

Legal Policy Analysis Of Handling Covid-19 In The Perspective Of Human Rights Protection

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Abstract.

The Indonesian government has issued several regulations for the handling of Corona Virus Disease 2019 (Covid-19), which aims to handle the Covid-19 pandemic in Indonesia can run well and be adhered to by all communities. But the legal order issued by the Government of Indonesia in dealing with Covid-19 and the implementation of physical distancing has not been maximal in protecting the rights of the Indonesian people. To prevent the spread of Covid-19, the government asks people to keep their distance from each other, avoid crowded places such as gathering in houses of worship, markets, malls, and not to conduct events that reason many people such as weddings, meetings, and seminars. Against the steps taken by this government, many people think that it is contrary to human rights. This research method uses normative juridical approach methods with data analysis methods using qualitative data analysis. The results of this study show that government regulation should still pay attention to people's rights, such as the right to work, health, and so on. Applying the law in an emergency must be acted wisely, not to debate so that people's rights are ignored. In addition, the role of the community is also needed to remain in compliance with health protocols in a disciplined manner so that the transmission of the Covid-19 virus can be suppressed.

Keywords: Regulations, Covid-19, Human Rights

1. INTRODUCTION

Initially, the international community was not too concerned with cluster cases of pneumonia with unclear etiology in Wuhan City, Hubei Province, China, around 2019, which WHO named Coronavirus Disease 2019 (Covid-19) [1]. The movement of people, both within countries and between countries, proceeds as usual without any worries. Unexpectedly, some time later, positive cases of Covid-19 were found in several countries of the world, and not behind in Indonesia [2].

Covid-19 can be categorized as an extraordinary event, because in a short time it has spread to all corners of the world, and has resulted in many positive cases and deaths [3]. WHO also holds the same view, where on January 30, 2020 Covid-19 was declared a Public Health Emergency of International Concern (PHEIC) [4].

The Indonesian government first announced the Covid-19 case on March 2, 2020, although many experts and observers were pessimistic about the statement. One of the virology experts from Harvard Professor Marc Lipsitch stated that the Covid-19 virus in Indonesia had entered since the beginning of the year or January [5]. In his analysis, several neighboring countries such as Malaysia, Singapore, Thailand have

reported cases of Covid-19 since January, as well as tourists from China who returned to their home countries diagnosed as positive for Covid-19 after vacationing from Bali, Indonesia [6].

In handling Covid-19, the Indonesian Government has established a legal order by issuing 3 legal instruments as a preventive measure against the spread of the COVID-19 outbreak: (1) RI Presidential Decree No. 11 of 2020 concerning the Establishment of a Public Health Emergency of Corona Virus Disease 2019 (COVID-19); (2) Government Regulation No. 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating the Handling of Corona Virus Disease 2019, and; (3) Government Regulation in Lieu of Law (Perppu) No. 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the Coronavirus Disease 2019 (Covid-19) Pandemic and/or In Facing Threats to Endanger the National Economy and/or Financial System Stability.

However, in the legal order, criticism is everywhere, the regulations are considered late to be issued, as a result of the delay both the Central Government and Regional Governments have experienced stuttering in taking steps to overcome the Covid-19 pandemic outbreak. Likewise with Perppu No. 1 of 2020 related to the policy of financial system stability. At first glance, this policy seems “positive” and is seen as a way to save state finances, as well as allow changes to the Country budget allocation for the costs of dealing with the Covid-19 outbreak”. However, in terms of its own substance, *Perpu* number 1 of 2020 contains legal problems, which have the potential to create moral hazard, fraud and corruption where every action or decision taken by officials cannot be prosecuted in a civil, criminal, or state administrative manner [7]. Of course, it is very unfortunate if the government actually takes steps in structuring laws that are counterproductive to efforts to protect the people's right to health from the Covid-19 pandemic[8].

