
THE PRINCIPLE OF MAQASHID SHARI'AH IN HANDLING COVID-19 PANDEMIC IN INDONESIA

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Abstract

The pandemic of Covid-19 has presented an almost evenly distributed continuity and fear in every aspect of human life around the world. Covid-19 triggered several things, for example, related to economic activity, the implementation of education, the implementation of public services, and so on. There have been many casualties caused by the emergence of the pandemic around the world. The method used in this study is normative juridical with a statute approach and a conceptual approach. The purpose of Islamic Law or maqashid al-shari'ah is a shari'a that is determined and intended for the benefit of man in the world and the Hereafter. Shari'a is structured to realize the happiness of individuals and pilgrims (human beings), maintain the rules and enliven the world with all means, and will continue it at the glorious levels of perfection, culture, goodness, and civilization, because Islamic proselytizing is a mercy for all mankind, namely achieving benefit, goodness, and pleasure over humans and avoiding or preventing damage or ugliness. The handling of the Covid-19 pandemic has been carried out by the government by the principles regulated in maqashid al-sharia, namely tasarruf al-imam 'ala al-raiyyah and hifdzun an nafs.

Keywords: handling, Covid-19 pandemic, maqashid sharia.

A. BACKGROUND

Two years have passed after President Joko Widodo announced the first positive case of Covid-19 in Indonesia, namely on March 2, 2020¹ there was an increase in drastic in the middle of 2020-2021, but in 2022 the rate of spread of the virus began to show signs of decreasing the number of both infected people, as well as victims who died due to exposure to Covid-19. In fact, until mid-2022, the trend of contracting Covid-19 is decreasing. On the other hand, the government's target through the I and II vaccination programs and boosters ² continues to be promoted and achieves maximum numbers (vaccines 1 and 2) to suppress the spread of the

¹ BNBP, "Presiden Tetapkan COVID-19 Sebagai Bencana Nasional," *Jurnal Berkala Kesehatan*, 2020.

² Setiawan, "COVID-19:Efektivitas Dan Keamanan Vaksin," *Jurnal Medika Utama* 02, no. 01 (2022).

Covid-19 pandemic which is considered so dangerous and massively disrupting various aspects of social, national and state life.

Although it feels much better now, the world and Indonesia is no exception, having felt how devastating the Covid-19 pandemic that once hit. Several variants of Covid-19 have also emerged around the world and some of them have stopped by in Indonesia, including the Alpha, Beta, Delta, and Omicron variants.³ However, with all the resources available, the Indonesian government remains focused on facing the situation that is not easy due to the spread of the Covid-19 pandemic.

Severe Acute Respiratory Syndrome Corona Virus 2 or known as SARS-CoV-2 or also known as Covid-19 is a new variant of the virus that can be transmitted to humans.⁴ SARS-COV-2 can infect anyone, such as infants, children, adults, the elderly, and pregnant or lactating women. In December 2019, the first time virus infection was found in Hubei Province, China, precisely in Wuhan City.⁵ The virus continues to develop and spread rapidly to several other regions in China and other countries, be it in America, Europe, the Middle East, Africa, Asia, and Indonesia.

The outbreak of the virus eventually caused a lot of losses. Many companies have to reduce their employees to continue to produce, many hotels have to close and lay off their employees, many small and medium enterprises sectors have gone out of business due to losses also not least the death toll is not small.⁶ Whether there are casualties or due to other losses, the government must seriously and actively take strategic and measurable steps to anticipate the emergence of worse impacts.

Anticipating a worse impact, the Government of Indonesia in various ways continues to pursue strategic measures to control and prevent the spread of the Covid-19 virus from 2020 until now.⁷ The Indonesian government has issued many

³ Farid Assifa, "4 Varian Baru Virus Covid-19, Gejala Dan Cara Mencegahnya," *Kompas.Com*, 2021.

⁴ Merry Dame Cristy Pane, "Virus Corona," *Https://Www.Alodokter.Com/*, 2020.

⁵ Nuri Hastuti and Sitti Nur Djanah, "STUDI TINJAUAN PUSTAKA: PENULARAN DAN PENCEGAHAN PENYEBARAN COVID-19," *An-Nadaa: Jurnal Kesehatan Masyarakat* 7, no. 2 (2020), <https://doi.org/10.31602/ann.v7i2.2984>.

⁶ Ririn Noviyanti Putri and Fakhrul Rozi Yamali, "Ini Sektor Industri Yang Paling Terdampak Virus Corona Versi Moody's," *Ekonomis: Journal of Economics and Business*, 2020.

