

Research Article

Tax Incentive Policy for Micro, Small and Medium Enterprises (UMKM) Affected by the Covid-19 Pandemic Related with Utility Principle

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Abstract.

Taxes serve both budgetary and non-budgetary functions. The non-budgetary function entails regulation and addressing financial challenges. With the global impact of the Covid-19 pandemic since late 2019, various sectors are required to contribute and play a role, including the taxation sector fulfilling its regulatory function. This research adopts a normative juridical approach, relying on secondary data with descriptive analytical specifications. The tax incentives implemented by the government aim to support the industrial sector and its related components during the pandemic. However, the long-term implications of tax incentive policies may prove unfavorable for the community. On one hand, tax cuts can stimulate an increase in household consumption expenditure. The findings of this study reveal that the Indonesian government has taken commendable measures to protect its citizens and the national economy amidst the Covid-19 outbreak. Alongside monetary policy, fiscal policy stands as one of the government's primary tools in addressing the economic downturn caused by the pandemic.

Keywords: intensive, tax, policy, Covid-19

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1. Introduction

Revenue from the tax sector is one of the pillars of national economic resilience . The role of a fast-growing and dynamic society must be utilized, namely in the context of improving legal development and national economic resilience. The dynamics of the role of society, including in this case as a taxpayer, has an important role as a form of participation in national development, . [1] Furthermore, to generate more revenue from the tax, a should be developed tax culture which a relationship between taxpayers and tax collectors in a tax system [2]

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The tax function for some people seems to only concern how the government can get as much income from the community as possible that will be used for the benefit of state operations. In fact, in addition to functions in the field of finance or budget, taxes also have other functions that are non-budgetary, namely the function of regulating or *regularen* which means how taxes can contribute to overcoming other problems in the financial table.

When economic conditions deteriorate due to the Covid-19 pandemic that has hit the world since the end of 2019 until now, many require roles and contributions from various sectors, and this is the time for the paja sector to carry out its regulatory function. The government, under these conditions, seeks to reduce the economic impact on society by providing various taxation facilities. Not only the central government provides tax facilities, but local governments also implement tax relaxation policies to maintain economic and business stability in their regions.

It should be understood that the policy of granting local tax relaxation is the authority of each local government. Based on the records of DDTC Fiscal Research [2] . When the corona pandemic has not yet subsided, there are 31 regencies/cities that implement large-scale social restrictions (PSBB). The regions that implement the PSBB have issued several tax relaxation policies, including those in West Java Province, Bekasi Regency, Bekasi City, Bogor City, Bandung City, Bandung Regency, West Bandung Regency, Sumedang City, Banjar Regency, Tangerang City / South Tangerang City and Tangerang Regency.

The forms of tax facilities provided by local governments above are generally in the form of bleaching tax sanctions or fines, exemption or reduction of tax payments, to delays in tax payments. This form of incentive can differ from region to region, starting from the scheme to the period of application of the incentive.

The regional government decided to provide tax incentives, because this pandemic has a significant effect on several industrial sectors that are the source of local revenue (PAD) for districts/cities, such as the tourism industry, entertainment tax and hotel tax, other sectors that also get incentives are billboard tax, parking tax, and Land and Rural and Urban Building Tax (PBB-P2). [3]

Under normal conditions, these types of taxes usually provide a lot of income for local governments. There are also types of taxes that do not obtain tax facilities from local governments at all, including the swallow's nest tax and the tax on non-metallic minerals and rocks. If you look at the tax administration side, in order to avoid large-scale gatherings, some local governments have also begun to temporarily suspend face-to-face tax reporting and payment. Tax reporting and payment can be done online.

The attack of the Covid-19 pandemic that has occurred globally in almost all countries, including Indonesia, has had a bad impact on the economic sector, especially the MSME business. The negative impact of the Covid-19 outbreak has hampered the wheels of msME business movement throughout Indonesia. Many MSMEs are forced to go out of business because they have to follow government regulations to carry out PSBB (Large Scale Social Regulations), especially small businesses such as culinary home industries, handicrafts, boutiques, retail stalls and so on have to lose sales turnover. [4]

The micro, small and medium enterprises sector is certainly more vulnerable in dealing with Covid-19, because since the Covid-19 Pandemic occurred in Indonesia in March to September 2020, almost all MSMEs have experienced a decline in sales due to local government regulations to carry out social restrictions so that there are no crowds such as the closure of markets, both traditional and modern markets, the closure of malls and restaurants, which of course has a very serious impact on the ability of these small entrepreneurs to continue to try so that there is a negative impact directly on the ability and sustainability of the business, especially UMKM actors.

