



 sciencedo

BALTIC JOURNAL OF LAW & POLITICS

A Journal of Vytautas Magnus University
VOLUME 15, NUMBER 3 (2022)
ISSN 2029-0454

Cite: *Baltic Journal of Law & Politics* 15:3 (2022): 353-371
DOI: 10.2478/bjlp-2022-002029

Regional Regulations with a Sense of Sharia: Contextualization of Al-Mashlahah Theory in the Era of the Covid-19 Pandemic in West Sumatera, Indonesia

Efrinaldi

Faculty of Sharia, State Islamic University (UIN) Imam Bonjol Padang,
Indonesia

E-mail: efrinaldi@uinib.ac.id

Received: August 14, 2022; reviews: 2; accepted: November 11, 2022.

Abstract

The Corona Virus Disease-2019 pandemic has spread in the world, as well as in Indonesia. To prevent and control this pandemic in Indonesia, with a research focus in West Sumatra Province, which was previously categorized as a red zone, a large-scale social demarcation (PSBB) policy was implemented. This is regulated in the Regional Regulation (Perda) of West Sumatra Province No. 6/2020, which regulates the community in adapting to the new normal, including in the religious aspect. The important question in this research is how is the contextualization of *al-mashlahah* theory in this Regional Regulation in the prevention and control of Covid-19 in the religious field? It is important to do this research with a normative legal research approach. This matter under normal circumstances is contrary to Islamic law. This aspect shows the flexibility of Islamic law in the dynamics of social change. The new normal adaptation in the regional regulations, especially in the implementation of worship and religious rituals in mosques by complying with health protocols, is based on the realization of benefits (*al-mashlahah li al-'ibad*) in the prevention and control of Covid-19.

Keywords

Al-Mashlahah, Regional Regulations, West Sumatra Province, Coronavirus Disease 2019, Islamic Law.

Introduction

In the conditions of the Corona Virus Disease 2019 (Covid-19) pandemic, the community has experienced various changes from normal life. People's

patterns and lifestyles change in anticipation of contracting Covid-19, by adapting to new normal patterns and lifestyles. The culture that has been applied has changed, namely always wear a mask, wash hands, and maintain distance is a necessity in preventing the Covid-19 pandemic outbreak, so it does not get infected.

The new normal adaptation is a daily activity, which includes social, cultural, and community economic activities that are safe and protected from Corona Virus Disease 2019. The current condition is that Indonesia is being hit by the national covid-19 disaster, which has troubled the people of Indonesia as well as communities around the world. With the tragedy that is currently happening in Indonesia, many are affected by the coronavirus, starting from the fields of education, socio-culture, religion, to the economic sector. Previously, the government had issued a policy on large-scale social restrictions in all regions in Indonesia. As quoted by Shofiatul Jannah:

The virus entered Indonesia in March 2020 and has reached its peak at the midst of 2021. Responding the situation, the government issued policies to prevent the spread of virus and protect the citizens from the contagion attack. These policies include large-scale social restrictions (PSBB; Pembatasan Sosial Berskala Besar) and implementation of micro community activities (PPKM; Pemberlakuan Pembatasan—Kegiatan Masyarakat). The policies prohibiting community activities indeed aims to suppress the high number of Covid-19 spread in Indonesia. (Shofiatul Jannah 2021: 451).

M. Sofwan Jauhari maintains that:

At the 14th of March, 2020, there were 144.833 COVID-19 cases worldwide. According to Worldmeter 2020, this number went up to 5.974.938 cases at the 30 th of May 2020, precisely at 23.00 WIB (Western Indonesian Time). The Coronavirus can spread among humans. (M. Sofwan Jauhari, 2020: 235)

Furthermore as quoted from M. Sofwan Jauhari:

This is the basis on which the policy of social distancing, which in turn was renamed physical distancing, was introduced. The policy prompts an individual to keep at a safe distance from others in an effort to halt the spread of the virus. The term "social distancing" was replaced by the term physical distancing because the former was considered to lead to a culture clash over Indonesian cultures, of which social harmony its characteristic. (M. Sofwan Jauhari, 2020: 235)

To prevent and control the rate of spread of Covid-19 in West Sumatra Province it is regulated in the Regional Regulation (Perda) of West Sumatra Province No. 6 of 2020. In this regional regulation, some regulations regulate society in adapting to new normals, including in the religious aspect.

This regional regulation regulates the field of religion, which can be seen in the adaptation of this new normal. When viewed in Islamic law with a normative approach, this problem will certainly reap polemics under normal conditions. In

this aspect, the flexibility of Islamic law appears in the dynamics of social change, changing times, and real challenges. In this context, the manifestation of benefits (*al-mashlahah li al-'ibad*) is increasingly visible in the adaptation of new normals in preventing and controlling the rate of spread of Covid-19, especially in the religious aspect. As quoted by Salman Abdul Muthalib:

In religion, various legal issues have arisen related to Covid-19, such as the legal status of vaccines. Additionally, due to the Pandemic, some worships have different procedures from the normal rules that make some Muslims doubt the validity of the new worship practices. This phenomenon has invited the pros and cons among the public and ulemas (Islamic scholars). (Salman Abdul Muthalib, 2021; Shala & Badivuku-Pantina, 2022)

Masdar Hilmy maintains that:

The question is, what the future of religious authority in responding to a large-scale pandemic such as Covid-19 is? Is it possible that the Muslim community continues to trust religionists in understanding the pandemic? Or, on the contrary, will religionists lose their religious authority in response to the pandemic and will it be replaced by that of scientists? These questions will continue to arise as a corollary to the pandemic. (Masdar Hilmy, 2020: 316)

The adaptation of new normals to the religious aspect in the atmosphere of the Covid-19 pandemic appears to be substantially realizing the goals of *syara'*, namely the realization of the benefit of humans in general. *Al-mashlahah* in the perspective of Islamic law is dynamic and flexible in line with changing situations and conditions. *Shara'* substantial objective based on the benefit is a powerful solution, in dealing with various complex problems of human life, including the implementation of worship and religious rituals in the atmosphere of the Covid-19 pandemic (Senam, Joshua, & Christopher, 2022).

