polio (1916) and the deadly Spanish Flu (1918-1920). The polio epidemic which began in New York City was reported to reach 27,000 cases and caused 6,000 deaths in the United States alone. Mostly the children became infected and sometimes the disease left survivors to be permanently disabled. Next, there was the Spanish Flu. It was estimated that half a billion people from the North Pole to the South Seas fell victim and one hundred millions of them died. The spread and lethality of the pandemic were increased by the poor conditions of soldiers and bad nutrition experienced by many people during the First World War.<sup>24</sup>

The number of deaths due to the Spanish Flu decreased when the 1919 spring came. Many countries suffered devastatingly since their medical professionals had been unable to stop the pandemic spread. It seems that the Spanish Flu echoed what had occurred five centuries before when the Black Death caused chaos around the globe. In her book, Bristow explains that the virus attacked half a billion persons around the planet, which constituted a third of the world population at that time. At least a tenth of them died due to the virus although the real figure is believed to be higher.<sup>25</sup>

Then, roughly a decade more after the Second World War ended, the Asian Flu became another global pandemic. Originating from China, the pandemic caused the deaths of more than 1.1 million worldwide. The pathogen causing the pandemic was a mixture of avian flu viruses. The US Centers for Disease Control and Prevention noted that the pandemic spread quickly after its first outbreak was reported in Singapore in February 1957, Hong Kong in April 1957, and the coastal cities of the United States in the summer of 1957. The total death figure reached more than 1.1 million people around the world, with 116,000 of them were casualties in the United States alone.<sup>26</sup>

### Plagues in the Islamic History

In the history of Islamic civilization, some plagues occurred and inflicted Muslim people. As recounted by Imam al-Thabari, in the year of 18 AH/638-639 AD, *tā'ūn Amwās* (a plague inflicting Amwās, a city in old Palestine which became the principal camp of the Muslim Arab army) occurred in the region of Shām (the present Syria and its neighboring countries). The plague had claimed up to 25,000 soldiers and their relatives, including most of the army's high command and two Companions of the Prophet who became the governors of Shām at that time, namely Abu Ubaidah 'Amir ibn al-Jarrah and his successor Mu'az ibn Jabal, and caused considerable loss of life. When 'Amr bin al-'Ash, another Companion, was appointed governor, he preached and said to the people of Shām: "*O people, in fact, if this plague has struck, it will quickly spread like a blazing fire, so you should go to the mountains.*"<sup>27</sup>

Hearing the governor's advice, one of the Prophet's Companions, Watsilah al-Huzali, said: "*You are wrong, really for the sake of God, I have become a companion of the*

<sup>24</sup> *Ibid.*

<sup>25</sup> Nancy Bristow, *American Pandemic: The Lost Worlds of the 1918 Influenza Epidemic*, (Oxford: Oxford University Press, 2016).

<sup>26</sup> Jarus, "*20 of the Worst Epidemics and Pandemics in History.*"

<sup>27</sup> Imam Abu Ja'far Muhammad ibn Jarīr al-Thabari, *Jāmi'u al-Bayān fī Ta'wīli al-Qur'ān*. (Beirut: Darul Kitab, 1992).

*Prophet while you (O 'Amr) was still in worse condition than my donkey (i.e., still became an infidel).*” Receiving such refutation, 'Amr said: “*Indeed, by Allah I will not refute your words, truly for the sake God I will not settle/remain silent in this city.*” Then, 'Amr ibn al-Ash immediately rushed in to exile to the mountains and other people also rushed to follow him spreading to the mountains. Not long after, God raised the plague from the land of Shām. When the news about 'Amr's attitude reached the Caliph Umar ibn al-Khaṭṭāb, truly by God he did not deny it.<sup>28</sup>

Although its *sanad* (chain of narration) is weak, the story is not related to the law or a legal status concerning *ḥalāl* (permissible) or *ḥarām* (prohibited), and, in such a case, historians are usually very tolerant in recounting it. Moreover, what was done by 'Amr as mentioned above can still be tolerated as a form of efforts to prevent the spread of disease, which itself is taught in the Sunnah regarding to limiting social interaction during a pandemic. When 'Amr and his people went to the mountains, that means they left the mosques and did not congregate there.<sup>29</sup>

Imam al-Dzahabi recounted that in 448 AH/1056 AD, in the lands of Egypt and *Andalusia* (Spain) the most terrible famine and plague occurred so much so that all mosques were closed, without anyone holding prayers therein.<sup>30</sup> Likewise, Ibn al-Jauzi also related that in the year 449 AH/1057 AD, a very devastating plague occurred in the land of Ahvaz, Wasit, and its surroundings. About 20 to 30 people died every day and were buried in one hole. Many poor people were forced to eat dog meat, some even ate dead human flesh. So great was the plague that hit, all mosques became empty and no one held congregational prayers therein.<sup>31</sup> Next, al-Asqalani recounted that at the beginning of 827 AH/1424 AD, a terrible plague occurred in the city of Mecca. Every day around 40 people died. In the month of Rabī'ul Awwal (the third month of Islamic calendar) alone, the estimated death toll reached 1700 people.<sup>32</sup> It was also reported that when an *Imām* (a prayer leader) of the Shafi'i school prayed, he was only joined by one person, whereas *Imāms* of other school even had no followers. In such a situation, congregational prayers were then not held.<sup>33</sup>

### COVID-19 in Indonesia

The first COVID-19 case in Indonesia was reported on March 2, 2020, involving two people.<sup>34</sup> At nearly the end of the month, on March 29, 1,528 patients

<sup>28</sup> *Ibid.*

<sup>29</sup> Muhammad Arifin Badri, “Sejarah Wabah Dan Kondisi Masjid Pada Saat Itu” *KonsultasiSyariah.com*, April 17, 2020. Accessed on 15 August 2021. <https://konsultasisyariah.com/36304-sejarah-wabah-dan-kondisi-masjid-pada-saat-itu.html>

<sup>30</sup> Imam al-Dzahabi, *Siyār A'lām al-Nubalā'*. Vol. 13. (Beirut: Muassasah al-Risalah, 2011).