As an effort to prevent the spread of Covid-19, the government asks the public to keep their distance from each other, avoid crowded places such as gathering in houses of worship, markets, malls, and not to hold events that gather many people such as weddings, meetings, and seminars [9]. People are also asked to wear masks, wash hands with soap, maintain health, and so on. Furthermore, schools and lectures are closed, people are asked to worship at home, prohibit going home, and so on. Many people think that this step taken by the government is against human rights. Because, by prohibiting people from going home and worshipping in places of worship, for example, it is considered a violation of human rights [10].

Constitutionally, everyone has the right to get good health services, and health is categorized as a human right that must be fulfilled by the state [11]. In fulfilling the right to health, the government as the bearer of the people's sovereignty is obliged to provide good health services, and ensure that its citizens are healthy. The government is obliged to ensure that its citizens do not get sick and fulfill their people's right to a healthy life. When the government is unable to fulfill its obligation to provide good

health services, and ensure that its citizens are healthy, it is a violation of human rights [12].

II. METHODS

This research method uses normative juridical approach methods. This research approach uses legislation. The legal material of this study uses primary and secondary legal materials. The technique of collecting legal materials of this research through literature studies or document studies and then analyzed with deduction techniques, analysis to conclude general things into individual cases.

III. RESULT AND DISCUSSION

In handling Covid-19 , the Government of Indonesia has established a legal order by issuing 3 (three) legal instruments as a preventive measure against the spread of the Covid-19 outbreak: Presidential Decree No. 11 of 2020 on The Establishment of Public Health Emergency Corona Virus Disease 2019 (Covid-19), Government Regulation No. 21 of 2020 on Large-Scale Social Restrictions to Accelerate the Handling of Corona Virus Disease 2019, Government Regulation instead of Law (Perppu) No. 1 of 2020 on State Financial Policy and Financial System Stability for Handling coronavirus disease pandemic 2019 (Covid-19) and dealing with threats endangering the national economy financial system stability.

But in, the legal order raised criticism everywhere, and the rules were considered too late issued. As a result of the delay, both the Central Government and Local Government experienced stuttering in taking measures to combat the Covid-19 pandemic outbreak. Likewise, Perppu No. 1 of 2020 is related to the financial system stability policy. At first glance, this policy is considered "positive" and is seen as a way to save the country's finances and allow changes in the budget allocation of the state budget for the cost of tackling the Covid-19 outbreak. In addition, in terms of its substance, Perppu No. 1 of 2020 holds legal problems, which can cause a moral hazard, fraud, and corruption where every action or decision taken by officials cannot be prosecuted civil, criminally, or state administratively. Of course, it is unfortunate if the government takes steps in structuring the law that is counterproductive to efforts to protect the people's Right to Health from the Covid-19 pandemic. In an attempt to prevent the spread of Covid-19 , the Government of Indonesia has made a legal order by issuing various legal products, including Law No. 2 of 2020 on the Establishment of Perppu 1 of 2020 on State Financial Policy and Financial System Stability for Handling the Covid-19 Pandemic and in the Framework of Threats that Endanger the National Economy or Financial System Stability.

In this case, the emergency in question is the Covid-19 outbreak. Covid-19 , as an extraordinary pandemic due to its massive spread, has caused a public health emergency. The pandemic also affected the deceleration of national economic growth,

plummeting state revenues, and increased state spending burdens. With this in mind, the Government considers the need for the issuance of Perppu to protect the condition of the national economy, with the main focus on the country's financial policy and financial system stability policy.

The Government Regulation instead of the Law (Perppu) is a legal policy taken by the Government to stabilize the country's finances and prevent the spread of the Covid-19 outbreak. However, the Government Regulation instead of the Law (Perppu) contains potentials that can damage state practices in Indonesia. First, this Government Regulation instead of law (Perppu) can lead to unlimited power (absolute power) in the formation of regulation by the President. Article 12 paragraph (2) of Perppu No. 1/2020 authorizes the President to make changes in posture and details of the State Revenue and Expenditure Budget (APBN) in the framework of the implementation of state financial policies regulated by or Presidential Regulations. The positive aspects of the change in budget posture and changes in the state budget deficit, with the Presidential Regulation giving legitimacy to the Government to move quickly and responsively to keep the financial system and the national economy from the threat of Covid-19 .

