

Conference Paper

Exploring the Flexibility of Islamic Law in Facing Global Humanitarian Issues: A Case Study of Lampung Province, Indonesia, in the Context of the COVID-19 Pandemic

Efa Rodiah Nur^{1*}, Fathul Mu'in²

¹Universitas Islam Negeri Raden Intan Lampung - Indonesia

²Universitas Islam Negeri Raden Intan Lampung - Indonesia

ORCID

Efa Rodiah Nur: <https://orcid.org/0009-0000-6316-5580>

Fathul Mu'in: <https://orcid.org/0000-0002-8736-5429>

Abstract.

This study explores Islamic law's flexibility in addressing global humanitarian issues, particularly the COVID-19 pandemic in Lampung Province, Indonesia. The research investigates how Islamic teachings can be applied flexibly to benefit humanity through a literature review and field study methods. The study found that the policies implemented by the local and central governments in Lampung Province align with the values of religious teachings, particularly in safeguarding the human soul (hifdz nafs), the highest value before property and religion. The policy limits people's worship and social and economic activities, but these restrictions are necessary to prevent and overcome the spread of the virus. This study concludes that religious teachings are flexible and can be applied creatively to address humanitarian crises, including the COVID-19 pandemic.

Keywords: Flexibility of Islamic law, Global humanitarian issues, COVID-19 pandemic.

1. INTRODUCTION

The COVID-19 pandemic has caused a severe global humanitarian crisis, leading to many fatalities and significant social, economic, and political impacts (Kousi et al., 2021; Shammi et al., 2021; van Barneveld et al., 2020). The virus has caused severe respiratory infections, resulting in death among older people and those with underlying medical conditions. (Diana Farida Chandrawati, 2022) noted that the pandemic attacks immunity and results in death, leading to the world referring to it as a non-natural disaster. The Indonesian government has implemented various measures to prevent the spread of the virus, including Large-Scale Social Restrictions (PSBB) and Community Activity Restriction Enforcement (PPKM) policies. (Muhyiddin, 2020) pointed out that the PSBB

Corresponding Author: Efa

Rodiah Nur; email:

efa@radenintan.ac.id

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policy was applied in each region based on the number of people exposed to COVID-19. However, the virus continues to spread despite the measures, resulting in many fatalities, particularly among vulnerable populations.

The COVID-19 pandemic has significantly impacted Indonesia's social, economic, and political landscape. The pandemic's spread has prompted the government to implement various measures to prevent further infections, including the PSBB and PPKM policies (Hidayat et al., 2021; Tuti et al., 2022). While these policies aimed to protect the public and prevent the virus's spread, they have significantly impacted the economy and society. (Wahyudi & Asy'ariati, 2022) noted that the poverty rate increased in Lampung Province due to the policies, resulting in significant social and economic impacts. The closure of schools and the shift to online learning has also adversely affected the quality of education. As such, there is a need to explore more flexible approaches to dealing with global humanitarian issues caused by the pandemic. This study aims to investigate the flexibility of Islamic law in handling the pandemic's humanitarian problems, focusing on Lampung Province, Indonesia. By examining how Islamic teachings can be applied to create benefits for humanity, this research seeks to provide comprehensive insights into addressing the humanitarian crisis caused by the COVID-19 pandemic.

The policies implemented by the Indonesian government, such as the Large-Scale Social Restrictions (PSBB) and Community Activity Restriction Enforcement (PPKM), have had significant impacts on society (Muhyiddin & Nugroho, 2021). These measures aimed to prevent the spread of COVID-19, but they have also led to an increase in poverty rates and a decline in the quality of education (Wahyudi & Asy'ariati, 2022). As a religion that encompasses all aspects of life, Islam must be capable of addressing global humanitarian problems, including the COVID-19 pandemic. This study aims to investigate the flexibility of Islamic law in handling the pandemic's humanitarian issues, focusing on Lampung Province, Indonesia, to provide insights into how Islamic teachings can be applied flexibly to create benefits for humanity.

This research aims to find the flexibility of Islamic law in dealing with global humanitarian issues, especially during the COVID-19 pandemic. The study will focus on Lampung Province, Indonesia, to provide insight into how Islamic teachings can be applied flexibly to create benefits for humanity. The literature review conducted in this study found that maqashid sharia, which aims to protect religion, soul, offspring, property, and intellect, is an essential aspect of Islamic law. However, no study explicitly discusses the flexibility of religious teachings and rules in handling global humanity, namely COVID-19. This research will use a literature review and field study methods. The literature review will

examine relevant laws, books, journals, and news in the mass media, while the field study will be conducted in Lampung Province and Indonesia in general.