The existence of MSMEs also in the national economy reflects the important role of MSMEs in achieving the Sustainable Development Goals (SDGs) sustainable development goals in Indonesia, because MSMEs can be at the forefront of achieving the economic pillars of the SDGs by creating and providing job opportunities, creative power and business innovation for inclusive and sustainable national economic growth in the face of the globalization era. [4]

The provision of tax incentives carried out by the government (regions) is intended to help the industrial sector and the components involved in it during this pandemic.[5] But that doesn't mean there aren't other problems that arise. The long-term impact of such tax incentive policies can lead to less profitable rights. Tax cuts on the one hand have an effect that can encourage an increase in household consumption expenditures, people will increase their demand for goods and services, so that production from goods and services will also increase and make it possible to increase employment. But on the other hand, it also reduces national or regional savings. The fall in national savings triggered an increase in interest rates. When the interest rate increases, the investment rate will decrease. The low level of investment is a bad thing for Indonesia. Low investment will have an impact on low capital inventory and output inventory. If these conditions occur, then consumption will decrease and economic well-being will decrease. [6]

The tax incentives carried out by the government are intended to help the industrial sector and the components involved in it during this pandemic. However, the long-term

impact of the tax incentive policy can be said to be unfavorable to the community, tax cuts on the one hand have an effect that can encourage an increase in household consumption expenditure. [7]

Society will increase its demand for goods and services, so that the production of goods and services will also increase and make it possible to increase the absorption of labor. But on the other hand, it also reduces national or regional savings. The fall in national savings triggered an increase in interest rates. When the interest rate increases, the investment rate will decrease. The low level of investment is a nightmare for Indonesia. Low investment will have an impact on low capital inventory and output inventory. If these conditions occur, then consumption will decrease and economic well-being will decrease.

Fears of some of the adverse impacts above caused the implementation of the tax incentive policy by the government to respond pessimistically. Therefore, it is necessary to study more deeply how the benefits of these tax incentives are to overcome the impact of Covid-19 and for the benefit of public welfare in the future.

2. Methods

2.1. Approach Method

This research uses a qualitative method (qualitative approach) with a normative juridical approach, namely the study of documents derived from the concepts of taxation and the regulation of invitation laws that regulate authority in the field of taxation. To complete the data, researchers conduct in-depth observations and interviews through Focus Group Discussions.

The instrument used is a semi-structured interview, using open-ended questions. The benefits of this research are theoretically to produce new theories / concepts and policies related to the implementation of tax incentives for MSME business actors who are fair and beneficial, while practically expected to be able to find strategies to synergize and optimize regional revenues through MSME Tax, as well as provide recommendations to decision makers and stakeholders who intersect with Income tax.

Research was conducted on Micro, small and medium enterprises (MSMEs) in Bandung City and Cimahi City representing major cities in West Java. Data is collected from the results of the study and then the data will be processed and analyzed using qualitative processing techniques. The presentation is carried out by systematically

compiling so that descriptive analysis is carried out, which is a way of analyzing data obtained scientific conclusions that are the answer to the problems posed.

2.2. Types of Research

The legal research method known today is a creative of and continues to develop in legal studies, which is seen as "legal research", then developed into legal research. And what is meant by legal research in the library turns out to have several meanings, namely legal research that includes all the activities of law teachers, judges, prosecutors, lawyers, legal consultants in carrying out their duties in the field of law and also the activities of a law student. [8]. Legal research as research to find the law in practice which includes various activities to find out whether it is a law that is worthy of being applied in concreto to solve a certain case.

The type of legal research can be divided into 2 types of research, some of the definitions of legal research. there are four types of legal research, namely: Studies that seek to inventory positive laws. research in the form of efforts to find the law of the principles. Basics of the philosophy (dogma and doctrine) of positive lawc and Research in the form of legal discovery efforts in concreto that are feasible to be applied to resolve a certain legal case.