The study of the adaptation of new normals in the religious field, especially aspects of worship and religious rituals in preventing and controlling from being infected and contracting Covid-19, is regulated in the Regional Regulation of West Sumatra Province No. 6/2020, becomes interesting and important to research. In this context, this paper is very significant in elaborating on changes in the diversity of society in the adaptation of new normals in the religious aspect, which are outlined in this regional government regulation.

Methodology

This research is related to the contextualization of the benefit theory in West Sumatra Province Regulation No. 6/ 2020 to prevent and control the spread of Covid-19. This regional regulation contains regulations that regulate society relating to the adaptation of new normals, include in the religious field.

In connection with this study, the author uses a normative law research model. In this research, the normative legal research method is used, which is also called theoretical legal research or dogmatic legal research, because it is related to the study of regional regulations, namely West Sumatra Provincial

Regulation No. 6/2020 (Abdulkadir, 2004). Meanwhile, this study using a qualitative approach, because research on the law does not use numbers or something that can be calculated but in the form of an explanation.

To collect research data, a literature study was carried out, by digging and tracing the materials in the library collection and study of library documents (Sugiyono, 2010, p. 19). The study was intended to find out a review of Islamic law related to the benefit theory in the West Sumatra Provincial Regulation No. 6/2020 in the religious field.

In this study, the data sources used consisted of three categories, namely primary data sources, secondary data sources, and tertiary data sources. The primary data source is in the form of legal material which is authoritative, meaning that it has authority. Primary legal materials consist of legislation, jurisprudence, or official records. Primary data in this study focus on West Sumatra Provincial Regulation No. 6/2020 concerns the adaptation of new normals in the prevention and control of Covid-19.

Secondary data sources, namely in the form of all publications on the law that are not official documents, can be literature consisting of books in both print and internet editions. The tertiary data sources are in the form of all documents containing concepts and information that support primary legal materials and secondary legal materials such as websites, dictionaries, encyclopedias, and so on.

Data collection techniques are used by collecting data needed for research purposes, to strengthen research. For this research, data collection techniques are needed by collecting several written texts in the form of books, documents, and related laws and regulations. After the data is collected, the next stage, the data analysis stage is carried out. This serves to convey the truths that can be used to answer the problems contained in the problem boundaries. (Sugiyono, 2010, p. 243) The results of the data were reviewed and analyzed using the content analysis method, which is a method that includes all text analysis, concerning the contextualization of the benefit theory in the construction of Islamic law in West Sumatra Province Regulation No. 6/2020 concerning the adaptation of new normals in preventing and controlling the rate of spread of Covid-19 in the religious field.

Results and Discussion

Theory of al-Mashlahah in the Discourse of Islamic Law

Islamic law is flexible and conforms to various situations and conditions. Even in the atmosphere of the Covid-19 pandemic, Islamic law is dynamic and adaptative to existing conditions. It is increasingly apparent that the purpose of establishing Islamic law is in the context of realizing benefits in human life in general.

Al-mashlahah lexically means something that contains benefits, something that contains goodness. For example, deepening knowledge brings benefits. In

this context, it is intended that deepening knowledge is the cause for obtaining goodness and benefits in life.

In terminology, *al-mashlahah* is "taking advantage and rejecting *al-mudharrah* to maintain the goals of *syara*." (Al-Ghazali, *Al-Mustashfa fi 'Ilm al-Ushul*, 1983: 286) In its application, *al-mashlahah* is in line with the goals of *syara*', even though it is not following human goals. Thus, the measure of *al-mashlahah* is the aim and purpose of *Shari* ', not based on lust.

The implementation of *al-mashlahah* in human life is the goal of *syara* '. The content of *al-mashlahah* includes the benefits of living in this world and the hereafter. *Al-mashlahah* is not only based on reasoning considerations in assessing something good or bad, but something good rationally must also be under *syara* 'goals.

In terms of the importance and quality of *al-mashlahah*, the theory of *al-mashlahah* is classified into three types. **First**, *mashlahah dharuriyah*, which is the benefit needed in human life in this world and the hereafter. This benefit is related to five basic needs, which are called *al-mashalih al-khamsah*, namely (1) maintain religion (*hifzh al-din*), (2) maintain the soul (*hifzh al-nafs*), (3) maintain reason (*hifzh al-'aql*), (4) maintain offspring (*hifzh al-nasl*), and (5) maintain the property (*hifzh al-mal*), (Abu Ishaq al-Syathibi, 1973: p. 8-12).

The five main elements above become the benchmark in the application of the law. In this case, apostasy is prohibited to preserve religion; it is forbidden to kill to preserve the soul, it is forbidden to drink alcohol to maintain common sense, it is forbidden to commit adultery to maintain the offspring, and it is prohibited to steal or rob to maintain ownership of property.

Second, *mashlahah hajiyah*, is intended as a benefit whose existence is needed to perfect the five main benefits (*al-mashalih al-khamsah*), which is in the form of relief in maintaining the basic needs of humans. For example, the application of *rukhsah* in the form of the ability to break the fast for the traveler, the need for survival food, deepening knowledge to sharpen the brain and mind, trading to obtain property profits. This statement is to support the implementation of these five basic needs.

Third, *mashlahah tahsiniyyah*, is intended as a complementary benefit in the form of flexibility that provides a plus for the previous benefit. This need needs to be fulfilled to give perfection and beauty to human life. For example, it is advisable to eat nutritious things to increase body immunity, dress neatly, carry out circumcision services, and others.

In terms of the existence of *al-mashlahah* according to *syara* 'and the harmony between rational assumptions with *syara* ' goals, this theory is divided into three. **First**, *mashlahah mu'tabarah*, is meant as a benefit which is in the perspective of *syara* '. There is a proposition that specifically becomes the basis for this form of benefit, either directly there is an indicator in *syara* '(*munasib mu'atstsir*) or indirectly there is an indicator (*munasib mulaim*).