The COVID-19 pandemic has challenged various aspects of human life, including social, economic, and religious practices. The pandemic has forced the government to take drastic measures, including lockdowns and social restrictions, to slow the spread of the virus. However, these measures have also significantly impacted society, including an increase in poverty and a decline in the quality of education due to school closures. This study aims to determine the flexibility of Islamic law in dealing with global humanitarian issues, especially in the COVID-19 pandemic in Lampung Province, Indonesia, so that it can be applied flexibly to create benefits for humanity.

2. LITERATURE REVIEW

The COVID-19 pandemic has presented a global humanitarian crisis that requires quick and flexible responses (Ahmed et al., 2020; Goniewicz et al., 2020). Islamic ethics has emerged as a potential framework for addressing the pandemic, and recent literature has explored its role in managing the crisis. (Kalam et al., 2021; Mahmud et al., 2021) investigated the role of Islamic ethics in managing the pandemic in Bangladesh, arguing that it can provide valuable guidance in promoting social responsibility, caring for the vulnerable, and avoiding harm to others.

(Nurhayati & Purnama, 2021) study explored the ethical implications of the COVID-19 pandemic from an Islamic perspective. The author highlighted the importance of Islamic ethics in guiding individuals and societies in responding to the pandemic, including the obligation to protect oneself and others, the value of solidarity, and the importance of seeking medical treatment.

(Rabbani et al., 2021) examined the role of Islamic ethics in managing the COVID-19 pandemic in Malaysia, arguing that it can provide a valuable framework for addressing the pandemic, including the importance of prevention, social responsibility, and caring for the vulnerable. In a review article, (ten Have, 2013) discussed various aspects of Islamic ethics that can be relevant in dealing with the pandemic, such as personal hygiene, social responsibility, and community support.

(Heikal Ismail et al., 2020) discussed the role of Islamic ethics in managing the pandemic, highlighting the importance of combining Islamic ethics with other approaches, such as science and technology, in addressing the crisis. (Tune et al., 2022) study explored Muslims' ethical and moral obligations in the era of COVID-19, including seeking knowledge, caring for the vulnerable, and avoiding harm to oneself and others.

(Hambali & Adhariani, 2023) study focused on the impact of the pandemic on Islamic finance and the role of Shariah compliance in addressing the crisis. The author argued that Shariah compliance could provide a valuable framework for addressing the economic and financial challenges posed by the pandemic. (Parvin et al., 2020) compared the role of Islamic ethics in managing the pandemic in Bangladesh and Malaysia, highlighting the influence of cultural and political factors on its implementation. Finally, (Mohd Riza et al., 2022) study explored the implications of the pandemic for the halal industry from an Islamic ethics perspective, emphasizing the importance of quality and safety standards and the need for social responsibility.

The literature review shows that the COVID-19 pandemic has created a global humanitarian crisis requiring a rapid and adaptable response. Recent literature has explored the potential role of Islamic ethics in managing the crisis. Research has highlighted the importance of Islamic ethics in guiding individuals and communities in responding to the pandemic, including protecting oneself and others, promoting social responsibility, caring for the vulnerable, and avoiding harm to others. Islamic ethics have been examined in dealing with the pandemic in Bangladesh, Malaysia, and other countries. These studies emphasize the importance of combining Islamic ethics with science and technology in addressing the crisis. The pandemic has also highlighted the role of Shariah compliance in addressing the economic and financial challenges posed by the pandemic. Cultural and political factors are essential in applying Islamic ethics in managing the pandemic. The halal industry has also been affected by the pandemic, and Islamic ethics can provide guidance on quality and safety standards and the need for social responsibility. However, more is needed to discuss the flexibility of Islamic law in addressing global humanitarian issues.