This type of research is included in research that seeks to inventory positive legal rization and also tries to make legal findings in concreto to solve cases that occur in the community, in this case the community of MSME actors affected by covid 19.

3. Result and Discussion

3.1. Tax Incentive Policy

UNCTAD (United Nations Conference on Trade and Development) defines tax incentives as any form of incentive that reduces the tax burden of companies with the aim of encouraging companies and reducing the tax burden for investment in certain projects or sectors. [9].

Fletcher [10] defines "a tax insentive as any tax provision granted to a qualified investment project that represents a favorable deviation from the provisions applicable to investment projects in general". Thus, the key feature of a tax incentive is that it applies only to certain projects.

Tax incentives from a legal point of view (statutory term) as : a special tax provision granted to qualified investment projects that represents a statutory favorable deviation from a corresponding provision applicable to investment projects in general.” Which means that tax incentives are special treatment given to certain investment projects only. Whereas from the point of view of effective term tax incentives are defined as “a special tax provision granted to qualified investment projects that has the effect of lowering the effective tax burden – measured in some way – on those projects, relative to the effective tax burden that would be born by the investors in the absence of the special tax provision. Under this definition, all tax incentives ar therefore, necessarily effectives.[11]

What can be interpreted briefly is that tax incentives are an effective impact on reducing the tax burden borne by taxpayers. Investment incentives in the form of taxes are subsidies provided to affect the location of investment. According to Thomas, , the purpose of such incentives may be as attracting new investments and maintaining existing investments. From this understanding, tax incentives can be defined as an effort to increase investment by providing measurable convenience by the government to the private sector in order to attract new investments and maintain existing investments.

Forms of Tax Incentives In general, investment incentives consist of two large groups, namely non-fiscal incentives and fiscal incentives. Non-fiscal incentives are conveniences provided by the government that are not directly related to the State Budget (APBN/stage budget), while fiscal incentives are conveniences provided by the government that are directly related to the state budget. Non-fiscal incentives that are usually promised by the government include simplification of the licensing process, infrastructure development and the eradication of illegal levies. Meanwhile, fiscal incentives can be given in the form of tax incentives and subsidies. There are several types of incentives to attract investment. These types and incentives can be divided into fiscal incentives (which are tax incentives that aim to reduce the tax burden of investors), financial incentives and other types of incentives. The category of tax incentives is divided into 6 types, namely lower tax rates (reduce corporate income tax rates), tax holidays, investment can be financed and the provision of tax credits (investment allowances and tax credits), accelerated depretiation, exemptions from indirect taxes and export processing zones . [12]

1. Purpose of Tax Incentives

Prasetyo[11] explained that UNCTAD reports on several objectives to be achieved in the provision of tax incentives by a country. Some of these goals, namely:

2. Regional Investment

Usually, it includes providing support for areas outside the city, the construction of industrial areas that are some distance from the city center and therefore environmental pollution, urbanization that is too low and dense population in the city can be reduced.

3. Sectoral Investment

Tax incentives can be given to business fields that are considered important for development. The provision of incentives is aimed at stimulating the development of industry, manufacturing, tourism or exploration of natural resources

4. Quality improvement

Quality improvement is usually sought by creating bonded areas for export-oriented industries

5. Technology transfer

Providing incentives for pioneering industries or by providing special incentives for research and development activities to stimulate technology transfer.

3.2. Tax Incentives for Micro Small Medium Enterprises (UMKM)

Indonesia, which is still at the level of developing countries, is actively building the economy through MSMEs. Various kinds of policies made by the government to continue to encourage the growth and development of UMKM.

In order to develop MSMEs as a strategic force to accelerate regional development, First, the potential for MSME development in the regions is very large. Second, the development of MSMEs must be carried out in accordance with the local culture and potential possessed by the region concerned. Third, the MSME sector plays a very important role in overcoming social problems in areas with very high employment. Fourth, the role of increasing human resources, utilizing technology, access to capital, access to marketing, access to information, and management is very important in developing micro-enterprises. Fifth, natural resources and human resources as well as the increasingly open world market in the global era is a great potential if managed effectively in the form of partnerships. [15]

The most difficult obstacles faced by small entrepreneurs are related to capital, company financial management, marketing access, and a multi-business business focus.