<sup>31</sup> Abd al-Rahman ibn Ali ibn Muhammad Ibn al-Jauzi, *Al-Muntazam fī Tārīkh al-Imām wa al-Mulūk*. Vol 16. (Beirut: Dar al-Kutub al-'Ilmiyah, 1991).

<sup>32</sup> Ibn Hajar al-Asqalani, *Inbā'ul Ghumri Bi Anbā'i Umriḥī Tārīkh*. Vol 3. (Beirut: Dar al-Kutub al-Ilmiyah, 1986).

<sup>33</sup> Badri, “Sejarah Wabah Dan Kondisi Masjid Pada Saat Itu”

<sup>34</sup> Ihsanuddin. “Pasien Baru Tahu Positif Corona Usai Diumumkan Jokowi, Ini Penjelasan Istana,” *kompas.com*, 3 March 2020. Accessed on 15 August 2021. <https://nasional.kompas.com/read/2020/03/03/14235861/pasien-baru-tahu-positif-corona-usai-diumumkan-jokowi-ini-penjelasan-istana>. Read further: Adityo Susilo, et al., “Coronavirus Disease 2019: Tinjauan Literatur Terkini.” *Jurnal Penyakit Dalam Indonesia* 7, 1(2020): 45–67. <http://jurnalpenyakitdalam.ui.ac.id/index.php/jpdi/article/view/415> and WHO, “Corona Virus

were confirmed to be positively infected by COVID-19, and 136 of them died.<sup>35</sup> On that day, the COVID-19 mortality rate in Indonesia was 8.9%; according to Susilo et al., this figure was the highest in Southeast Asia.<sup>36</sup> The spread of this disease has had broad social and economic impacts. As stated by Roy, the pandemic had created severe economic crash in different sectors of the economy negatively affecting global trade, interest rates, financial market liquidity, and creating demand and supply shocks. Roy explained further that it was uncertain when the economies around the world would recover from the global pandemic or how long the recovery efforts would take.<sup>37</sup>

Concerning the COVID-19 in Indonesia, the official data released by the Indonesian Task Force for Speed Handling of COVID-19 (*Gugus Tugas Percepatan Penanganan COVID-19 or GTPPC*) reported that on 16 June, 2020 there were 40,400 cases with 2,231 deaths due to the virus in the country.<sup>38</sup> Jakarta became the Province most inflicted with more than 9,000 cases, while the second was East Java with more than 8,000 cases.<sup>39</sup> The fast spread and lethality of the virus had forced the Indonesian government to impose many policies and regulations, including the Large-Scale Social Restrictions (PSBB) policy, which impacts almost all aspects of social life. The growth and death toll due to the COVID-19 in Indonesia from its outbreak till the end of August 2021<sup>40</sup> can be seen from the table below:

Table 2: The Growth of COVID-19 Cases and Its Death Toll in Indonesia

Date	Number of Cases	Death Toll	Remark
March 2, 2020	2	0	Reported first case involving 2 patients
March 11, 2020	34	1	The UN declared COVID-19 as a global pandemic
June 30, 2020	56,385	2,876	
September 30, 2020	287,008	10,740	
December 31, 2020	743,198	22,138	
March 31, 2021	1,511,712	40,858	
June 30, 2021	2,178,272	58,491	

*Disease (COVID-19) Situation Report-42.*"

<sup>35</sup> Susilo, et al., "Coronavirus Disease 2019"; GoI-Ministry of Health, "Info Infeksi Emerging Kementerian Kesehatan RI", *kemkes.go.id*, March 30, 2020. Accessed on 15 August 2021. <https://infeksiemerging.kemkes.go.id/>.

<sup>36</sup> Susilo, et al., "Coronavirus Disease 2019"

<sup>37</sup> Shohini Roy, "Economic Impact of Covid-19 Pandemic", *Purdue University Technical Report*, July 27, 2020, Accessed on 15 August 2021. [https://www.researchgate.net/publication/343222400\\_ECONOMIC\\_IMPACT\\_OF\\_COVID-19\\_PANDEMIC](https://www.researchgate.net/publication/343222400_ECONOMIC_IMPACT_OF_COVID-19_PANDEMIC)

<sup>38</sup> GTPPC. "Situasi Virus COVID-19 Di Indonesia: Last Update." June17, 2020. Accessed on 15 August 2021. <https://covid19.go.id/>

<sup>39</sup> *Ibid.*

<sup>40</sup> Read further: "Total Coronavirus Cases", *wordometer.info*, 1 September 2021. Accessed on 2 September 2021. <https://www.worldometers.info/coronavirus/country/indonesia/>

August 31, 2021

4,089,801

133,023

Observing the table, it is pretty clear that the cases found are still high, although the government has been conducting mass vaccination since January 13<sup>th</sup>, 2021.<sup>41</sup> Among the suspected causes are the somewhat relaxed behavior of the public in complying with health procedures and the emergence of new variants of the corona virus.