For example, one form of punishment for thieves is to return stolen goods

to their owners, if the goods are still intact or replace them with something of the same value. This punishment is analogous to the provisions of the *ghashab* penalty (people who take someone else's property without permission).

Second, *mashlahah mulghah*, is intended as a benefit which is rejected, because it is against the goals of *syara* '. Although something is considered to be rationally good, *syara* 'establishes different laws because of the *al-mashlahah* content. For example, on the grounds of gender and women's emancipation, it is rational to accept an equal position between women's and men's rights in obtaining inheritance. However, based on the provisions of *syara* ', the inheritance rights of boys remain double the rights of girls (QS. Al-Nisa' (4): 11 and 176).

Third, *mashlahah mursalah*, in some literatures is also called *al-istishlah*, *mashlahah muthlaqah*, or *munasib mursal*. *Mashlahah mursalah* is intended as a benefit whose existence is not supported by *syara* 'and its essence is not rejected through detailed arguments, but the scope of the meaning of the text is contained in its substance. In this context, something is considered a good ratio with the consideration to realize the benefit for humans. Something good according to the ratio will be in line with the goals of *syara* 'in the stipulation of law, which in particular there is no indicator of *syara* 'to deny or acknowledge its existence, (Abu Ishaq al-Syathibi, 1973: p. 8-12).

In the position of being the *ijtihad* method, *mashlahah mursalah* was used by Imam Malik and the followers of the Maliki school of thought. Besides, *mashlahah mursalah* is also used by non-Maliki scholars as quoted by al-Syathibi. In contrast to the Jumhur ulama, Najm al-Din al-Thufi positions *al-mashlahah* as an independent and dominant argument in legal determination, whether substantially *al-mashlahah* is supported by *syara* 'or not. From a more progressive perspective of thought, Al-Thufi does look different. In the perception of Jumhur ulama that if there is a conflict between text and *mashlahah*, then the text must take precedence. Meanwhile, according to al-Thufi, even though the texts and *ijma* 'violate *al-mashlahah* considerations, what must be prioritized is the benefit consideration.

Monograph of West Sumatra Province

West Sumatra Province is located on the island of Sumatra, Republic of Indonesia, Southeast Asia. According to geographic position, it is located between 0 ° 54 'north latitude to 3 ° 30' south latitude and 98 ° 36 'to 101 ° 53' east longitude with a total area of about 42,297.30 km² (4,297,300 ha); including 375 large and small islands, (Bappeda-BPS West Sumatra Province, 2009: p. 3)

Meanwhile, West Sumatra Province has an estimated sea area of 186,500 km². The length of the coastline of West Sumatra Province is 2,420,357 Km, which includes 6 (six) Regencies / Cities with details of the length of the coast as follows:

- Padang = 99,632 Km
- Agam = 38,469 Km
- West Pasaman = 142,955 Km
- Padang Pariaman & Kota Pariaman = 62,332 Km
- Pesisir Selatan (South coast) = 278,200 Km
- Mentawai Islands = 1,798,800 km

Administratively, West Sumatra Province borders:

1. In the North with the Province of North Sumatra
2. In the South with Bengkulu Province
3. In the East with Riau & Jambi Provinces
4. On the West by the Indian Ocean.

The position of West Sumatra is in the central-western part of the island of Sumatra, has lowlands on the west coast, as well as volcanic highlands formed by the Bukit Barisan stretching from northwest to southeast. The coastline of this province is entirely in contact with the Indian Ocean along 375 km. The Mentawai Islands, which are located in the Indian Ocean and several tens of kilometers off the coast of West Sumatra, are included in this province.

In West Sumatra Province, several large rivers on the island of Sumatra have their headwaters in this province, including the Siak River, Rokan River, Inderagiri River (referred to as Batang Kuantan in the upper reaches), Kampar River, and Batang Hari. All of these rivers empty into the east coast of Sumatra, in the provinces of Riau and Jambi. Meanwhile, the rivers that flow into the west coast are a short distance. Some of them are Batang Anai, Batang Arau, and Batang Tarusan.

The mountains in West Sumatra are Merapi (2,891 m), Sago (2,271 m), Singgalang (2,877 m), Tandikat (2,438 m), Talamau (2,912 m), Talang (2,572 m), Pasaman (2,190 m), Kelabu (2,179 m), Rasan (2,039 m), Mande Rubiah (2,430 m), Tambin (2,271 m), Ambun (2,060 m).

West Sumatra also has four beautiful lakes, one in Agam Regency, Maninjau and three others in Solok Regency, namely Singkarak, *Danau di Atas* (the lake above) and *Danau di Bawah* (the lake below). Lake Singkarak is the largest lake in Solok Regency (around 13011 Ha). The West Sumatra region has several lakes including Maninjau (99.5 km²), Singkarak (130.1 km²), *Danau di Atas* (31.5 km²), *Danau di Bawah* (In baruh) (14.0 km²) and Talang (5, 0 km²).

Administratively, West Sumatra Province consists of 19 (nineteen) districts and cities consisting of 12 districts and 7 cities, namely:

1. Agam Regency
2. Padang Pariaman Regency
3. Pasaman Regency
4. West Pasaman Regency (Expansion from Pasaman Regency)
5. *Lima Puluh Kota* Regency
6. Sawahlunto Sijunjung Regency

7. Dharmasraya Regency (Expansion of Sawahlunto / Sijunjung Regency)
8. Solok Regency
9. South Solok Regency (Expansion of Solok Regency)
10. Tanah Datar Regency
11. Pesisir Selatan Regency
12. Mentawai Islands Regency
13. Padang City
14. Bukittinggi City
15. Payakumbuh City
16. Pariaman City
17. Solok City
18. Padang Panjang City
19. Sawahlunto City.

The population of West Sumatra Province based on the results of the 2019 population census conducted by the Central Statistics Agency, was recorded at 5,441,197 people. "The number consists of 2,711,772 men and 2,729,425 women, while the distribution of the population of West Sumatra is recorded that 73.10 percent are in the regency and 26.90 percent are in the city. Padang City, Agam Regency, and Pesisir Selatan Regency are the three regions with the largest population in West Sumatra. Meanwhile, the city of Padang Panjang is the area with the smallest population. "With an area of approximately 42,130.82 square kilometers of West Sumatra, it is inhabited by 5,441,197 people.