⁷ Ramidah, "New Normal Di Tengah Pandemi Covid-19," *Djkn.Kemenkeu.Go.Id*, no. 2 (2020).

policies related to handling the Covid-19 pandemic at the beginning of its spread in 2020, including:

1. On March 13, 2020, Presidential Decree (KEPPRES) No. 7 of 2020 was issued regarding the Task Force for the Acceleration of Handling Corona Virus Disease 2019 (Covid-19) and Presidential Decree No. 9 of 2020 related to Amendments to Presidential Decree No. 7 of 2020 on March 20, 2020
2. On March 31, 2020, a Government Regulation instead of Law (PERPPU) No. 1 of 2020 related to State Financial Policy and Financial System Stability for Handling the Covid-19 Pandemic and/or to Face Threats that Endanger the National Economy and/or Financial System Stability.
3. On April 3, 2020, issued Presidential Regulation (PERPRES) No. 54 of 2020 concerning Changes in The Detailed Posture and State Budget of 2020, namely a follow-up to PERPPU No. 1 of 2020
4. Budget allocations for several sectors, including the health sector of Rp.75 trillion, the social sector of Rp.110 trillion, the financial sector and tax incentives of Rp.70.1 trillion, and the MSME sector worth Rp.150 trillion
5. Regulations related to Large-Scale Social Restrictions (PSBB), including:
 - a. On March 31, 2020, government regulation (PP) No. 21 of 2020 related to PSBB was issued to accelerate the handling of Covid-19
 - b. Tanggal April 3, 2020, issued Regulation of the Minister of Health (Permenkes) No. 9 of 2020 related to PSBB Guidelines in the context of Accelerating Handling of Covid-19
6. Construction of observation facilities by the Government of Indonesia, shelter, and quarantine for Covid-19 control on Galang Island, with a capacity of 1,000 beds which on April 6, 2020, were declared ready, and on March 23, 2020, the inauguration of Wisma Atlet Kemayoran became a Covid-19 emergency hospital that accommodates 3000 beds, which is facilitated with various equipment such as laboratories, pharmaceuticals, and portable medical equipment.

These policy packages are part of implementing the state's responsibility in protecting all its citizens and ensuring that the Indonesian government strives to

stop the Covid-19 virus. At the end of 2020, the Government of Indonesia determined the vaccine variants ⁸ that will be used for the national vaccine program as contained in The Ministry of Health No. HK.01.07 / Minister of Health / 9860 / 2020 related to the Determination of Vaccine Types for the Implementation of Corona Virus Disease 2019 (Covid-19) Vaccination totaling 329 million, namely; Sinovac, Sinopharm, AstraZeneca, Moderna, Pfizer Inc, and BioNTech ⁹ and on February 25, 2021, through Permenkes No. 10 of 2021, the government established regulations related to the Implementation of Vaccination in the Context of Overcoming the Corona Virus Disease 2019 (COVID-19) Pandemic.

The vaccine import policy¹⁰ is carried out because the Indonesian government does not yet have its vaccine production which is considered ready to be used in overcoming the Covid-19 virus. However, the domestically made vaccine production plan has begun to be carried out in 2020 and is expected to begin circulation in 2022, so that it can be used en masse, especially to meet national vaccine needs.

Entering the first year of coronavirus transmission in Indonesia, in 2021 the government's energy in standing Covid-19 is increasing. This can be seen from several policy packages issued, for example by paying attention to PP No. 21 of 2020 related to PSBB in the Context of Accelerating Handling of Covid-19 and referring to Law No. 6 of 2018 concerning Quarantine, through the Minister of Home Affairs (Mendagri) and several other relevant ministries, have issued many policies until 2022, such as policies that are appeals, orders, and prohibitions.

The many policies issued by the Government of Indonesia in the period from the beginning of the pandemic in 2020 until now, indicate that the government remains concerned in dealing with the Covid-19 Pandemic and is still pursuing

⁸ Ibnu Susanto Joyosemito and Narila Mutia Nasir, "GELOMBANG KEDUA PANDEMI MENUJU ENDEMI COVID-19: ANALISIS KEBIJAKAN VAKSINASI DAN PEMBatasan KEGIATAN MASYARAKAT DI INDONESIA," *Jurnal Sains Teknologi Dalam Pemberdayaan Masyarakat* 2, no. 1 (2021), <https://doi.org/10.31599/jstpm.v2i1.718>.