### Attitude of the Government and Mass Organization to COVID-19

One of the Indonesian government's policies as an effort to prevent the spread of the corona virus is the enactment of the Government Regulation No. 21 of 2020 concerning PSBB. In addition, the Minister of Health also issued a regulation No. 9 of 2020 about the Guidelines of PSBB. These policies are, as explained by Maharani, an attempt to limit certain activities in an area suspected of being infected with COVID-19.<sup>42</sup> The Article 2 of the Minister of Health's Regulation states that to determine and impose a PSBB, a province/city/regency must meet two criteria, namely 1) the presence of a significant number of cases of virus spread and/or the number of deaths due to the COVID-19 and 2) the concerned region has epidemiological links with similar events in other regions or countries.<sup>43</sup>

In addition to those regulations, the government, through the Ministry of Religious Affairs, issued a Circular Letter No. 6 of 2020 on Guidance to Worship during the Pandemic. This Circular Letter regulates several things, namely: 1) urging Muslims to carry out their obligation to do Ramadan fasting in accordance with the guidance of *fiqh 'ibādah* (Islamic jurisprudence on worship), 2) discouraging and obviating the activities of breaking and starting the fast in groups involving many people, 3) conducting *tarāwih* (recommended night prayers during Ramadan) and other congregational prayers at home, 4) reciting the Qur'an at home, 5) obviating activities of breaking the fast together in private institutions and mosques, and 6) obviating the *Nuzul al-Qur'an* (the revelation of Qur'an) commemoration activities which usually attract a mass crowd.<sup>44</sup>

<sup>41</sup> GoI-Ministry of Health, "Program Vaksinasi COVID-19 Mulai Dilakukan, Presiden Orang Pertama Penerima Suntikan Vaksin COVID-19", *kemkes.go.id*, 13 January 2021. Accessed on 15 August 2021. <http://p2p.kemkes.go.id/program-vaksinasi-covid-19-mulai-dilakukan-presiden-orang-pertama-penerima-suntikan-vaksin-covid-19/>

<sup>42</sup> Tsarina Maharani, "Jubir Pemerintah: Penerapan Physical Distancing Diperkuat Melalui Kebijakan PSBB." *Kompas.com*, April 10, 2020. Accessed on 25 August 2021. <https://nasional.kompas.com/read/2020/04/10/18195851/jubir-pemerintah-penerapan-physical-distancing-diperkuat-melalui-kebijakan>.

<sup>43</sup> GoI-Ministry of Health, "Peraturan Menteri Kesehatan Tentang Pedoman PSBB Dalam Rangka Percepatan Penanganan Corona Virus Disease 2019." <https://peraturan.bpk.go.id/Home/Details/135220/permenkes-no-9-tahun-2020>.

<sup>44</sup> GoI-Ministry of Religious Affairs. "Surat Edaran Menteri Agama Nomor 6 Tahun 2020 Tentang Panduan Ibadah Ramadan Dan Idul Fitri 1 Syawal 1441H Di Tengah Pandemi Wabah Covid-19." April 2020. Accessed on 10 August 2021. [https://bali.kemenag.go.id/uploads/media/2020/04/SE\\_Menag\\_No\\_6\\_Tahun\\_2020.pdf](https://bali.kemenag.go.id/uploads/media/2020/04/SE_Menag_No_6_Tahun_2020.pdf); Reza Gunadha and Farah Nabilla. "Sebulan Pandemi Corona, Pemerintah Sudah Keluarkan 5 Aturan." *Suara.com*, April 7, 2020. Accessed on 15 August 2021. <https://www.suara.com/news/2020/04/07/213123/sebulan-pandemi-corona-pemerintah-sudah-keluarkan-5-aturan>.

Likewise, the Ministry of Transportation issued a Regulation No. 25 of 2020 concerning Transportation Control during the Eid Visiting Home Period of 1441 AH in the Context of Preventing the Spread of COVID-19. The regulation arranges all types of land, sea, and air transportation, including private vehicles. The essence of this regulation is a temporary ban on the use of public transportation facilities, - land, sea, and air, - as well as private vehicles and motorbikes.<sup>45</sup> The regulation also asserts that transportation vehicles are not allowed to enter the "red zone" of the COVID-19 spread and the PSBB region.<sup>46</sup> In line with these regulations, the Chief of the National Police also issued an edict regarding the Compliance with Government Policies in Handling the Spread of Corona Virus (COVID-19). In exercising the Police's function to keep the public safety and order, the edict regulates the following: 1) discouraging any activity that attracts a mass crowd either in public or private places, 2) whenever unavoidable, such activity can only be conducted by following very strict health protocols, 3) maintaining public and social order, avoiding public panic, and obeying governments appeals and instructions, 4) avoiding and not disseminating hoax information, and 5) obliging any Police member to take necessary measures in handling any action which are against the edict.<sup>47</sup> To show to the public that the Police are very serious with the edict compliance, the Jakarta's Chief of Police even removed a police commissioner from his position as a precinct chief after a video of his wedding party he held publicly in a hotel became viral. He was regarded of being undisciplined and not complying to the edict.<sup>48</sup>

Although the Indonesian government has been carrying out mass vaccination since the mid of January 2021, new COVID-19 cases and deaths are still emerging. That's why on the beginning of July 2021, President Joko Widodo decided to enact the micro-Emergency Enforcement of Limitation on Community Activities (PPKM Mikro Darurat) for Java and Bali from 3<sup>rd</sup> to 20<sup>th</sup> July, 2021<sup>49</sup> which was then extended until 25<sup>th</sup> July because the trend of COVID-19 caes was still fluctuating.<sup>50</sup> PPKM was then extended for "another week" periods again until 2<sup>nd</sup> August, 9<sup>th</sup> August, 16<sup>th</sup> August, 23<sup>rd</sup> August, 30<sup>th</sup> August, and 6<sup>th</sup> September although regencies and cities are classified into different levels of emergency relating to the status of COVID-19 spread and victims in each region.