As in other regions in Indonesia, unemployment is also an unresolved problem in West Sumatra. As of 7 May 2018, the total workforce of West Sumatra has reached 2.74 million people. In August 2020 the workforce in West Sumatra amounted to 2.77 million people. While the number of unemployed, the open unemployment rate in West Sumatra on November 5, 2020, experienced a slight increase due to the Covid-19 pandemic compared to the situation on November 5, 2019, from 5.33 percent to 6.88 percent on November 5, 2020.

In West Sumatra, there are 531.56 thousand people affected by Covid-19 or 13.23 percent of the total working-age population. Unemployment due to the impact of Covid-19 amounted to 35.46 thousand people, who did not work because Covid-19 amounted to 27.76 thousand people (West Sumatra Province Communication and Informatics Office, 2020).

In the development of education, West Sumatra was once the center of education on the island of Sumatra, especially in Islamic education with the *surau* as the main base of education. During the Dutch colonial period, Islamic education was marginalized compared to the Dutch East Indies model which was considered more modern (Azyumardi Azra, 2003: p. 7-16).

After Indonesia's independence, many educational institutions began to emerge in West Sumatra, especially around the 1950s. Almost every district and city in this province have a university, and most of them are located in the city of Padang.

The position of West Sumatra which is in the Bukit Barisan range, about 30% of the 4.297 million hectares of its area is an area of slopes above 40% which is prone to landslides and unfit for habitation. Only 55% can be used for cultivation land. The cultivation area consists of settlements (villages/cities), agricultural land, and plantations. And, more than a third (36.4%) of the cultivated area in the forest with various conditions and functions.

Meanwhile, 44.8% of West Sumatra is a protected forest, which is practically a "bund" or dividing regencies and cities. From this protected forest, dozens of rivers flow which lead to the west coast and the east coast. In this watershed, cities, and villages, and agricultural land are scattered.

Urgency and Function of Regional Regulations

The existence of regional regulations as a form of granting the authority of the central government of the Republic of Indonesia to the regions in managing and regulating their households. In the implementation of Regional Government, it is necessary to have further regulations in the form of regional regulations. In the Law of the Republic of Indonesia No. 32/ 2004 related to Regional Government, it is stated that regional regulations are statutory regulations that are formed jointly between the Regional People's Representative Council (DPRD) and the Regional Heads of both Provinces and Districts or Cities (Law of the Republic of Indonesia No.32/2004). Thus, regional regulations are regulations stipulated by the regional head with the approval of the DPRD and must meet certain formal requirements, so that they have legal force and are binding.

Regional regulations appear as regulations made by the Governor / Mayor / Regent together with the Provincial and Regency/ City of Regional Representatives Council (DPRD). In the implementation of regional autonomy is the legality of the execution journey of the regional government. The function of regional regulations is to administer regulations in the context of implementing regional autonomy and co-administration, administering regulations as a further elaboration of higher-level statutory regulations by taking into account the distinctive characteristics of each region and administering regulations on matters that do not conflict with the public interest (Maria Farida Indrati, 2007: 232).

Referring to Article 1 point 7 of the Law of the Republic of Indonesia No. 12/2011 states that Provincial Regulations are statutory regulations established by the Provincial Regional People's Representative Council with the joint approval of the Governor. As for Article 1 Number 8 of Law of the Republic of Indonesia No. 12/2011, it is stated that a Regency or City Regulation is a statutory regulation established by the Regency or City Regional People's Representative Council with the joint approval of the Regent or Mayor. It seems clear that the Regional Government has the authority to make Provincial Regional Government Regulations and District City Regulations. (Muslimin, 2003: 42)

Thus, regional regulations are regulations stipulated by the regional head with the approval of DPRD and fulfill certain formal requirements, so that they

have legal force and are binding. In Bagir Manan's perception, there are 4 (four) foundations used in drafting legislation, to produce quality and tough legislation. The four foundations are as follows:

a. Juridical Basis

This foundation relates to the legal provisions which form the basis of the authority (*bevoegheid competent*) of the legislators. Concerning the authority of an official or agency, whether it has a legal basis determined in legislation or not. This is so important to mention in legislation because an official or an unauthorized body (*onbevoegheid*) issues regulations (Tjandra and Harsono, 2009: 25). The issuance of the West Sumatra Provincial Regulation No. 6/2020 related to Adaptation of New Normals in the Prevention and Control of Covid-19 refers to Law of the Republic of Indonesia Number 32/ 2004 related to Regional Government.

b. Sociological Basis

This foundation is related to a statutory regulation which is made that must be understood by the community under the realities of life. In this context, the law that is formed must be following the living law in society. On that basis, legislation cannot possibly be separated from the social symptoms that exist in society (Prakoso, 2007: 53). Acts of disorder, crime, and immorality can disturb and disturb the stability of people's lives so that they can destroy religious norms, customs, and laws, and regulations, and especially Islam as the way of life in institutionalized behavior in the community in West Sumatra. which is famous for the philosophy of "adat basandi syara ', syara' basandi Kitabullah."

c. Philosophical Basis

This philosophical foundation relates to the basic philosophy or views or ideas that are the basis when pouring (government) desires and policies into a plan or draft of state regulations. A statutory formula must be rectified (*recthvaardiging*) that can be accepted and studied philosophically (Budiman, 2005: 33). The philosophical foundation of the West Sumatra Provincial Regulation No. 6 of 2020 concerning Adaptation of New Habits in the Prevention and Control of Covid-19, namely West Sumatra Province upholds the philosophy of the *Adat Basandi Syarak, Syarak Basandi Kitabullah* (Customary traditions Based on Syarak, Syarak Based on the Holy Quran), which is the philosophical framework of the Minangkabau people in understanding and interpreting their existence as God's creatures.

d. Political Basis

This political foundation is related to the political policy line which is the basis for the policy and direction of the management of the state government. For example, on the political line, currently, it is contained in the National Legislation Program (Prolegnas) and the Regional Legislation Program (Prolegda), as well as the National Development Program (Propenas) policy as the direction of government policy that will be implemented during the future administration.