⁹ Darwin Botutihe, "Pembangunan Hukum Dengan Pendekatan Teori Hukum Inklusif Pada Negara Hukum Pancasila," *Jurnal Al-Himayah* 3, no. 1 (2019): 102–26.

¹⁰ Irawan Sapto Adhi, "4 Manfaat Vaksin Covid-19 Yang Harus Dipahami," Kompas.Com, 2021.

systematic, strategic, and targeted solutions to reduce and / or stop the spread of the virus as soon as possible.

The Indonesian government also continues to coordinate with leaders in each region both at the province and district levels, especially for areas that have the potential to more easily impact the pandemic, either directly or indirectly. The government also encourages policy stimulus in economic aspects, especially for the MSME sector and several other sectors. Some of the policies pursued by the current government, although still considered non-populist, are not transparent and discriminatory, but witnessing each of these efforts and endeavors, at least explains one thing, that the government is serious about wanting to end this pandemic situation immediately.

Controlling the situation due to the spread of the Covid-19 pandemic, the government did so with a normative approach, because Indonesia based the exercise of power according to the state of law (*rechstaat*). This view of so-called legal positivism is an argument based on the application of a structure of positive norms that incorporate it into concrete situations.

In this context, positive law is something that is presented from the source of positive law that has previously been determined by legitimate powers, namely the legislature and the executive. In addition, the policy must boil down to the creation of certainty, justice, and order. However, the formulation of current government policies can be done through other alternative approaches to thinking, for example in this Covid-19 handling policy, whether the government also bases on different legal thinking (in addition to the legal positivism approach).

Looking at the government's efforts to deal with the Covid-19 pandemic, can be studied through several thoughts, for example, inclusive legal thinking. by Prof. Jawahir Thontowi who based on a non-linear approach, traditions of academic freedom, religion, non-autonomous national systems, and ideologies, as well as transcendental legal thinking, which is based on the range of religious, spiritual, ethical, and moral values full of dynamics. Furthermore through progressive legal thinking, contemplative law, and prophetic law.

For the latter, it is a thought that is based on the values of objectification of the Quran and Hadith as well as the efforts of Ijtihad through contemplation, reasoning, and discourse that develops to examine the handling of the Covid-19 Pandemic in Indonesia through the perspective of maqashid sharia. The perspective of maqashid sharia was conveyed by a prominent religious figure, namely Asy-Syatibi, who referred to a rule that states;

"Indeed, sharia aims to realize the benefit of the world and the hereafter".

Various measures and handling efforts carried out by the government, both as preventive and repressive measures in the context of controlling the virus from March 2020 until now, have emphasized that this is done by the Indonesian government to protect the interests of the nation, state, and all communities as mandated by the 1945 Constitution and Pancasila and are carried out by applicable law. It should be realized that the various handling measures have shown positive results. However, the government is not necessarily satisfied with the existing conditions. After the success of the support through the 1st and 2nd vaccine programs, the government also continues to strive so that booster vaccines can be realized evenly. For this reason, optimal support from the wider community is needed, namely a form of understanding that it must be carried out jointly (two ways), namely the government as the regulator and the community as a party that must be protected.

B. PROBLEM FORMULATION

The matter formulated as a problem in this study is related to how the principle of maqashid sharia in handling the Covid-19 pandemic in Indonesia.

C. RESEARCH METHODS

The method used in this study is to use normative juridical research methods.¹¹ Regarding the approach used in this study, it uses two types of approaches, the first is the statute approach and the second is the conceptual approach. A statute approach is a model approach that uses legislation and

¹¹ Fuad; Aida Dewi; Said Munawar, "The Application of Social Philosophy in The Era of Revolution Industry 4.0 in Indonesia," *Borobudur Law Review* 4, no. 1 (2022): 45–53, <https://doi.org/https://doi.org/%2010.31603/burrev.7137>.

regulatory products. Meanwhile, the conceptual approach (conceptual approach) is an approach model that uses theory, doctrine, and expert views.

D. DISCUSSION

The recognition and existence of law in a government administration is basically to be able to regulate, limit and control various community activities so that the hope is that it will form an order of life that is safe, harmonious, orderly, and meets the principles of common justice. So that the enactment of laws in modern times as it is today is a must to be able to manage and support efforts to create an orderly and just life of the nation and state.