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<sup>45</sup> GoI-Ministry of Transportation, "Peraturan Menteri Perhubungan Nomor 25 Tahun 2020 (Permenhub 25/2020) Tentang Pengendalian Transportasi Selama Masa Mudik Idul Fitri Tahun 1441 H." [http://jdih.dephub.go.id/assets/uudocs/permen/2020/PM\\_25\\_TAHUN\\_2020.pdf](http://jdih.dephub.go.id/assets/uudocs/permen/2020/PM_25_TAHUN_2020.pdf).

<sup>46</sup> GoI-Ministry of Health, "*Peraturan Menteri Kesehatan Tentang Pedoman PSBB*".

<sup>47</sup> GoI-National Police, "Maklumat No.Mak/2/III/2020 Tentang Kepatuhan Terhadap Kebijakan Pemerintah Dalam Penanganan Penyebaran Virus Corona (COVID-19)." <https://humas.polri.go.id/download/maklumat-kepala-kepolisian-negara-republik-indonesia-nomor-mak-2-iii-2020>

<sup>48</sup> Bilal Ramadhan, "Kapolsek Kembangan Dicapot Karena Langgar Maklumat Kapolri." *Republika.co.id*, April 2, 2020. Accessed on 15 August 2021. <https://republika.co.id/berita/q85czj330/kapolsek-kembangan-dicapot-karena-langgar-maklumat-kapolri>.

<sup>49</sup> Chandra Gian Asmara, "Jokowi: PPKM Darurat Berlaku 3-20 Juli 2021 untuk Jawa-Bali!", *CNBC Indonesia*, July 1, 2021. Accessed on 15 August 2021. <https://www.cnbcindonesia.com/news/20210701110812-4-257362/jokowi-ppkm-darurat-berlaku-3-20-juli-2021-untuk-jawa-bali>

<sup>50</sup> Dian Erika Nugraheny, ""PPKM Darurat Diperpanjang hingga 25 Juli, Ini Alasan Pemerintah", *kompas.com*, July 20, 2021. Accessed on 15 August 2021. <https://nasional.kompas.com/read/2021/07/20/22031031/ppkm-darurat-diperpanjang-hingga-25-juli-ini-alasan-pemerintah?page=all>.

Meanwhile, the Indonesian Council of Ulama (MUI) issued its fatwā on March 16<sup>th</sup>, 2020. Employing some verses of the Holy Quran, hadiths of the Prophet Muhammad, and principles of Islamic jurisprudence as its considerations, the fatwā essentially contains the following: 1) asserting the obligation of anyone to protect his/her health in order to safeguard *al-darūriyyāt al-khamsah* (five basic necessities), 2) urging Muslim citizens to perform worships (prayers, Ramadan fasting, and others) according to their regional conditions by following tight health protocols, 3) avoiding social panic, stockpiling, hoax spreading, etc., 4) recommending to the Government to impose a very tight restriction relating to human and goods movement to and out of the country, and 5) appealing to the people to obey any regulation and policy issued by the Government relating to the pandemic.<sup>51</sup>

Two major Indonesian Islamic organizations also issued appeals and guidance regarding the pandemic. NU issued guidance through the Circular Letters of PBNU No. 3953/C.I.034/04/2020 and PPRMI No. 835/A/PPRMI/SE/III/2020. The former guides the NU members to perform worship at home, to comply with the Government's regulations and health protocols regarding the pandemic, to set up task forces as an effort to deal with the pandemic, to strengthen the social ties and friendship among community members, and to always obey the decisions, policies, and appeals of the central and regional governments in order to prevent the spread of COVID-19, including the issue of Eid homecoming activities.<sup>52</sup> The latter consists mainly on health protocols to be applied in NU's Islamic boarding schools (*pesantren, Ind.*) network relating to the pandemic.<sup>53</sup> Eventually, by the end of March 2020, many *pesantrens* sent their students home to prevent the virus spread and to comply with the Government's policy regarding '*learning from home*'.<sup>54</sup> Likewise, the Muhammadiyah Central Board also issued an edict regarding the COVID-19. The edict No. 02/MLMA/I.0/H/2020 states that COVID-19 pandemic is an extraordinary event, therefore, all prevention is necessary. It also asserts that all religious and educational activities involving many people should be postponed and can be replaced by other methods such as by using information technology.<sup>55</sup>

<sup>51</sup> MUI. *Fatwā No.14 of 2020 tentang Penyelenggaraan Ibadah dalam Situasi Terjadi Wabah COVID-19*, March 2020. Accessed on 15 August 2021. [https://mui.or.id/wp-content/uploads/2020/03/Fatwā\\_tentang-Penyelenggaraan-Ibadah-Dalam-situasi-Wabah-COVID-19.pdf](https://mui.or.id/wp-content/uploads/2020/03/Fatwā_tentang-Penyelenggaraan-Ibadah-Dalam-situasi-Wabah-COVID-19.pdf)

<sup>52</sup> PBNU, "Surat Edaran No.3953/C.I.034/04/2020 Tentang Panduan Pelaksanaan Ibadah Di Bulan Ramadhan Dan Hari Raya Idul Fitri 1441 Hijriah." April 2020. Accessed on 13 August 2021. <https://indonesiaexpres.co.id/2020/04/mendukung-instruksi-pemerintah-selama-ramadhan-1441-h-pbnu-keluarkan-surat-edaran-sholat-tarawih-di-rumah>.