3. RESEARCH METHODS

To explore the flexibility of Islamic law in facing global humanitarian issues, especially in the context of the COVID-19 pandemic in Lampung Province, Indonesia, this study will employ a combination of literature review and field study methods. The literature review will involve an extensive search for relevant laws, books, journals, and news in the mass media to better understand how Islamic teachings can be applied to address humanitarian crises caused by the pandemic. The field study will be conducted in Lampung Province and Indonesia, in general, to gather firsthand information on the impact of the pandemic on society and how Islamic teachings have been applied to address the crisis. The research will focus on maqashid sharia, which aims to protect

religion, soul, offspring, property, and intellect, as an important aspect of Islamic law. This study aims to provide comprehensive insights into the flexibility of Islamic law in handling the COVID-19 pandemic's humanitarian issues and how it can be applied flexibly to create benefits for humanity.

4. RESEARCH QUESTION

1. How have the policies implemented by the Indonesian government to prevent the spread of COVID-19, such as PSBB and PPKM, affected society and the economy?
2. In what ways can Islamic teachings be applied flexibly to address the humanitarian crisis caused by the COVID-19 pandemic in Lampung Province, Indonesia?
3. What is the role of maqashid sharia, which aims to protect religion, soul, offspring, property, and intellect, in Islamic law's flexibility to handle global humanitarian issues, specifically the COVID-19 pandemic?

5. RESULTS AND DISCUSSION

5.1. The Flexibility of Religious Teachings

Flexibility is an adjustment to conditions. The flexibility of religious teachings or Islamic law then means an adjustment of Islamic law in dealing with problems or cases that arise in the society of a country or region, including the society in Indonesia and Lampung Province. It is because the conditions of society are growing, and there have been rapid changes that require Islamic law to solve problems or answer problems that arise. Not only that but the habits and customs of the community are also often different. Hence, it tests how the nature of Islamic law is flexible and able to adapt the law to the conditions of society.

The flexibility of Islamic law occurs with the formulation of several Islamic legal rules by jurists that the law revolves around or applies to depending on the presence or absence of *'illat*. Thus, if the *'illat* exists, then the law also exists. Nevertheless, on the contrary, if the *'illat* does not exist, then the law does not exist either. If the *'illah* is strong, the law is strong, but if the *'illah* is weak, the law is inadequate. The rules of fiqh also state that fatwas change due to changes in eras, circumstances, habits, and places. So, this rule implies that the factor that needs to be considered in the fatwa is the change in the law itself, which is in line with changes in places, times, circumstances, eras, intentions, and habits. Therefore, it illustrates that Islamic law is flexible in dealing with

various issues and societal problems. Based on positivism, a law is valid if the formation process is correct, namely, if it is made and issued by an institution with authority. Islam recognizes it with *Ijtihad*, in which a *mujtahid* exploring the law (*istinbath*) must fulfill specific requirements and procedures. In the *Ijtihad* process, one of the methods used is *maqashid sharia*.

Maqashid sharia consists of two words, namely *maqashid*, and *sharia*. *Maqashid* is the plural of *maqasad*, which means purpose or intention (Wehr & Cowan, 2020). According to the dictionary, *maqashid* is related to *maslahah* and damage (Mardani, 2010a). Then, the word *sharia* is a path to the water source (Mardani, 2010b). Meanwhile, *sharia* in the Munawir dictionary means regulation, law, or legislation (Munawwir, 1997). According to the term, *maqashid* has several meanings. Ahmad Hasan explains that *sharia* is the holy text and includes *aqidah*, *amaliyah*, and *khulukiyah* (Aibak, 2008).

Imam As-Syatibi explained that *maqashid sharia* is a *sharia* that aims to realize benefits and good for humans. To actualize it, it is necessary to have clear evidence and arguments (As-Syatibi, n.d.). There is wisdom behind Allah's law in the sense of being a good goal desired by Islamic law and preventing harm in *maqashid sharia*.

To protect the mind and soul of every human being, *maqashid sharia*, for example, is an apparent and firm prohibition of intoxicating drinks and can eliminate their healthy mind. Not only that, the meaning of *maqashid sharia* is a collection of the intentions of Allah to send down Islamic law to the world. *Maqashid sharia* can also present the position and relationship between Islamic law and problems that occur today, for example, about human rights, technology, and overall development (Auda, 2015).

The commands and prohibitions of Allah in the Quran and the Prophet's hadith have noble goals. There is even a lesson behind the laws that were revealed. It is consistent with Surah Al-Anbiya: 107, which states that Allah did not send the Prophet only to be a blessing to the entire universe. This verse emphasizes that the Prophet is a mercy and a gift to the universe. Therefore, blessed is everyone who accepts and recognizes this grace. Conversely, those who reject and even deny it are among those who lose their lives, both in this world and in the hereafter (Katsir, 1990).