Aristoteles mentioned that a country that stands above the law, must guarantee justice to its citizens. According to him, justice is a requirement for the fulfillment of life happiness for citizens in a country. Aristotle also explained, that the one who gives orders in the state, is not a human being, but a just mind, while the real ruler is only the holder of law and balance.¹²

Indonesia is a country of law as stated in the provisions of the 1945 Constitution Article 1 paragraph (3), which explains where all policies or actions taken for any matter, must be based on the law. The principle for the state of the law is to base on the law as a tool that will be used in doing anything. Maria Farida explained that the principle of the Indonesian legal state is the state of management law (*Verzonginstaat*).¹³ So the next step of the government is to take action to regulate and take care that boils down to the realization of benefits for every citizen, which of course is in line with what is contained in the legal philosophy of Pancasila as the philosophical-ideological basis of the Indonesian state.

For Indonesia, which is based on the law, it requires that all actors and state organizers (policy executors) or government leaders (policy makers) must organize the state based on the law contained in the values of Pancasila and the 1945 Constitution which is the state of Pancasila law. The conception of the legal state

¹² Raimundus Bulet Namang, "NEGARA DAN WARGA NEGARA PERSPEKTIF ARISTOTELES," *Jurnal Ilmiah Dinamika Sosial* 4, no. 2 (2020), <https://doi.org/10.38043/jids.v4i2.2449>.

¹³ Farida Maria, "Ilmu Perundangan-Undangan 1 (Jenis, Fungsi Dan Materi Muatan)," *Yogyakarta: Kanisius*, 2016.

of Pancasila is based on the legal system of Pancasila as contained in the philosophy of the Indonesian nation or state, namely Pancasila.

The conception of the state of law, both *rechtsstaat* and rule of law, requires the enactment of the principle of legality which means that all government actions must be based on valid and written legislation (*wetmatigheid van het bestuur*). The legislation must first apply or precede administrative actions or actions taken by the government. Therefore, all actions or actions of government administration must be based on regulations.

Utrecht then divided the state of law into two, first the state of a formal law or the state of classical law, the second the state of material law or the state of modern law. The state of formal law is related to the definition of law that is formal and narrow, which is interpreted as a written law. Meanwhile, the state of material law is a more up-to-date one, which also includes the notion of justice in it.¹⁴

After Indonesia was hit by the Covid-19 virus pandemic as announced in March 2020 by President Jokowi, then it began from that time effort after effort continued to be made by relevant stakeholders to control the situation of the spread of the virus. As an affirmation of the state of law (*rechstaat*) and adhering to legal positivism, the government ensures in advance, regarding the existence of regulations for handling the situation as it is today, that it is existing and adequate, sufficiently representative, and comprehensive or that other arrangements are still needed.

The government's rapid movement and sincerity to deal with the Covid-19 virus can be seen since the issuance of PERPPU No. 1 of 2020 on March 31, 2020, and approved to become Law No. 2 of 2020 on May 16, 2020, which regulates state financial policy and financial system stability for handling the Corona Virus Disease 2019 (Covid-19) pandemic and/ or to face threats that endanger the national economy and/or financial system stability. However, previously the Indonesian government had law no. 6 of 2018 concerning health quarantine as used by the

¹⁴ Agus Budi Susilo, "MAKNA PERBUATAN HUKUM PUBLIK OLEH BADAN ATAU PEJABAT ADMINISTRASI NEGARA YANG MELANGGAR HUKUM (SUATU TINJAUAN YURIDIF MENURUT HUKUM ADMINISTRASI NEGARA)," *Perspektif* 15, no. 4 (2010), <https://doi.org/10.30742/perspektif.v15i4.63>.

government to be the legality of acting to control the situation of the spread of the virus pandemic.

If you look at the General Explanation in Law No. 2 of 2020, the government is also considering the consequences of the spread of the Covid-19 virus which presents health risks and has the potential to cause casualties. So it must be understood, that the existence of the regulation not only regulates details about the financial substance of handling the pandemic but is also closely related to strategic efforts about saving human lives.

Policies issued by the Government of Indonesia related to handling Covid-19 can be reviewed through various aspects, such as social aspects, cultural aspects, political aspects, economic aspects, and legal aspects. Such a viewpoint is characteristic of the concept of a formal (classical) legal state as characterized by a shift in the role of the state towards a new idea in which the government not only becomes a *nachtwachterstaat* (night watchman state) but must also actively make various efforts to build the welfare of the people.¹⁵

The last sentence explains explicitly if the conception of the Indonesian legal state is as a legal state based on Pancasila, namely the one true Godhead, just and civilized Humanity, the Unity of Indonesia, the People's Affairs led by wisdom in representative consultancy, and social justice for all Indonesian people. The state of Pancasila law has characteristics, namely divinity, kinship, cooperation, and harmony.