<sup>53</sup> PPRMI. "Surat Edaran No. 835/A/PPRMI/SE/III/2020 Tentang Panduan Pencegahan Corona Di Pondok Pesantren." March 2020. Accessed on 15 August 2021. <https://www.nu.or.id/post/read/117806/rminu-terbitkan-panduan-pencegahan-corona-di-pesantren-pesantren>.

<sup>54</sup> Edwin Dwi Putranto, "In Picture: Cegah Penyebaran Corona, Pesantren Pulangkan Santri." *Republika.co.id*, March 28, 2020. Accessed on 15 August 2021. <https://republika.co.id/berita/q7why0375/cegah-penyebaran-corona-pesantren-pulangkan-santri>.

<sup>55</sup> Suaramuhammadiyah. "Maklumat PP Muhammadiyah Tentang Wabah Covid-19." *suaramuhammadiyah.id*. March 15, 2020. Accessed on 15 August 2021. <https://www.suaramuhammadiyah.id/2020/03/15/maklumat-pp-muhammadiyah-tentang-wabah-covid-19/>

*Hifz al-Nafs: Religious Mission to Save Humanity*

As it is believed by Muslims, any obligation and law that God has sent to mankind contain *maqāṣid sharī'ah* (objectives of law). According to Fauzi, the substance of *maqāṣid sharī'ah* is the realization of *maṣlahah* in the form of attaining benefits and avoiding harms.<sup>56</sup> This is in line with al-Ghazali's statement that all actions that contain *maqāṣid sharī'ah* are called *maṣlahah* (benefits) and the opposites are called *mafsadah* (harms).<sup>57</sup> Meanwhile, al-Khadimy defines *maqāṣid sharī'ah* as the values that lie behind the provisions of *sharā'* (Islamic law) resulting from human conducts, be these objectives are found in *juz'iy* (specific) laws or *kulliy* (general) ones.<sup>58</sup> These objectives aim to realize human efforts in serving God as well as become a manifestation of benefits for the survival of humanity.<sup>59</sup>

The concept of *maqāṣid sharī'ah* can be employed in a decision making about any issue on the ground of attaining *maṣlahah*. In this case, religious understanding must be developed in such a way as to accommodate the challenges of era in which religious teachings must not understood rigidly but, rather, flexibly in all aspects.<sup>60</sup> In a worldly context, as stated by Nur and Muttaqin, *maqāṣid sharī'ah* must have an impact by presenting a benefit.<sup>61</sup> Thus, *maqāṣid sharī'ah* is God's purpose which substantially wants to shower benefits for all mankind in this life and the hereafter.

According to al-Raishuni, *maqāṣid sharī'ah* is divided into three categories. First is *maqāṣid al-kulliyāt al-'āmmah* which is the objectives of Islamic law oriented towards the public interest. The essence of this *maqāṣid* is a series of manifestations of *al-darūriyyāt al-khamsah* (five basic necessities), namely preserving one's religion, soul, intelligence, offspring, and wealth. In addition, this *maqāṣid* also relates to aspects of the minimum value sin life as in upholding justice, eliminating discrimination, protecting the universe, and so on. Second is *maqāṣid al-khāṣṣah* which is the purpose of *sharī'ah* in specific fields, such as the worship is obliged to glorify God, to maintain the existence of religion, and to maintain human relations with God as needed by human souls. Third is *maqāṣid juz'iyyah* which is the objective contained in specific issues such as the presence of a witness in a marriage contract and the recommendation to see the bride-to-be.<sup>62</sup>

*Maqāṣid sharī'ah*, as understood from the above concept, is a right that is *thābit* (fixed) for each individual or group governed by Islamic law. It may also be understood that *maqāṣid* serves as *al-huqūq al-khāṣṣah* (special rights). Meanwhile, in *maqāṣid sharī'ah*, rights are divided into three: the rights of God, human rights, and

<sup>56</sup> Fauzi, *Hak Asasi Manusia Dalam Fiqih Kontemporer*. (Depok: Prenadamedia Group, 20180).

<sup>57</sup> Imam al-Ghazali, *Al-Mustasfā min 'Ilm al-Uṣūl*. (Beirut: Dar al-Fikr, 1999).

<sup>58</sup> Zakaria Syafei, "Tracing Maqasid Al-Shari'ah In The Fatwas Of Indonesian Council Of Ulama (MUI)," *Journal of Indonesian Islam* 11, no. 1 (2017): 105, <http://jiis.uinsby.ac.id/index.php/JIIs/article/view/277>.