After the political reformation in Indonesia, the implementation of regional autonomy has become increasingly apparent. Regional autonomy is the right, authority, and obligation of the autonomous region to regulate and manage government affairs and the interests of the local community by statutory regulations. To protect the rights of the Indonesian people and to maintain and preserve indigenous peoples' units, it is necessary to establish regional regulations that prohibit and stipulate activities or actions that violate the rights of the Indonesian people and indigenous peoples and the norms that live in society. (Huda, 2011: 318).

The Content of West Sumatra Provincial Regulation Number 6/2020 Concerned Adaptation of New Normals in the Prevention and Control of Covid-19

Regional regulations as regulations stipulated by the regional head with the approval of the Regional People's Representative Council (DPRD) and equipped with certain conditions can have legal force and are binding. In addition to being known by the term regulation, it is also known as legislation. The legislation means the process of making state regulations, in other words, procedures ranging from planning, discussion, ratification, or enactment, finally to the enactment of the relevant regulations (Prakoso, 2007: 43)

The definition of new normal adaptation is in West Sumatra Provincial Regulation Number 6 of 2020, namely the implementation of daily activities including the social, cultural, and economic community in supporting a productive and safe society for Corona Virus Disease 2019. Meanwhile, what is meant by Covid-19 in regional regulations These are: respiratory infections due to the Severe Acute Respiratory Syndrome Virus Corona 2 which has become a global pandemic based on the determination of the World Health Organization and designated as a national non-natural disaster based on Presidential Decree No.12 / 2020 on the Determination of Non-Disaster Natural Spread of Corona Virus Disease 2019 (COVID-19) As a National Disaster.

A pandemic is an epidemic that affects many countries in the world. Meanwhile, an outbreak in this regional regulation is described as an outbreak of an infectious disease in a community where the number of sufferers has increased significantly, more than normal conditions at certain times and areas, and can cause disasters caused by viruses, bacteria, and animals.

The health protocol regulated in Regional Regulation No. 6/2020 means steps and procedures for handling health in preventing and controlling the 2019 Corona Virus Disease pandemic. Meanwhile, health behavior is a pattern of behavior, actions, and habits related to health maintenance, health recovery, improved health. Clean and healthy living behavior is all health behavior that is carried out because of personal awareness so that the family and all its members can help themselves in the health sector and have an active role in community activities.

Article 4 in the West Sumatra Provincial Regulation No. 6/2020 emphasized that this regional regulation aims to: protect the community from contracting Covid-19 and its impacts, including public health risk factors that have the potential and implications for causing public health emergencies due to Covid-19. Besides, this regional regulation is intended to create shared awareness and an active role for the community in preventing and controlling Covid-19 in the regions; provide legal certainty in the implementation of adaptation to new habits in preventing and controlling the transmission of Covid-19 for local government officials, district/city governments, people in charge of activities/businesses and the community.

Article 11 of this regional regulation also states that:

"Everyone in the implementation of the New Normal Adaptation in the Prevention and Control of Covid-19:

- a. maintain a clean and healthy lifestyle in their activities;
- b. maintain endurance;
- c. perform ablution for those who are Muslim;
- d. apply disciplinary behavior to outdoor activities with implement health protocols which

include

1. wash your hands using soap and water or other hand washes;
2. mandatory use of masks outside the home;
3. maintain physical distance (physical distancing); and/or
4. say hello by not shaking hands.
- e. carry out self-quarantine or self-isolation for 14 (fourteen) days or until the health examination results are released from health facilities for:
 1. a person who based on the results of the tracing has close contact with positive confirmed cases of Covid-19; and/or
 2. people who have been confirmed Covid-19, but have no symptoms. "

Analysis of the Theory of al-Mashlahah in Regional Regulation No. 6/2020 in the Prevention and Control of Covid-19 in Religious Aspects in West Sumatra

The implementation of *al-mashlahah* can be seen in the government's efforts to tackle Covid-19 which was carried out intensively from the beginning of March 2020. This government effort has been able to reduce the rate of spread of Covid-19 in West Sumatra Province, given the policy to carry out activities at home from work to study. to worship, thereby reducing the number of social interactions that occur in public spaces and automatically reducing the potential for the spread of Covid-19. Efforts to overcome Covid-19 have empirically not only had a positive

impact, but also a negative impact on both the government and society. One of the most visible negative impacts is on the community economy.

In the contextualization of the theory of benefit from the perspective of Islamic law, it appears that the government has systematically and thoroughly made efforts to restore the economic sector, one of the policies decided by the government, namely giving local governments the right to be able to cope with Covid-19 to implement normal order policies. otherwise known as "New Normal" (Dian Herdiana, 2020: 133).

In preventing and controlling the Covid-19 pandemic, the West Sumatra government made a regulation, namely West Sumatra Provincial Regulation Number 6/2020 concerning new normal adaptations in the prevention and control of coronavirus disease 2019. The purpose of making this regional regulation is to protect the public from Covid-19, to create shared awareness to prevent and control the transmission of Covid-19 in the regions by involving the active role of the community, and to provide legal certainty for the implementation of new normal adaptations in the prevention and control of Covid-19 for local government officials, district/city governments, the person in charge of activities/business and the community.

West Sumatra Provincial Regulation Number 6/2020 deals with the adaptation of new habits in controlling and preventing Covid-19 in the religious aspect, regulated in articles 14, 15, 16 of this regional regulation. In Article 14 it is emphasized that the Regional Government supports and facilitates the adaptation of new habits in the prevention and control of Covid-19 on the religious aspect so that people can worship safely and healthily during the Pandemic. In the context of implementing the adaptation of new habits in the prevention and control of Covid-19 in the religious aspect, it aims to ensure the fulfillment of people's rights to continue to carry out religious activities while still prioritizing health safety and security during the Pandemic. Besides, to maintain the solemnity and quality of worship and to prevent the spread and transmission of the pandemic in places of worship and religious activities.