Business opportunities for MSMEs have recently become narrower, because the activities that MSMEs can carry out are taken over by large businesses. Large businesses with strong capital strength and business management have succeeded in expanding the business network from upstream to downstream, making it difficult for MSMEs to develop and often face obstacles. in carrying out its business.

Negative access from globalization and liberalization can be seen from cases of fraudulent competition and monopoly in the business world without caring about local and medium-sized small business people, both at the domestic level and at the level of international business transactions. In addition, MSMEs find it difficult to get the same opportunities, especially in market control and access to capital obtained in banking financial institutions. On the contrary large enterprises can freely control the sources of the public economy and consequently reduce the opportunities of small and medium-sized enterprises. Similarly, in the financial sector in the process of deregulation and various areas of investment, a very liberal pattern was imposed that closed the access of many people to participate in economic activities. [16]

The COVID-19 pandemic has had a major impact on the continuity of Micro, Small and Medium Enterprises (MSMEs) in Indonesia. The economic crisis experienced by MSMEs has also become a major threat to the national economy, considering that MSMEs are the drivers of the domestic economy and the largest absorber of labor in recent decades.

The LIPI Economic Research Center has conducted a Rapid Study Survey on the Impact of the COVID-19 Pandemic on the Performance of Indonesian MSMEs. This survey aims to diagnose the impact of the pandemic on the continuity of MSMEs and identify strategies for recovering MSME performance. "The challenge in dealing with this pandemic is the uncertainty and trade-off between health and economic issues.

Businesses such as home catering businesses, clothing sewing businesses, and various other micro, small and medium-scale enterprises (MSMEs) are very strategic in increasing economic growth and realizing Indonesia's economic stability The contribution of MSMEs to Indonesia's total gross domestic product (GDP) is 60.3%. In addition, MSMEs also absorb 97% of the total workforce and 99% of the total employment. Many Indonesian MSMEs have not been optimal in utilizing digital technology, which has become increasingly important in line with mobility.

The government has provided support incentives for MSMEs through the National Economic Recovery (PEN) program in 2020 and continued in 2021. The realization of PEN to support MSMEs amounting to IDR 112.84 trillion has been enjoyed by more than 30 million MSMEs in 2020. Meanwhile, for 2021, the Government has also budgeted

PEN to support MSMEs with funds of IDR 121.90 trillion to maintain the continuation of economic recovery momentum. It is hoped that this PEN Program can encourage MSMEs to recover during this pandemic.

The PEN program to support MSMEs in 2020 is recorded to have succeeded in becoming a cushion for support for the business world, especially for the informal sector and MSMEs to survive in the face of the impact of the pandemic. Moreover, it can also help in suppressing the decline in labor. Reporting from BPS data as of August 2020, there was a creation of new job opportunities with the addition of 0.76 million people who opened businesses and an increase of 4.55 million informal workers. The government also continues to encourage MSME players to be on board to digital platforms through the National Movement to Be Proud of Indonesian-Made (Gernas BBI) Program, where until the end of 2020 there have been 11.7 million MSMEs on boarding.

It is expected that by 2030, the number of MSMEs going digital will reach 30 million. In addition, the Government also encourages the expansion of exports of Indonesian products through the ASEAN Online Sale Day (AOSD) activities in 2020. Of the 64.19 million MSMEs in Indonesia, as many as 64.13 million are still MSEs that are still in the informal sector so they need to be encouraged to transform into the formal sector. Indonesia also still has complicated licensing problems with many central and regional regulations or hyper-regulations governing licensing in various sectors that cause disharmony, overlap, non-operational, and sectoral.

Therefore, the Government is trying to accommodate this through the preparation of the Job Creation Law which was passed in 2020. One of the substances regulated in the Job Creation Law is regarding the convenience, protection, and empowerment of UMKM.

The government hopes that through the Job Creation Law, MSMEs can continue to develop and be competitive. Unfortunately, the Job Creation Law has been decided by the Supreme Court as a law with a defective procedure, so its implementation must be delayed for two years until the procedure for drafting good legislation can be fulfilled first. In principle, the Government has prepared various programs and policies both in the context of National Economic Recovery and several programs that in the future we hope can really provide convenience, protection and empowerment for UMKM.