<sup>59</sup> Nuruddin ibn Mukhtar al-Khadimy, *Al-Ijtihād al-Maqāṣidi*. (Doha: Wazarah al-Awqaf wa al-Syu'un al-Islamiyah, 2005); See also: Iffatin Nur and M. Ngizzul Muttaqin. "Reformulating the Concept of Maṣlahah: From a Textual Confinement towards a Logic Determination." *Justicia Islamica: Jurnal Kajian Hukum dan Sosial* 17, 1(2020): 73–91. <https://jurnal.iainponorogo.ac.id/index.php/justicia/article/view/1807/pdf>.

<sup>60</sup> Abd Karim Soros, *Al-'Aql Wa Al-Tajribah*. (Lebanon: Al-Intisyar al-Arabi, 2010).

<sup>61</sup> Nur and Muttaqin, "Reformulating the Concept of Maṣlahah".

<sup>62</sup> Ahmad al-Raisuni, *Maqāṣid al-Maqāṣid: Al-Ghayāt al-'Ilmiyyah wa al-'Amaliyyah li Maqāṣid al-Sharī'ah*, (Lebanon: Al-Syabakah al-'Arabiyah Li Abhast wa al-Nasyir, 2013).

the rights of both. God's rights are those associated with the public benefits and advantages to all humans with no exception. This means that relating to these rights, benefits must be realized by humans in terms of upholding God's religion. Next, human rights are those prescribed by God for the benefit of individuals and groups during their lives in this world. Such rights are specially attached to all people for obtaining benefits and advantages in all matters. While the last rights are special ones that belong to the essence of God and human rights. The concept of rights leading to *maqāshid sharī'ah* is a fundamental value in realizing *maṣlahah* in all aspects of human life.

### **Contextualization of the Regulations and *Fatwās* to Prevent the Spread of COVID-19 within the *Maqāshid Sharī'ah* Frame**

A policy or regulation is issued by a government aimed for none but realizing the ideals in providing protection and security for all its citizens to achieve their welfare. So are those policies, regulations, edicts, and *fatwās* issued by the Indonesian government and Islamic organizations, notably the MUI, NU, and Muhammadiyah,<sup>63</sup> they are all aimed at protecting citizens from any harm caused by the spread of COVID-19 which have not only been threatening the health aspect, but also impacting on the country's economy as well as the people's one. As a form of government's responsibility in addressing the pandemic, in addition to the PSBB policy as a preventive measure in the health sector, the government also issued some regulations aimed to ensure public health and welfare and to save the national economy.<sup>64</sup>

The government rearranged its National Income and Expenditure Budget (Anggaran Pendapatan dan Belanja Negara or APBN, *Ind.*) to deal with any aspect in regard of COVID-19 handling. It poured additional expenditure worths IDR 695.2 trillion (about USD 48.48 billions) as drafted in the Revision of Presidential Regulation No. 54 of 2020 regarding the Changing of 2020 APBN Posture,<sup>65</sup> and was later issued in the Presidential Regulation No. 72 of 2020 on June 24, 2020.<sup>66</sup> There was a slight increase from the figure projected in the beginning of June 2020 which amounted to IDR 677.2 trillion (about USD 47.84 billions)<sup>67</sup> which itself

<sup>63</sup> Regarding the *fatwa* methodology, see Abdurrohman Kasdi, "Reconstruction of Fiqh Nusantara: Developing the Ijtihad Methodology in Formulating Fiqh from Indonesian Perspective," *QIJS: Qudus International Journal of Islamic Studies* 7, no. 2 (2019): 254, <https://journal.iainkudus.ac.id/index.php/QIJS/article/view/4797>.

<sup>64</sup> Sania Mashabi, "Upaya Pemerintah Lawan Pelemahan Ekonomi: Berikan BLT Hingga Kucurkan Rp 158,2 Triliun." *kompas.com*, March 27, 2020. Accessed on 25 August 2021. <https://nasional.kompas.com/read/2020/03/27/06263281/upaya-pemerintah-lawan-pelemahan-ekonomi-berikan-blt-hingga-kucurkan-rp-1582?page=all>

<sup>65</sup> Dian Kurniati, "Sri Mulyani: Presiden Telah Tandatangani Revisi Perpres 54/2020." *ddtc.co.id*, 24 June 2020. Accessed on 25 August 2021. [https://news.ddtc.co.id/sri-mulyani-presiden-telah-tandatangani-revisi-perpres-54-2020-21819?page\\_y=1362](https://news.ddtc.co.id/sri-mulyani-presiden-telah-tandatangani-revisi-perpres-54-2020-21819?page_y=1362).

<sup>66</sup> GoI. "Peraturan Presiden No. 72 Tahun 2020 Tentang Perubahan Atas Perpres No. 54 Tahun 2020 Tentang Perubahan Postur Dan Rincian APBN TA 2020." <https://perpajakan.ddtc.co.id/peraturan-pajak/read/peraturan-presiden-72-tahun-2020>. Also read: Dian Kurniati, "PERPRES 72/2020: Postur APBN 2020 Terbaru, Jokowi Terbitkan Perpres 72/2020." *ddtc.co.id*, 25 June 2020. Accessed on 25 August 2021. [https://news.ddtc.co.id/postur-apbn-2020-terbaru-jokowi-terbitkan-perpres-72-2020-21867?page\\_y=0](https://news.ddtc.co.id/postur-apbn-2020-terbaru-jokowi-terbitkan-perpres-72-2020-21867?page_y=0).