Grace for the universe has enormous benefits for humanity and all. Therefore, in simple terms, the benefit can be interpreted as any good that the mind can accept. It means that if the mind is optimized to think deeply, it can understand the motive and purpose behind the decree of the law, which contains advantages, goodness, and full benefits for humans. Allah not only explains it directly through revelation but is also very rational for every thinking human being.

The concept of benefit in Islam is found in QS. Al-Ankabut verse 45 means that prayer is a deterrent against evil and disobedience. This verse explains to Muslims that prayer has two purposes: a barrier to evil deeds and a shield. This worship, if practiced, can prevent the worshipper from doing evil deeds and bring benefits.

As-Syatibi divided *maqashid sharia* into three levels. The first level is *Daruriyyah* which becomes the primary goal. If these primary goals are not realized, human welfare will be threatened in this world and hereafter. This first level has at least five objectives: religion, soul, mind, descendants, and property.

The second level is *hajjiyah*, becoming the second need that humankind needs. If this is not realized, it will not threaten human safety worldwide, but humans will face difficulties. Islamic law means eliminating hardship by providing relief or *rukhsah* for humans. A simple example is that travelers may not fast with a note that they must change it on another day.

The third is *tahsiniyyah*. The purpose of Islamic law at the *tahsiniyyah* level is a human need that does not threaten the existence of one of the five principles and does not cause difficulties if the need is unmet. In simple terms, these needs are complementary. For example, according to custom, appropriateness means regarding beauty and adornment under only moral and ethical norms.

From the description above, the provisions made by the mujtahid in making regulations or laws must be within the five interests. There must be no behavior that threatens these five things. Because if one of the five things is violated or not fulfilled, then human life is not profitable and happy in this world and the hereafter. The consideration in realizing the benefit is that the *daruriyyat* must take precedence over the *hajjiyah*, and the *hajjiyah* must take precedence over the *tahsiniyyah*.

To maintain and protect the five things, what can maintain its position, is also be protected and maintained, and the things that can cause the five things to be disturbed must also be avoided, even eliminated, so as not to damage them. In modern times, like today, the maintenance of *ushul al-khams* is contained in human rights to maintain these five things. The explanation of these five things is as follows:

5.1.1. Maintaining the Religion

Maintaining the religion or *hifz al-din* is the main goal that must be held to achieve *maqashid sharia*. However, some Islamic scholars or jurists established the maintenance of the soul in the first place (Ash-Shiddieqy, 1993). Maintaining religious norms is

included in the *daruriyyat* or primary level, one of which is prayer. If prayer is not done, then the existence of religion will be threatened.

5.1.2. Maintaining the Soul

Maintaining the soul or *hifz al-nafs* is an effort to keep a respectable life to avoid actions that endanger the soul, such as persecution or murder (Muhammad, 2000). The maintenance of this soul is ranked second after maintaining religion. One of the *maqashid sharia* of God's decree is maintaining the soul, or life, and fulfilling basic needs such as eating and drinking. If these needs are ignored, human existence will be threatened.

5.1.3. Maintaining the Mind

Maintaining the mind or *hifz al-aql* is necessary for humans to use and optimize the human mind to think positively, away from animal nature. Maintaining the mind is one of the purposes for which Allah sent down the law to earth. Maintaining the mind is included in *daruriyyat*, such as prohibiting alcohol, drugs, and other intoxicating substances. If this is ignored, the existence of the mind will be threatened.

5.1.4. Maintaining the Descendants

Maintaining the descendants or *hifz al-nasl* is the fourth main thing. Descent and honour must be maintained to realize the benefit of humanity, namely the preservation of the creature named human and a good mentality for generations to avoid wrong generations and wars between humans.⁵⁶ Maintaining the descendants is also included in the rank of *daruriyyat*. For example, there is mandatory marriage for men and women (not LGBT) and the prohibition of adultery. If humans do not marry, the existence of descendants will be threatened.