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In principle, the Government has prepared various programs and policies both in the context of National Economic Recovery and several programs that in the future we hope can really provide convenience, protection and empowerment for MSMEs. The government pays great attention to the MSME sector in order to survive during the pandemic in the context of National Economic Recovery (PEN). The existence of MSMEs is quite dominant in the Indonesian economy when compared to Large Enterprises. [17]

3.3. Tax Incentives In The Perspective Of Utility

3.3.1. Utility of the Islamic Perspective

In determining the law on a matter related to society such as taxes, in Islamic law, one of them is based on public benefit. One of the rules of ushul fiqhi states that general benefits are prioritized over special benefits. That basis can be used as a reference for tax collection as used by figures from Maliki's mahzab. [19]. Al-Maslahah Mursalah are special postulates in the form of nash-nash syara that do not indicate whether or not a validity is recognized, but rather general postulates that show that shari'a preserves the various benefits of beings and aims to realize benefit in every law as it aims to eliminate the impurity and expediency of both material and meaningful, present and future

Obedience to the government to comply with the regulations that have been set in this case the obligation to pay taxes is also the same as obedience to religion which requires to issue zakat, even though at the time of the Prophet and Khulafaurrosidin zakat was imposed on residents who are Muslims, while taxes (taxes) were imposed on non-Muslim residents No resident is affected by double duties in the form of zakat and taxes. Therefore, problems arise and obstacles regarding the perception of muslim obligations in terms of paying taxes and zakat,[20] namely.

One of the obstacles to collecting taxes among modern society is the view of the relationship between taxes and zakat. Zakat is different from taxes, because taxes are obligations to the state and do not contain the value of mahdhoh worship. A tax is a withdrawal by the state of a citizen but that tax revenue is used to meet the interests of the citizen as a whole. Meanwhile, zakat is the transfer of wealth income from people who are rich to the poor, who are in need and other benefits and religious developments.

2). Zakat payments do not receive counter-achievements as much as tax payments. The problem is that, in the days of Caliphs Abu Bakr Sidiq and Ummar Ibn Khattab, zakat was indeed the main acceptance of the state. Taxes (Kharaj) do exist that are only imposed on non-Muslims

3) Another problem that many Muslims object to is because they have to perform a double obligation, namely paying taxes and zakat, even though they realize that zakat is a religious obligation whose distribution must be in accordance with the provisions in the Quran Surat At-Taubah verse 60, namely:

“ Indeed, the zakat is only for the fakirs, the poor, the amil zakat, those who are softened in their hearts (converts), to (set free) the servants of the sahaya, to (liberate) those who are in debt, for the way of Allah and for those who are on the way (who need help), as an obligation from Allah. Allah is all-knowing and wisest.”

The expediency of the law is a principle that accompanies the principle of justice and legal certainty. In carrying out the two principles above, a law should be considered the principle of expediency, both for the person concerned himself and for the benefit of society. The Quran as the main source of Islamic law has established the principle of benefit as one of its legal principles, which means that since the seventh century AD Islamic law has adhered to the principle of benefit as one of its legal principles, so as quoted by Muhammad Alim - when Jeremy Bentham wrote his book entitled *Introduction to The Principles of Morals and Legislation* which posits that the purpose of the law is to guarantee the greatest happiness for the greatest number of human beings which in legal science is commonly called the school of expediency (*Utilitarianism*) means that it has fallen several centuries behind the teachings of Islam.

Maqashid al-shari'ah is an important aspect in the development of Islamic law. This is at once the answer that Islamic law it can and is even very likely to adapt to the social changes that occur in society [22]. The adaptations carried out remain based on strong and solid foundations and are still in the scope of universal shari'a. This is also one of the proofs that Islam is always appropriate for every age and in every place.

Maslahah Mursalah is something good according to reason with the consideration of being able to realize good or avoid bad for man, What is good according to reason, is also in harmony and in line with the purpose of syara' in establishing the law, What is good according to reason and in harmony also with the purpose of the syara' there is no specific syara' instruction that rejects it, nor is there any syara' clue that recognizes it. [23 Maslahah Mursalah is a part of sharia that should not be ruled out. Although it is not mentioned in nash textually, it is substantially needed by humans, more so that it is in direct contact with their basic needs

Therefore, maslāhah mursālah is one of the important foundations of tasyri' and makes it possible to give birth to good values if experts are able to look closely at them in relation to sharia science. In summary, it can be said that maslāhah mursālah is focused on a field of problems not found in nash, both in the Koran and the sunnah

which explains the laws that exist through an i'tibār. It is also focused on things that do not get the existence of ijma' or qiyas related to the incident.