<sup>67</sup> Rahmat Nur Hakim, "Anggaran Penanganan Covid-19 Membengkak Jadi Rp 677,2 Triliun, Ini Rinciannya." *kompas.com*, June 4, 2020. Accessed on 25 August 2021.



was, by the end of March 2020, budgeted for IDR 405.1 trillion in the 2020 APBN.<sup>68</sup> They were allocated for health expenditure, social protection, aids to support Micro, Small, and Medium Enterprises (MSMEs) affected by COVID-19, tax incentives and stimuli for businesses, and operational support for government sectorial offices, ministries, agencies, as well for local governments. The details of the new budget summarized from the Minister of Finance's official explanation at a teleconference after the President signed the Revision of Presidential Regulation No. 54 of 2020 are given in the below table.

Table 3: Allocation of the Revision on the APBN of 2020<sup>69</sup>

No.	Aspect	Usage	Total Allotment (in trillion IDR)
1	Health sector	Covid-19 handling expenses, medical personnel, compensation for the deaths, contribution aid for national health insurance, task force financing, and tax incentives in the health sector	87.55
2	Social protection	Financing the Family of Hope Program (Program Keluarga Harapan or PKH), basic food assistance, social assistance (Bantuan Sosial or Bansos), the Pre-employment Card, electricity bill discounts, direct cash assistance (Bantuan Langsung Tunai or BLT), and financial aids for villages	203.90
3	Aids for MSMEs	Financing interest subsidies, investing funds for restructuring and supporting capital for MSMEs with loans of up to IDR 10 billion, as well as spending on assurances for emergency capital loans.	123.46
4	Aids for businesses	Incentivizing the business community for their survival by relaxing the taxation and providing other stimuli	120.61
5	Aids for corporate funding	Funding state-owned and labor-intensive corporations	53.57
6	Aids for operational support	Supporting for sectorial offices, ministries, institutions, and local governments	106.11
Grand Total =			695.20

Other than restructuring the APBN, the policies also regulate necessary measures to ensure minimum impact to the people in general. As explained in Table 3, the health sector prioritizes to maximize the protection for health workers through providing personal protection devices for them, to buy medical devices, and to pay incentive for health workers. The social protection priorities include funding the Family of Hope Program (PKH), basic food staples, pre-employment

<https://nasional.kompas.com/read/2020/06/04/05010011/anggaran-penanganan-covid-19-membengkak-jadi-Rp-677-2-triliun-ini-rinciannya>.

<sup>68</sup> Sugianto, Danang. "Rincian Uang Negara Rp 405 T Untuk Lawan Corona." *detik.com*, 1 April 2020. Accessed on 25 August 2021. <https://finance.detik.com/berita-ekonomi-bisnis/d-4960463/rincian-uang-negara-Rp-405-t-untuk-lawan-corona>.

<sup>69</sup> Summarized from the Minister of Finance's official explanation. Read further: Kurniati, "PERPRES 72/2020: Postur APBN 2020 Terbaru".

cards, and electricity bill discounts. The incentives for the business world are prioritized in providing a number of incentives in the form of economic stimuli for MSMEs and business world in general. The priority in the non-fiscal sector is done by implementing a number of policies to ensure the availability of goods that are currently needed to deal with the import and export ban. The government also revised the maximum limit of the APBN deficit and issued monetary policy through Bank Indonesia and the Financial Services Authority to maintain national financial stability.

In the perspective of religious organizations (MUI, NU, and Muhammadiyah), these government policies are absolutely essential to be taken and obeyed. This is since, by a thorough analysis, these policies were taken on the ground of the priority scale needed by the State to address the pandemic issue appropriately to save its people's lives, sustainability, and existence. Therefore, other things which are considered less or not important at present are temporarily suspended. In this context, the State exercises its functions as an institution responsible to create safety and prosperity for its people.

The application of government policies and religious organizations' edicts may contain *maṣlahah* or *mafsadah*. This certainly must be studied in depth and comprehensively in the context of *maqāṣid sharī'ah*. It is arguable and believed that such policies and edicts must have come through a thorough analysis employing a principle of *jalb al-manfa'ah wa dafu al-maḍarrah* (taking advantages and resisting damages)<sup>70</sup> This is an element of *maṣlahah*, however, it is still necessary to understand the role of *maqāṣid sharī'ah* framed by *al-ḍarūriyyāt al-khamsah*. In the authors' view, as long as those policies and edicts can uphold *maqāṣid sharī'ah*, Islamic law considers complying and obeying them as a form of *'ibādah* (worship) which leads to one's servitude to God. This perception suggests that Islam is a religion that supports the rights of citizens. The definition of *maqāṣid sharī'ah* as benefits that can be enjoyed continuously, both personal and social, has asserted that the presence of the concept and substance of the policies and edicts become a shared responsibility to be understood, obeyed, and practiced.

Having the concept of *maqāṣid sharī'ah* as a perspective in the implementation of policies and edicts in order to prevent COVID-19 regarding to the level and order of *maqāṣid*, to the authors' opinion, is necessary. In the context of imposing PSBB, PPKM and advice for Muslims, especially, to conduct worship activities at home, and to all people in general to work from home, to learn from home, and to pray from home, there are two interests that are equally strong when viewed from the *maqāṣid* perspective. They are the preservation of one's religion (*hiḏ al-dīn*) related to conducting religious obligations (e.g. praying daily in congregation, fasting in Ramadan, praying Eid) as evidence of maintaining the existence of religion and religious symbols in one hand and the preservation of one's soul (*hiḏ al-naḑs*) related to the imposing of the policy to practice physical distancing, working from home (*WfH*), learning from home (*LfH*), prying from home (*PfH*), and so forth as efforts to preserve human lives.