During the Covid-19 pandemic, worship at the mosque was carried out by wearing a mask, carrying a prayer mat, and in principle complying with health protocols. A mosque is a place of worship in a broad sense. Thus, a mosque is a building that was deliberately erected by Muslims to carry out congregational prayers and various other purposes related to the benefit of Muslims (Quraish Shihab).

With the contextualization of the theory of al-mashlahah, it appears that al-mashlahah as a substantial meaning of the goals of syara 'appears in this Regional Regulation. Article 15 regulates the new normal adaptation in the Prevention and Control of Covid-19 in the religious field, including the implementation of religious activities in places of worship following health protocols; the implementation of social activities at places of worship is carried out following health protocols; socialization and dissemination of information on

the application of adaptation to new habits in preventing and controlling transmission of Covid-19 in places of worship; and the provision of facilities and infrastructure needed for places of worship in the context of implementing the adaptation of new habits in preventing and controlling the rate of transmission of Covid-19.

In West Sumatra Provincial Regulation No. 6/2020 is in the context of implementing new normal adaptations in the prevention and control of Covid-19 which regulates various aspects, namely religious aspects, socio-cultural aspects, economic aspects, and aspects of regional government administration. In the field of education, where the government ensures the fulfillment of the rights of students to get an education during the Covid-19 pandemic by prioritizing the safety and health security of students by the way the government regulates schools online so that no crowds occur and this goes along with the contents. Regional regulations related to the new normal adaptation in the prevention and control of Covid-19. Furthermore, in the social sector, the holding of semi-modern markets or modern markets is preferred by people because it offers safe and comfortable conditions when shopping. In contrast to the slum traditional markets with narrow and dirty areas, modern markets occupy a clean, cool area and neatly arranged seller outlets. The payment system in the modern market has started to implement a cashless or non-cash system so that it can reduce the risk of Covid-19 transmission.

In addition to this West Sumatra provincial regulation, the Fatwa of the Indonesian Ulema Council (MUI) also discusses this matter. Article 16 in this Regional Regulation emphasizes the adaptation of new habits in the prevention and control of Covid-19 in the religious aspect, which can refer to the MUI fatwa. Previously, the MUI had issued a fatwa in the form of prohibiting Muslims from holding Friday prayers in congregation in certain areas during the coronavirus pandemic. This prohibition is stated in the MUI fatwa Number 14/2020 related to holding worship in a situation where the Covid-19 outbreak occurs.

As quoted from M. Asrorun Ni'am Sholeh:

Fatwa No. 14/2020 on the Implementation of Religious Activities during the COVID-19 Pandemic presents a logical consideration, preventing the spread of COVID-19 that has hit all countries in the world, including Indonesia. The Fatwa refers to the decision made the World Health Organization (WHO) which declares the COVID-19 as a pandemic. These two considerations have, in turn, brought MUI to take religious steps as an effort to prevent and stop the COVID-19 from spreading. One of the religious steps taken is issuing the Fatwa on the implementation of religious activities with health protocols. (M. Asrorun Ni'am Sholeh, 2020: 288)

Furthermore, he explained that:

With these considerations, MUI has established several legal provisions. The first legal provision addresses the obligation to stay away from any activity that can lead to exposure to the virus. "Everyone is obliged to take all reasonable

measures and make efforts in maintaining their health and staying away from anything which can lead to exposure to the virus considering it is a part of realizing the five fundamental needs (al-ḍaruriyyat al-Khams)." (M. Asrorun Ni'am Sholeh, 2020: 288)

In the fatwa, it is stated that the implementation of Friday prayers can be replaced with Zuhur prayer in each house. The MUI also temporarily prohibits the implementation of worship that creates mass concentration, such as the five daily congregational prayers, tarawih prayers, Eid al-Fitr prayers, and Eid al-Adha prayers or religious recitation activities. However, in reality, some mosques still perform Friday prayers in the congregation at the mosque. However, after Covid-19 has begun to subside, as it has begun to enter into this new habitual adaptation period (new normal), in the MUI Fatwa part two (general provisions) number 3 letter b reads, "if it is in an area with potential for transmission. based on the decision of the competent authority, he is still obliged to carry out his obligations of worship as usual and must guard himself so as not to be exposed to COVID-19. In this case, a person may not have direct physical contact (not shake hands, hug, kiss hands), bring his prayer mat, and often wash his hands with soap "(MUI: 2020). As quoted from Salman Abdul Muthalib:

Furthermore, the MUI as an institution with authority to issue legal fatwas (No. 14 of 2020) has also promulgated a fatwa regarding the Implementation of Worship in the Situation of the Covid-19 Outbreak. The fatwa stipulates that in conditions of uncontrolled spread of the virus in any life-threatening area, Muslims are not allowed to hold Friday prayers until the situation returns to normal. (Salman Abdul Muthalib, 2021: 432-433).

Furthermore, he maintains that:

As an alternative, it is obligatory to replace it with the dhuhur (noon) prayer at their respective homes. Likewise, it is also not permissible to hold worship activities that involve large numbers of people and are deemed as a possible epicenter for the spread of Covid-19 virus. It includes congregational five daily prayers, rawatib prayers, taraweeh prayers, and Eid al-Fitr or Eid al-Adha prayers in mosques or other public places as well as gathering for the mass Qur'anic recitations and majelis taklim (learning gathering). (Salman Abdul Muthalib, 2021: 433)

It appears in the application of these regional regulations to realize the purpose of syara 'in establishing this law, in principle, it refers to the aspect of the embodiment of welfare in human life. In the view of Asy-Syatibi that the purpose of Islamic law is to achieve the welfare of the servant, both in this world and in the hereafter. Al-mashlalah is based on 5 basic things (*al-mashalih al-khamsah*), namely: 1) to maintain the religion (*hifzh ad-din*); 2) nurture the soul (*hifzh an-nafs*); 3) to preserve the intellect (*hifzh al-aql*); 4) to take care of the offspring (*hifzh an-nasl*), and 5) to safeguard wealth (*hifzh al-mal*). *Maqasid syari'ah* means the purpose of Allah and His Messenger in formulating the laws of Islam. That purpose can be traced in the verses of the Qur'an and Sunnah, as a

logical reason for the formulation of a law that is oriented to human welfare. On this basis, *al-mashlahah* is not only based on the judgment of reason in assessing something good or bad but further than that is something that is rationally good must also be following the purpose of *syara* ', especially in the implementation of worship in the mosque in an atmosphere This Covid-19 pandemic is very different from normal conditions.