5.1.5. Maintaining the Property

Maintaining a property or *hifz al-mall* is the goal that Islamic law wants to achieve. Maintaining the property here means avoiding actions that can eliminate or damage the halalness of the property and its safety. Therefore, in terms of its importance, the maintenance of the property is also included in the *daruriyyat* rank. The methods

and ways of property ownership are applied, such as the prohibitions against stealing, corruption, and other unauthorized property-taking. If these provisions are violated, the existence of property will be threatened.⁵⁷

To realize the benefit, the implementation of the five aspects (*kulliyat al-khamsah*) can be reached by two methods: the first is the constructive method, and the second is the preventive approach. In the constructive method, the religious obligations in the Qur'an and Hadith can be examples. The laws revealed by Allah are to maintain and strengthen the elements of *maqashid sharia*.

5.2. Central and Local Government Policies in Humanitarian Response

At all levels, the central and local governments carry out policies to deal with humanitarian issues, namely COVID-19 in Indonesia. In the legal aspect, the government issued regulations governing provisions and punishments. The purpose of issuing these regulations is to prevent, reduce, and overcome the negative impact of the COVID-19 virus in the religious, social, economic, and other sectors. It is because the pandemic has a broad effect on people's lives. The regulation issued by the Lampung Provincial Government is Regional Regulation No. 3 of 2020 concerning the Adaptation of New Habits. The policy outlined includes three things:

The first is physical distancing, which means the restriction of physical contact. This policy aims to prevent and slow down the spread of COVID-19. This regional regulation can reduce direct physical contact between people affected by the virus and other healthy people. It can minimize the transmission of the COVID-19 virus, which can reduce immunity and cause the death of infected people. However, this physical distancing policy is also risky. It is because this policy causes reduced community productivity. Some people also have reduced income because they cannot work in public spaces. In addition, the community also found it challenging to get masks and hand sanitizers when the virus first came to Indonesia, making it difficult for the people to maintain their health (Kresna & Ahyar, 2020).

The second is social distancing, which creates distance between oneself and others to prevent disease transmission, such as COVID-19. This restriction aims to suppress the disease's potential spread by limiting social activities or staying away from crowds. The third is PSBB and PPKM, which regulated the restriction on community activities in areas infected with COVID-19. This policy aims to prevent the virus' wider circulation.

The implementation of PSBB and PPKM caused activities in the community to be online, such as school and college activities, offices to be closed or work from home, worship activities at home, and reduced activities in other public places. The local government deliberately took these policies because the COVID-19 virus had plagued all regions, so the solution was also extraordinary and required the cooperation of all elements.

According to the author's analysis, the initial policies could have been more optimal because the government needed to be faster and stuttered in dealing with the pandemic. It is due to slow decision-making factors and less harmonious coordination among stakeholders. Another problem was the need for more understanding and awareness of the community towards the direction of the government. It could be seen from the number of people who still gathered and carried out business activities during the pandemic, even though the government had previously appealed to residents to apply physical distancing, then social distancing, and PSBB so as not to be infected with COVID-19.

Although the policy was not good initially, it slowly produced results with a decrease in the COVID-19 rate. However, the government must be even more assertive in implementing regulations. So that people who violate them become deterred and do not commit violations again, nevertheless, on condition that the government provides a guarantee that it can meet the community's needs, especially those affected by COVID-19.

The central and regional governments should be able to carry out good management of handling COVID-19. It could be started with good and neat planning, then being able to coordinate each SKPD (Local Government Working Unit) or stakeholder. Moreover, the central and regional governments could apply PSBB and PPKM according to procedures, such as taking action against offices requiring every worker to come to the office, conducting socialization and patrolling the community, limiting vehicle operations, etc.

The government needs to educate intensively by involving RT and RW. Assuredly, before strict law enforcement, it was necessary to warn the community first. However, if violations continue to be committed, the government should quickly impose severe punishment on violators of regulations. The role of the Civil Service Police Unit should also be increased by involving work units in each region, such as at the village level, sub-district level, district level, city level, and provincial level. PSBB was initially carried out with an advisory and education phase for the community. However, during PSBB and continued with PPKM in the next step, it was necessary to enforce law enforcement firmly and consistently.

These efforts need to be carried out in addition to further actions, namely ensuring the economic resilience of people whose economic activities have been hampered by the COVID-19 pandemic. They needed assistance or convenience from the government, especially in meeting the family's economic needs.

5.3. Humanitarian Handling from the Perspective of Maqashid Syariah

The policies carried out by the Lampung Provincial Government and the Central Government were chosen by choosing social distancing, physical distancing, and PSBB policies. The policy is intended for the good of the people in the two provinces. According to the author, this policy follows the concept of *mashlahat* in Islamic law, including the essence of *maqashid syariah*.