What is compiled by the government as a regulation in dealing with the Covid-19 virus pandemic is following and based on the principle of preparing good laws and regulations, namely by applicable principles and norms, where one of the principles is said to be implementable which means that drafting of laws and regulations must take into account the effectiveness of its existence in society, both in terms of philosophical, sociological or juridical. The formulation of Law No. 2 of 2020, both from the consideration, content to explanation, seems to be following

¹⁵ Susilo.

the basis for the preparation of the law, both in terms of philosophical, sociological, and juridical.

Looking at the various tactical and strategic steps taken by the central and local governments, in the form of *regeling* or *beschikking*, shows that there are systematic and massive efforts made to immediately end this pandemic situation. This shows that the state takes a significant role in efforts to save the lives of the nation and state, as well as saving the impact of the emergence of greater casualties. If this effort is properly made by the government, it can be tested from the perspective of *maqashid sharia*.

According to the language, *maqashid* is a word derived from the word *maqshad* which means goal or target. Referring to the word in question, some scholars give different meanings or definitions related to *sharia maqashid*. For example, *al-Fasi* scholars refer to *maqashid sharia* as the purpose or secret of Allah that exists in every *sharia* law. Islamic law or Islamic *sharia* is all kinds of laws and regulations that aim to regulate all affairs of Muslims to handle world and afterlife matters.

The general meaning of *sharia* is to include all the laws that Allah Almighty has ordained to His servants and are obliged to be carried out. The law was passed down to His apostles, either by revelation or orally. The definition of *Sharia* in this general meaning includes, almost all activities carried out by humans, be it in terms of *aqidah*, morals, work, politics, worship, power, law, giving, inheritance, and others.

A form of leadership policy for the people must be based on benefit (*tasarruf al-imam 'ala al-raiyyah*). This is in line with the purpose of punishment in Islam (*maqashid asy-shari'ah*) i.e. one of them is *hifdzun an nafs* which means that an exercise of the law must maintain human survival.¹⁶

In this context, the use of the concept of Islamic Law in looking at the pandemic situation is presumably in line with the Indonesian legal state which runs on the principle of *Pancasila* as a philosophical-ideological basis. *Pancasila* is a

¹⁶ Supriyadi Supriyadi, "Kebijakan Penanganan Covid-19 Dari Perspektif Hukum Profetik," *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh* 8, no. 2 (2020): 91–109.

philosophy of statehood called *staatsidee* (state mind) where its function is as a philosophical *grondslag* and common platforms or "kalimatun sawa" among fellow citizens for the context of state life. The five precepts in Pancasila are used as the philosophical-ideological basis in realizing the four goals or ideals of statehood, especially on the goal of protecting the entire Indonesian nation and all Indonesian bloodshed.¹⁷

MAQASHID SYARIAH IN GOVERNMENT POLICY RELATED TO HANDLING COVID-19

As previously described, seeing what the Indonesian government is doing regarding the handling of the Covid-19 pandemic, can be seen from several thoughts. One of them is through the prophetic legal approach, namely thinking that is based on the values of objectification of the Quran and Hadith as well as the efforts of *Ijtihad* through contemplation, reasoning, and discourse that develops in society.

The purpose of establishing law or what is often known as *maqashid al-shari'ah* is one of the important concepts in the study of Islamic law. Because of the importance of the *maqashid al-shari'ah*, legal theorists make it something that must be understood by the *mujtahid* who performs the *ijtihad*. The essence of the theory of *maqashid al-shari'ah* is to realize good while avoiding bad, or attracting benefits and rejecting *mudharat*.

The interpretation that is judged according to the core of *maqashid al-shari'ah* is *maslahat*¹⁸, because a legal establishment in Islam must boil down to benefit. It should be noted that Allah as a *shari'a* (who establishes *shari'a*) does not create laws and rules just like that, but the laws or rules are created with a specific purpose and purpose. Ibn Qayyim al-Jauziyah stated that the purpose of *shari'a* is the benefit of servants in the world as well as in the hereafter.¹⁹

¹⁷ Jimly Asshiddiqie, "Ideologi, Pancasila, Dan Konstitusi," *Jaringan Informasi Hukum*, no. 1 (2006).