Article 15 paragraph 1 of the Regional Regulation of the Province of West Sumatra Number 6/2020 reads, "the new normal adaptation in the prevention and control of Covid-19 in the field of religion as referred to in that article includes: a) the implementation of religious activities in houses of worship in accordance with health protocols; b) the implementation of social activities in houses of worship in accordance with health protocols; c) dissemination and dissemination of information on the application of new habitual adaptations in the prevention and control of Covid-19 in houses of worship; d) the provision of facilities and infrastructure required for houses of worship in order to implement the adaptation of new habits in the prevention and control of Covid-19 ". And paragraph 2 reads, "local government may facilitate the provision of facilities and infrastructure required for houses of worship as referred to in paragraph (1) letter d in accordance with local financial capabilities".

Conclusion

The implementation of *al-mashlahah* can be seen in the government's efforts to tackle Covid-19, which was carried out intensively from the beginning of March 2020. This government's efforts have been able to reduce the rate of spread of Covid-19 in West Sumatra Province, with a policy to move at home, to work. from home, to study at home, and to worship at home, to reduce the number of social interactions that occur in public spaces and automatically reduce the potential for the spread of Covid-19.

After the implementation of the large-scale social restriction (PSBB) policy, in preventing and controlling Covid-19, the West Sumatra government made a regional regulation, namely West Sumatra Provincial Regulation Number 6/2020 which contains new normal adaptations in the prevention and control of coronavirus disease 2019. The new normal adaptation in the religious sector is regulated in articles 14, 15, 16 of this regional regulation, especially to ensure the fulfillment of the community's right to carry out religious activities by prioritizing safety and health security during a pandemic. Besides, to maintain the solemnity and quality of worship, and to prevent the spread and transmission of the pandemic in places of worship and religious activities. The regulations contained in this regional regulation appear to manifest benefit (*al-mashlahah li al-'ibad*), as a substantial meaning of *syara* 'goals, seen in this regional regulation.

In addition to the West Sumatra Provincial Regulation No.6 of 2020, the fatwa of the Indonesian Ulema Council (MUI) No. 14/2020 also addresses this.

Article 16 in this regional regulation affirms that the new normal adaptation in the prevention and control of Covid-19 in the religious aspect can refer to the MUI fatwa. It appears in this regional regulation that the new normal adaptation is to apply al-mashlahah in human life.

References

- Abdullah, M. Amin, (2014). "Religion, Science and Culture; An Integrated, Interconnected Paradigm of Science", *Jurnal Al-Jami'ah*, Volume 52, No. 1.
- Abdul Muthalib, Salman, Tarmizi M. Jakfar. et. al, (2021), Changes in Congregational Prayer Practices During the Covid-19 Pandemic in Aceh from *Maqashid al-Sharia* Perspective, *al-Ihkam: Jurnal Hukum dan Pranata Sosial*, Volume 16, No. 2.
- Abubakar, Ali and Nabila Ulamy Alya, (2020), Refunction Family during Covid-19 Pandemic (Study among Students of Anthropology UGM), **Samarah: Jurnal Hukum Keluarga dan Hukum Islam**, Volume 4 No. 1. Januari-Juni 2020.
- Agustino, Leo, (2020). "Analysis of Covid-19 Outbreak Handling Policy: The Experience of Indonesia," *Jurnal Borneo Administrator*, Volume 16 (2).
- Aksan, N., et. al., (2009). Symbolic Interaction Theory, *Procedia-Social, and Behavioral Sciences*,1(1), 902-904. <https://doi.org/10.1016/j.sbspro.2009.01.160>.
- Al-Ghazali, Abu Hamid (1983). *Al-Mustashfa fi 'Ilm al-Ushul*. Beirut: Dar al-Kutub al-Ilmiyah, Jilid I.
- Al-Sathibi, Abu Ishaq, (1973). *Al-Muwafaqat fi Ushul al-Syari'ah*, Jilid II. Beirut: Dar al-Ma'rifah,
- Ali, Zainuddin, (2018). *Metode Penelitian Hukum*. Jakarta: Sinar Grafika
- Asrorun Niam Sholeh, M., et. al, (2021), The COVID-19 Vaccination: Realization on Halal Vaccines for Benefits, *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Volume 5, Number 1.
- Asrorun Niam Sholeh, M., (2020), Towards a Progressive Fatwa: MUI's Response to the COVID-19 Pandemic, *AHKAM: Jurnal Ilmu Syari'ah, E-Journal UIN Jakarta*, Volume 20, Number 2.
- Azra, Azyumardi, (2003). *Surau, Pendidikan Islam Tradisional dalam Tradisi dan Modernisasi*. Jakarta: Logos Wacana Ilmu.
- Bappeda-BPS Provinsi Sumatera Barat, (2009). *Sumatera Barat dalam Angka, Sumatera Barat in Figures 2008-2009*.
- Budiman, Iskandar, (2021), The Islamic Perspective On The Improvement Of Family Economy In The New Normal, *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, Volume 5, No. 1.
- Chen, B., Zhong, H., Ni, Y., Liu, L., Zhong, J., & Su, X. (2020). Epidemiological Trends of Coronavirus Disease 2019 in China. *Frontiers in Medicine*, 7, 1–11. <https://doi.org/10.3389/fmed.2020.00259>.