3.3.2. Perspectives of Bentham's Utility Theory

Indonesian government is taking extraordinary steps to protect all its people and the Indonesian economy amid the covid-19 outbreak. In addition to monetary policy, fiscal policy is one of the main policy tools of the government in dealing with the impact of the Covid-19 outbreak. The policy is in the form of a policy of providing tax incentives and relaxation in the form of delays in repaying the principal of MSME loans to the provision of interest subsidies.

Regarding the tax incentive policy for MSME actors, the Minister of Finance has issued a Regulation of the Minister of Finance (PMK) PMK-44 / PMK.03 / 2020 concerning Tax Incentives for Taxpayers Affected by the Corona Virus Disease Pandemic 2019. Things that must be ensured in advance by taxpayers (WP) who want to take advantage of this policy are those who have a certain gross circulation and are subject to final Income Tax (PPh) based on PP number 23 of 2018 concerning Income Tax on Income from Businesses Received or Obtained by Taxpayers Who Have a Certain Gross Circulation.

The linkage of tax incentives with expediency lies in the belief that laws must be made utilitarianly. The purpose of the law is not only for legal certainty and justice, but also aimed at providing benefits to society. The purpose of the law can be seen how much impact it has on human welfare. Such a legal purpose provides an ethical foundation for the school of thought of Utilitarianism. Bentham, digs deeper into why pleasure and pain are used as touchstones for assessing specific actions/events/phenomena. According to him, humans are living beings who are always overshadowed by feelings of happiness and pain. These shadows will later determine their behaviour, for example by knowing that these two feelings overshadow humans, we will know what a person's motivation is for carrying out their actions, what underlies a person's hopes and aspirations, and we will also know what what he will do in the future.[13]

The law was aimed in principle at creating order in society, in addition to providing the greatest benefit to the largest number of people. In achieving the legal objectives that have been formulated, the role of tax incentives is expected to contribute to everyone to pursue their happiness as a taxpayer who is not free from the obligation to pay taxes when his economic condition declines due to the outbreak of disease. Tax laws or those produced by legislators or government policies are intended to provide and generate harmony between the public interest and the private interest. Thus, the formation of

regulations and policies is a key process for realizing laws that can bring benefits to individuals and society. When the benefits can be felt by the citizens of the community, the spontaneous society will obey the law.

Bentham's theory of Utilitarianism [24] seeks to provide an overview of laws that can benefit many societies. This theory seems to be the rationale for tax reform in Indonesia, that the purpose of the law is to provide benefits for many people, namely legal expediency that provides protection for every creative individual. Tax incentives are basically an effort to provide moral and economic protection for the creativity of their creation. The state participates in regulating the interests of citizens and maintaining stability and order of the law, which in turn is to create directionally the various conditions of social welfare that society desires.

4. Conclusion

1. The Indonesian government has taken good steps to protect all its people and the Indonesian economy in the midst of the Covid-19 outbreak. In addition to monetary policy, fiscal policy is one of the government's main policy tools in dealing with the decline in people's economic conditions as a result of the Covid-19 outbreak. The provision of tax incentives is strongly influenced by laws that defend and protect the interests of many people towards the welfare of society
2. Tax Incentives from the perspective of Utilitarianism are very important for the state to wisely establish tax regulations that ensure justice through legal certainty and expediency. To avoid further economic contraction, the government has launched a number of policies and stimulus packages, including through taxes. The policy in the tax sector is in the form of providing incentives for workers in sectors directly affected by the Covid-19 outbreak. With the policy in the field of taxation, it is hoped that the business world will recover soon, the investment environment can improve again, people's welfare will increase, and MSMEs can develop. In the Islamic perspective, the expediency of the law is a principle that accompanies the principle of justice and legal certainty. In carrying out the two principles above, a law should be considered the principle of expediency, both for the person concerned himself and for the benefit of society. Broadly speaking, the value of expediency to be achieved from the application of Islamic laws is none other than to lead a more prosperous life.

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