¹⁸ Ghofar Shidiq, "TEORI MAQOSHID AL-SYARI'AH DALAM HUKUM ISLAM," *Sultan Agung VOL.XLIV N* (2009).

¹⁹ Khairul Umam, *Ushul Fiqih-II* (Bandung: Pustaka Setia, 2001).

Likewise, if you look at what is the substance of the prophetic legal teachings which are based on the three main pillars, namely humanization, liberation, and transcendental, where a legal policy must present mashlahah for citizens, especially in the current situation. A policy pursued by the leader for his people must be based on benefit (tasarruf al-imam 'ala al-raiyyah). This is following the purpose and purpose of punishment in Islam (maqashid asy-shari'ah) i.e. hifdzun an nafs which means that an exercise of the law must be to maintain human survival.²⁰

When referring to the regulations issued by the government in handling Covid-19 so far, based on the perspective of maqashid al-shari'ah, it is considered to be following the context of policies that humanize humans, have the value of certainty, justice, and benefit, and are based on divine values or if reaffirmed that the handling and implementation of policies related to the Covid-19 pandemic are by the principles of maqashid al-shari'ah or which means the content of values that are the goal of sharia law.

So it can be understood, that maqashid al-shari'ah is the purpose to be fulfilled from a legal establishment.²¹ According to Izzuddin ibn Abd al-Salam, explaining that all the taklif of the law must aim at the benefit of mankind in the life of the world and the Hereafter. Allah Almighty does not need one's worship, because neither the obedience nor the obedience of the people creates any influence on His glory. thus, the real target of legal expediency refers to none other than the interests of mankind.

Pursuing the study of the theory of maqashid al-shari'ah in Islamic law is the most important part. These interests are based on several considerations, including; First, Islamic law is a law that originates from God's revelation and is intended for mankind, so it requires it to always face social change. Second, based on the historical aspect, indeed both the Messenger of Allah SAW, the companions, and the generation of mujtahids afterward, have paid attention to the theory. Third, an

²⁰ Supriyadi Supriyadi, "Menakar Nilai Keadilan Penyelenggaraan Pilkada 2020 Di Tengah Pandemi Covid-19," *Kanun Jurnal Ilmu Hukum* 22, no. 3 (2020): 493–514, <https://doi.org/https://doi.org/10.24815/kanun.v22i3.17466>.

²¹ Asafri Jaya Bakri, *Konsep Maqashid Syari'ah Menurut Al-Syatibi* (Jakarta: RajaGrafindo Persada, 1996).

understanding of maqashid al-shari'ah is the key to the success of the mujtahids in ijtihad. It is because it is upon the basis of the purpose of the law that every problem in the course of charity between fellow human beings can be returned.

An expert on ushul fiqh, Namely Abdul Wahhab Khallaf,²² explained that the nash-nash shari'ah cannot be understood properly except by people who understand the purpose of the law or maqashid al-shari'ah. This thought is also following the opinion of another fiqh expert, Wahbah al-Zuhaili²³, who explained that knowledge of maqashid al-shari'ah is an urgent matter or dharuri for mujtahid when going to understand a nash and compile a legal istinbath, and for others, it is to know the secrets of shari'ah.

Regarding the handling of Covid-19, the Indonesian government, in addition to paying attention to humanitarian aspects, is also obliged to put every human being in the same position without discrimination, especially for those who have a direct impact on the impact of the pandemic. This means that services in any case related to handling the pandemic must be the same and non-discriminatory.

The government has handled the Covid-19 pandemic, which has taken various aspects of handling, such as economic, legal, social and so on which have a direct impact on the community, for example, policies related to the distribution of necessities, Cash Direct Assistance, credit installment dispensation and electricity subsidies. There have been many various policies carried out by the government to deal with the pandemic, but if these policies are not on target, they will cause new problems in the future. So that in this context, supervision must be strengthened, so that no misappropriation and abuse ultimately harm society.

Broadly speaking, the policy instruments used by the government in overcoming Covid-19 can be divided into two things, namely the form of appeal instruments and legal formation. Appeal instruments include social distancing, 3M-5M (social distancing, wearing masks, washing hands-staying away from crowds, and reducing mobility), physical distancing, studying/working from home to

²² Ahmad Ghozali Ihsan, "Pengembangan Ilmu Ushul Al Fiqh," *Al-Ahkam Jurnal Ilmu Syari'ah Dan Hukum* 2, no. 2 (2018), <https://doi.org/10.22515/alahkam.v2i2.1069>.