- Dzikrullah, Abdullah Ahmad, (2021). The Devisive Analysis (Diana) on Covid-19 Risks in Proviencie in Indonesia, *Bunga Rampai Skenario Covid-19*. Yogyakarta: UII.
- Efrinaldi, (2018). "Ushul Fikih: Rekonstruksi Metodologis dalam Dinamika Hukum Islam," *Jurnal Mizani, Wacana Hukum, Ekonomi, dan Keagamaan*, vol. 5, No. 2.
- Efrinaldi, (2013). "Spektrum Fiqh Siyasa dan Dinamisasi Pemikiran Politik Islam di Indonesia, *Jurnal Madania*, vol. XVII, No. 1
- Fatwa MUI Nomor 14 Tahun 2020, (2020). *Penyelenggaraan Ibadah dalam Situasi Terjadi Wabah Covid-19*. Jakarta.
- Hamid, Agus Rizal A. Hariandy (2020), "Social Responsibility of Medical Journal: A Concern for Covid-19 Pandemic". *Medical Journal of Indonesia*.
- Herdiana, Dian, (2020). "Penanggulangan Covid-19 Tingkat Lokal Melalui Kebijakan Adaptasi Kebiasaan Baru (AKB) di Provinsi Jawa Barat." *Journal of Governance Innovation*, Volume 2, Number 2.
- Hestina, Niken Ayu (2020). Wabah Penyakit Menular (Covid-19) dan Perumpamaan dalam al-Qur'an, *Mumtaz, Jurnal Studi al-Qur'an dan Keislaman*, Volume 4, No. 02, 2020, p. 125-138.
- Hilmy, Masdar, et. al (2020), Winning The Battle Of Authorities: The Muslim Disputes Over The Covid-19 Pandemic Plague In Contemporary Indonesia, *Qudus International Journal of Islamic Studies (QIJIS)*, Volume 8, Number 2
- Ibn al-Hajib, *Mukhtashar al-Muntaha'*. Mesir: Al-Mathba'ah al-Amiriyah, Jilid II, 1328 H..
- Jamroni, Mofit, et. al., (2020). Social-Economic Changes ff Village Communities During The Covid-19 Pandemic. *Palarch's Journal of Archaeology of Egypt/Egyptology*. Vol. 17 No. 4, p. 71-83.
- Shofiatul Jannah, et. al (2021), Islamic Legal Analysis of Obligation for Swab Tests as a Requirement for Marriage in the Era of Covid-19 Pandemic in Indonesia, *al-Ihkam: Jurnal Hukum dan Pranata Sosial*, Volume 16 No. 2.
- Mohd Yusob, Mohd Lotpi bin (2020). Framing The Parameters of Maslahah: A Complementary and Comparative Analysis on Al-Ghazali's Work in Almustasfa. *PalArch's Journal of Archaeology of Egypt/Egyptology*. Vol. 17 No. 4, p. 263-273.
<https://archives.palarch.nl/index.php/jae/article/view/289>
- Parsons, Wayne, (2005). *Public Policy: Pengantar Teori & Praktik Analisis Kebijakan*. Jakarta: Kencana.
- Peraturan Daerah Provinsi Sumatera Barat Nomor 6 Tahun 2020 tentang Adaptasi Kebiasaan Baru dalam Pencegahan dan Pengendalian Corona Virus Desease 2019*.
- Ristyawati, Aprista (2020). "Efektifitas Kebijakan Pembatasan Sosial Berskala Besar Dalam Masa Pandemi Corona Virus 2019 oleh Pemerintah Sesuai Amanat UUD 1945." *Administrative Law & Governance Journal*.

- S, Laurensius Arliman, (2015). *Penegakan Hukum dan Kesadaran Masyarakat*. Yogyakarta: Deepublish.
- Senam, N., Joshua, U., & Christopher, P. (2022). Fundamental Issues in Mass Media Audience Research. *International Journal of Social Sciences Perspectives*, 11(2), 28-37. <https://doi.org/10.33094/ijssp.v11i2.629>
- Shala, N., & Badivuku-Pantina, M. (2022). The Relationships of Schools Conditions and their Impact on Economic Growth. *International Journal of Social Sciences Perspectives*, 11(2), 45-58. <https://doi.org/10.33094/ijssp.v11i2.639>
- Soekanto, Soerjono, (2010). *Faktor-faktor yang Mempengaruhi Penegakkan Hukum*. Jakarta: Rajawali Pers.
- Sofwan Jauhari, M, & Abdul Ghoni (2020), The Level of People's Obedience to MUI Fatwas (COVID-19, Bank Interest, and Interfaith Marriage), *AHKAM: Jurnal Ilmu Syari'ah, E-Journal UIN Jakarta - Volume 20, Number 2*.
- Sugiyono,(2010), *Metode Penelitian Kuantitatif dan Kualitatif* , Bandung: Cipta Karta.
- Supriatna, Eman,(2020). "Wabah Corona Virus Disease Covid-19 dalam Pandangan Islam", *Salam: Jurnal Sosial dan Budaya Syar'i*, Jurnal UIN Jakarta, Volume 7 No. 6
- Usman, Abdul Rani, et. al, (2020). Corona in Culture: Tradition of Warding Off the Plague in Acehese Society. *Palarch's Journal of Archaeology of Egypt/Egyptology*. Vol. 17 No. 4, p. 314-327.
- Wahyu Sururie, Ramdani, & Yoghi Arief Susanto, (2020), Legal Aid Post Services at the Indonesian Religious Courts during the COVID-19 Pandemic, *AHKAM: Jurnal Ilmu Syari'ah, E-Journal UIN Jakarta - Volume 20, Number 2*.
- Yang, Hong, and Julian R Thompson, (2020). "Fighting Covid-19 Outbreaks In Prisons. The University of Reading", University College London. *The BMJ*.
- Yunus, N.R.; Anggraeni, RR Dewi; Rezki, Annissa, (2019). "The Application of Legal Policy Theory and its Relationship with Rechtsidee Theory to Realize Welfare State," *Jurnal 'Adalah*, Volume 3, No. 1.
- Zahrotunnimah, (2020), "Langkah Taktis Pemerintah Daerah dalam Pencegahan Penyebaran Virus Corona Covid-19 di Indonesia ", *Salam: Jurnal Sosial dan Budaya Syar'i*, Jurnal UIN Jakarta, Volume 7 No. 3.