As guided by the division of *maslahah*, namely *maslahah* at the level of *hajiyah*, which is implemented with evidence of compliance by carrying out local government policies, this is both an effort and a step in preventing the transmission of the COVID-19 virus. It is because *maslahah hajiyat* is needed by the community, namely to enforce regulations as well as possible. However, if *maslahat* is lost, it means that people whose areas are infected with COVID-19 need to be more orderly in implementing policies from the local government, whether it is social distancing, physical distancing, or PSBB and PPKM policies. Thus, the transmission of this virus is broader and more uncontrollable. Then, it causes economic decline and social and political instability in the area.

Based on the regulations for handling COVID-19 issued by the Lampung Provincial Government and the Central Government, it can be seen that the main objective of the policy is to protect the lives and economy of the people in Lampung Province in particular and the Government of Indonesia in general. In order to achieve benefits for many people, it certainly requires good cooperation between government and private elements at the center and in the regions.

Implementing the points in the policies of the Lampung Provincial Government and the Central Government in the context of *maqashid sharia* studies can be called an effort to take advantage and reject destruction. This context has at least two interests, both equally strong at the level of *maqashid sharia*, namely protecting religion in the implementation of worship as part of maintaining the existence of Islam as a religion and religious propagation. Meanwhile, the guarding of souls or lives with the PSBB and PPKM policies is an effort to protect lives that are so valuable and is coupled with the protection of property because it is related to the livelihood of humans.

The author agrees more with using the guarding of life as a value higher than other values, namely the guarding of religion and the guarding of property or the economy. It aligns with Imam Ghazali's argument based on a priority scale or *tartib tanazul*. The author also assumes the precedence of guarding the soul (*hifdz nafs*) following the fact that humans are recognized as *mukallaf* when they have a soul.

Thus, if a human being is without a soul, he cannot live. For this reason, maintaining the life or existence of a Muslim's soul is essential to living in the world by practicing religion and fulfilling economic needs. According to this viewpoint, protecting a Muslim's soul takes precedence over all other considerations. Meanwhile, related to preserving the economy or property (*hifdz maal*), the Lampung Provincial Government and the Central Government also issued policies based on assistance in the form of the BLT (Unconditional Cash Transfer) program and in the form of ease of obtaining economic access. Thus, the government's steps in issuing this policy are by the priority scale of the need to protect souls or lives (*hifdz nafs*) and the property or the economy (*hifdz maal*).

The use of humanitarian principles in *maqashid sharia*, which includes the protection of life and property to prevent and overcome COVID-19, can also be seen in the context of *maqashid al-ammah* (public interest) and *maqashid alhurriyah* (element of freedom). Based on the context of *maqashid al-ammah*, applying contextuality to protect the region is an obligation of the local government, in this case, the policymakers, because all the needs and desires of human life, both private and public, can be carried out if *maqashid alammah* is successfully realized.

Meanwhile, *mashlahah alhurriyah* is realized to create social life without threatening disturbances, including health problems and the community's economic life. In the context of *maqashid sharia*, the element of freedom God has given the human mind and ability. Allah created humans to be perfect compared to other creatures. Therefore, as Islamic law desires, creating a community environment that supports freedom that does not cause harm is part of realizing *maqashid sharia*. This flexible and non-rigid religious tenet shows that Islam is a modern religion that is responsive to the eras and a solution to the humanitarian problems faced by the global community.

6. CONCLUSION

This research concludes that Islamic law is relatively flexible and relevant to positive law in Indonesia. Islam is often an inspiration in government policymaking at the central and regional levels. The policies carried out by the Lampung Provincial Government and

the Indonesian Government in dealing with humanitarian problems, namely COVID-19, are under Islamic law, namely *maqashid sharia*. Restriction on religious, social, and economic activities is part of the guardianship of the human soul (*hifdz nafs*), which is prioritized over the protection of property or the economy (*hifdz maal*) and the protection of religion (*hifdz din*). However, local governments should still provide convenience and assistance for people in the area whose economic activities are affected by the COVID-19 pandemic. Because if the action is not carried out, the local government and the central government do not have concern for their people, which is, in fact, contrary to the concept of *maqashid syariah*.

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