²³ M W Khumaidi and M Singgih, "FIQH MASHALIHUL MURSALAH DALAM PERSPEKTIF MAQÂSHID SYARÎ'AH," *An Naba*, 2018.

waivers (delays) in certain credit payments. Meanwhile, legal formation instruments include the Covid-19 PERPPU, PSBB, PPKM, Micro PPKM, National Vaccination, Booster Vaccine, and others.

Since the beginning of 2021, the government has been aggressively taking limited but effective measures. For example, two policies that are considered quite populist, namely free vaccines and Micro PPKM until today have been extended up to four times and implemented in certain areas, especially on the island of Java, which is still considered to have a high level of transmission.

If you look closely, the aforementioned policies are in line with the various values embraced by the concept of maqashid sharia. Because of this, it can be explained that the main discussion on maqashid al-shari'ah is wisdom and illat the establishment of a law. According to the understanding of ushul fiqh, that wisdom is not the same as illat. Illat is a certain trait that is clear and understandable zahir (objective), has a benchmark (mundhabit), and is based on a legal arrangement (munasib) whose existence is a determinant of the existence of a law. In contrast to wisdom, which is something that is a goal or an intention that is mandated by the law to realize the benefit of mankind.

As a result, the policies issued by the government so far, for example, PSBB, PPKM-PPKM Mikro, are not to restrict human freedom, but as an effort to ensure the sustainability of the existence of mankind itself. Because of these restrictions, it is considered that it can prevent the spread. So the next government is carrying out the second step, which is to mobilize the national vaccine. This means that these two steps are as interrelated, that is, they both save human souls as the concept of prophetic law, namely humanization, wants it.

More than two years have passed since the existence of the pandemic in the world and Indonesia, has shown signs of starting to improve. Data from the Covid-19 Handling Task Force as published on the www.covid19.go.id website shows that as of September 17, 2022, there were 6,221,389 people declared recovered from Covid-19. Although this figure globally is quite high, in the past year or so the death rate due to being infected with the coronavirus has continued to decline. The government has made maximum efforts in controlling this situation so that people's

lives can return to normal as usual. One of the ways that are being done now is to maximize the equitable use of booster vaccines / 3rd vaccines.

E. CLOSING

The concept of a legal state (*rechstaat*), basically requires that every government action must be following the law which is the implementation of the principle of legality or *wetmatigheid van bestuur*. Indonesia, which adheres to the state of the law as stated in Article 1 (3) of the 1945 Constitution, is a legal state that adopts the values of Pancasila and the 1945 Constitution. The formulation of the Indonesian government's policy in overcoming Covid-19 was presumably carried out in the context of the formal legal state (*rechstaat*) which is worth Pancasila and the 1945 Constitution. This is in line with the principle of *maqashid sharia*, that a policy issued by the government must be oriented towards humanizing human beings worth *mashlahah*, namely achieving benefit or rejecting *mudharatan*, maintaining religion, soul, reason, ancestry, and property, which is in line to punish in Islam, one of which is *hifdzun nafs* (protecting the soul). Thus, the policies made by the government to deal with the pandemic must pay attention to the principles regulated in *maqashid sharia*. The preparation of the Covid-19 pandemic regulation must still refer to the concept of a legal state (*rechstaat*) because it is a guide in the preparation of the legality of acting. The government currently has regulations that are used as legality to act, including the Health Quarantine Law Number 6 of 2018, PP No. 21 of 2020 related to PSBB in the Context of Accelerating the Handling of Corona Virus Disease 2019 (Covid-19), and PERPPU No. 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the Corona Virus Disease 2019 (Covid-19) Pandemic and/ or to Face Threats that Endanger the National Economy and/or Financial System Stability and has been ratified as Law No. 2 of 2020 as well as several other technical provisions related to handling the pandemic situation. Hopefully, the government must be more effective and strategic but still accommodating to input from other parties to ensure the implementation of every policy to handle the spread of Covid-19.