In this regard, the authors incline to opt safeguarding one's soul (*hiḏ al-naḑs*) for having higher value than safeguarding one's religion (*hiḏ al-dīn*). This is based

<sup>70</sup> Abu Ishaq al-Shatibi, *Al-Muwāfaqāt fi Uṣūl al-Sharī'ah*, (Beirut: Dar al-Kutub al-Ilmiyah, 2004).

on al-Ghazali's opinion related to *tartīb tanāzul* (priority scale). To the authors' view, prioritizing *hifẓ al-nafs* is also based on the fact that a person is burdened to practice Islamic teachings (considered as a *mukallaf*) only when he/she has *nafs* (soul), meaning that he/she is alive. Without having his/her soul, practicing one's religion will not work out. Therefore, maintaining the existence of one's soul is important as a step to practice religious teachings. In this perspective, *hifẓ al-nafs* becomes the main thing to be realized and maintained.<sup>71</sup>

The interpretation of policies and edicts must be in accordance with *sharī'ah* values. This is because Islamic law must not only be understood rigidly but also flexibly and the religious teachings involve not only constant understanding in some areas, but also dynamic one in other areas in accordance with the needs of time and place. Furthermore, the contextualization of humanitarian principles in *maqāṣid* regarding the prevention of COVID-19 spread can also be applied in the context of *maqāṣid al-'āmmah* (public interest) and *maṣlahah al-ḥurriyyah* (benefit of freedom).<sup>72</sup> In the context of *maqāṣid al-'āmmah*, realizing contextualization based on area protection becomes a necessity and obligation since all private and public life needs can only be accomplished appropriately if public interest is upheld and prioritized.<sup>73</sup> Meanwhile, *maṣlahah al-ḥurriyyah* is intended to create human life that is free from any disruption in all aspects including health and daily sustenance. Such freedom in this context of *maqāṣid sharī'ah*<sup>74</sup> is as in the case when God grants intelligence, will, and ability to mankind. Thus, creating an environment that supports realizing such freedom that does not cause any *mafsadah* (harm) to mankind is part of the manifestation and contextualization of *maqāṣid sharī'ah*.<sup>75</sup> In this context, the flexibility of *maqāṣid sharī'ah* is seen in government policies and *fatwās* from MUI, NU, and Muhammadiyah which together make efforts to save human existence.

## Conclusion

The contextualization of *maqāṣid sharī'ah* in addressing COVID-19 pandemic can be found in the application of policies and edicts based on *hifẓ al-nafs* (safeguarding one's soul). In this case, those policies and edicts are treated in line with fundamental values in the discourse of obtaining the objectives of Islamic law (*maqāṣid sharī'ah*). The important points in all policies and edicts are meant to realize an essential value in the provisions of *sharā'* (Islamic law). Efforts to contextualize *maqāṣid sharī'ah* in all aspects of policies and edicts were carried out

<sup>71</sup> See M. Asrorun Ni'am Sholeh, "Towards a Progressive Fatwa: MUI's Response to the COVID-19 Pandemic," *Ahkam: Jurnal Ilmu Syariah* 20, no. 2 (2020), <http://journal.uinjkt.ac.id/index.php/ahkam/article/view/17391>.

<sup>72</sup> Muhammad Thahir Ibn 'Ashur, *Uṣūl al-Nizām al-Ijtīmā'i fī al-Islām*. (Cairo: Dar al-Islam, 2010).

<sup>73</sup> See Ahmad Muhtadi Anshor & Muhammad Ngizzul Muttaqin, "Kebijakan Pemerintah Indonesia dalam Pencegahan Penyebaran Corona Virus Disease 2019 (Covid-19) Perspektif Maqashid Syari'ah," 172.

<sup>74</sup> See Zaprul Khan, "Maqasid Al-Shariah in the Contemporary Islamic Legal Discourse: Perspective of Jasser Auda," *Walisono: Jurnal Penelitian Sosial Keagamaan* 26, no. 2 (2018), <https://journal.walisono.ac.id/index.php/walisono/article/view/3231>.

<sup>75</sup> See Iffatin Nur, Syahrul Adam, M. Ngizzul Muttaqien, "Maqāṣid Al-Sharī'at: The Main Reference and Ethical Spiritual Foundation for the Dynamization Process of Islamic Law," *Ahkam: Jurnal Ilmu Syariah* 20, no. 2 (2020), <http://journal.uinjkt.ac.id/index.php/ahkam/article/view/18333>.

by providing *maqāshid* stratification according to priority scale. This was done by the Indonesian government by withdrawing several policies and replacing them with more appropriate ones. Efforts to stratify *maqāshid sharī'ah* were conducted by responding to issues that needed a speedy resolution. Thus, the context of *maqāshid sharī'ah* can be applied in realizing *maṣlahah* (benefits) to individuals, communities, and the whole nation. Further studies are encouraged in efforts to contextualize *maqāshid sharī'ah* regarding many other issues that may lead to a different product of *maqāshid* stratification. Based on the fundamental values that exist in the provisions of *sharā'*, such a thing certainly cannot be disputed and must be realized in order to provide a quick response to all problems that arise in society's life.

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