REFERENCES

- Adhi, Irawan Sapto. "4 Manfaat Vaksin Covid-19 Yang Harus Dipahami." *Kompas.Com*, 2021.
- Asafri Jaya Bakri. *Konsep Maqashid Syari'ah Menurut Al-Syatibi*. Jakarta: RajaGrafindo Persada, 1996.
- Asshiddiqie, Jimly. "Ideologi, Pancasila, Dan Konstitusi." *Jaringan Informasi Hukum*, no. 1 (2006).
- Assifa, Farid. "4 Varian Baru Virus Covid-19, Gejala Dan Cara Mencegahnya." *Kompas.Com*, 2021.
- BNBP. "Presiden Tetapkan COVID-19 Sebagai Bencana Nasional." *Jurnal Berkala Kesehatan*, 2020.
- Darwin Botutihe. "Pembangunan Hukum Dengan Pendekatan Teori Hukum Inklusif Pada Negara Hukum Pancasila." *Jurnal Al-Himayah* 3, no. 1 (2019): 102–26.
- Ghofar Shidiq. "TEORI MAQOSHID AL-SYARI'AH DALAM HUKUM ISLAM." *Sultan Agung VOL.XLIV N* (2009).
- Hastuti, Nuri, and Sitti Nur Djanah. "STUDI TINJAUAN PUSTAKA: PENULARAN DAN PENCEGAHAN PENYEBARAN COVID-19." *An-Nadaa: Jurnal Kesehatan Masyarakat* 7, no. 2 (2020). <https://doi.org/10.31602/ann.v7i2.2984>.
- Ihsan, Ahmad Ghozali. "Pengembangan Ilmu Ushul Al Fiqh." *Al-Ahkam Jurnal Ilmu Syari'ah Dan Hukum* 2, no. 2 (2018). <https://doi.org/10.22515/alakhkam.v2i2.1069>.
- Joyosemito, Ibnu Susanto, and Narila Mutia Nasir. "GELOMBANG KEDUA PANDEMI MENUJU ENDEMI COVID-19: ANALISIS KEBIJAKAN VAKSINASI DAN PEMBATAAN KEGIATAN MASYARAKAT DI INDONESIA." *Jurnal Sains Teknologi Dalam Pemberdayaan Masyarakat* 2, no. 1 (2021). <https://doi.org/10.31599/jstpm.v2i1.718>.
- Khairul Umam. *Ushul Fiqih-II*. Bandung: Pustaka Setia, 2001.
- Khumaidi, M W, and M Singgih. "FIQH MASHALIHUL MURSALAH DALAM PERSPEKTIF MAQÂSHID SYARÎ'AH." *An Naba*, 2018.
- Maria, Farida. "Ilmu Perundangan-Undangan 1 (Jenis, Fungsi Dan Materi Muatan)." *Yogyakarta: Kanisius*, 2016.
- Merry Dame Cristy Pane. "Virus Corona." <https://www.alodokter.com/>, 2020.
- Munawar, Fuad; Aida Dewi; Said. "The Application of Social Philosophy in The Era of Revolution Industry 4.0 in Indonesia." *Borobudur Law Review* 4, no. 1 (2022): 45–53. <https://doi.org/https://doi.org/%2010.31603/burrev.7137>.
- Namang, Raimundus Bulet. "NEGARA DAN WARGA NEGARA PERSPEKTIF ARISTOTELES." *Jurnal Ilmiah Dinamika Sosial* 4, no. 2 (2020). <https://doi.org/10.38043/jids.v4i2.2449>.
- Putri, Ririn Noviyanti, and Fakhrul Rozi Yamali. "Ini Sektor Industri Yang Paling Terdampak Virus Corona Versi Moody's." *Ekonomis: Journal of Economics*

- and Business, 2020.
- Ramidah. "New Normal Di Tengah Pandemi Covid-19." *Djkn.Kemenkeu.Go.Id*, no. 2 (2020).
- Setiawan. "COVID-19:Efektivitas Dan Keamanan Vaksin." *Jurnal Medika Utama* 02, no. 01 (2022).
- Supriyadi Supriyadi. "Kebijakan Penanganan Covid-19 Dari Perspektif Hukum Profetik." *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh* 8, no. 2 (2020): 91–109.
- . "Menakar Nilai Keadilan Penyelenggaraan Pilkada 2020 Di Tengah Pandemi Covid-19." *Kanun Jurnal Ilmu Hukum* 22, no. 3 (2020): 493–514. <https://doi.org/https://doi.org/10.24815/kanun.v22i3.17466>.
- Susilo, Agus Budi. "MAKNA PERBUATAN HUKUM PUBLIK OLEH BADAN ATAU PEJABAT ADMINISTRASI NEGARA YANG MELANGGAR HUKUM (SUATU TINJAUAN YURIDIF MENURUT HUKUM ADMINISTRASI NEGARA)." *Perspektif* 15, no. 4 (2010). <https://doi.org/10.30742/perspektif.v15i4.63>.