Second, the norm of Article 27 of Government Regulation instead of Law (Perppu) No. 1/2020 is suspected of providing legal immunity to policymakers stipulated in Government Regulation instead of Law (Perppu) No. 1/2020, one of which is budget users. All actions or decisions cannot be prosecuted civilly, criminally, or in state governance. Of course, the norm is contrary to Article 1 paragraph (3) of the 1945 NRI Constitution, which states that "the State of Indonesia is a state of law," as well as a violation of the principle of equality before the law. Third, the Government Regulation instead of Law (Perppu) also does not explain the specifics of government legal politics in health-related to the actions taken in handling Covid-19 in Indonesia. In this Government Regulation instead of law (Perppu), it is not seen in real terms how the public expects public health policy in controlling the COVID-19 outbreak.

Government Regulation No. 21 of 2020 on Large-Scale Social Restrictions to Accelerate the Handling of Covid-19 . Large-scale social restrictions are restrictions on the specific activities in an area or area suspected of being infected with Covid-19 to prevent wider spread established by the Minister of Health or by the Local Government based on approval from the Minister of Health. The implementation of Large-Scale Social Restrictions then closed schools, workplaces, religious activities are carried out in their homes, and restrictions on activities in public places.

The choice of Large-Scale Social Restrictions rather than quarantine areas as a policy taken by the government is suspected as a legal maneuver to avoid government responsibility to the people, where if the approach taken is Regional Quarantine, the Central Government is required to meet the basic needs of its citizens and farm animals who are in the quarantine area as stated in Article 55 of Law No. 6 of 2018 on Health Quarantine. While in the policy of Large-Scale Social Restrictions, the government is not obliged to fulfill basic needs as in the normative provisions of PP a quo. This is one

of the ineffective factors of implementing Large-Scale Social Restrictions in Indonesia. On the one hand, the people are asked to stay at home and not move outside. Still, on the other hand, their basic needs are not guaranteed by the government, so the people, especially the lower middle class, have no choice but must still work outside to meet their basic needs despite the concerns of contracting Covid-19 .

It must be understood that the imposition of Large-Scale Social Restrictions is not only focused on preventing the spread and positive victims increase, but is carried out in the effort of economic activities and others can run. It is hoped that, through the implementation of these Large-Scale Social Restrictions, the spread and victims of Covid-19 can be resolved as soon as possible. Still, the economy, finance, food security, continuity of worship, education, and other life in the country can be restored.

As a form of government responsibility in imposing Large-Scale Social Restrictions, both the central government and local governments provide direct assistance in the form of money and food staples to those affected by Covid-19. But it must be reminded that the provision of the aid must be on target, which is given to those affected, such as those subject to layoffs. Likewise, all costs incurred in handling Covid-19 must be borne by the Government.

The Government imposes a new habit lifestyle (new normal) which is a change in behavior or habits to keep carrying out activities as usual but by consistently implementing health protocols amid the Covid-19 pandemic [13]. With the new normal policy of industrial operations, business-to-business services are allowed while still implementing health protocols. Markets, shops, and malls are back in the process, and restaurants and entertainment venues reopen. But the new normal policy implemented by the Government is not effective in stopping the spread of the virus instead, the spread of the Covid-19 virus is increasingly massive. Data from Worldmeters.Info in June 2020, the number of Covid-19 cases in Indonesia was only 18,000 cases compared to the number of cases in January 2021, which had reached 1 million points or up about 5,000% in just seven months. The Government's decision to stop the implementation of Large-Scale Social Restrictions backfired, which has threatened the right to life, safety, and the health rights of citizens, which are human rights. The Government is reckless by lifting the implementation of Large-Scale Social Restrictions when the Covid-19 curve chart in Indonesia is still increasing and has not indicated curve flat.

In particular, to the medical teams involved in handling Covid-19, it is necessary to be incentivized to encourage those who are already working to risk their lives. Incentives also need to be given to the families of the deceased medical team. This is provided as a form of state responsibility in appreciating the services of medical teams who died in dealing with Covid-19. Because, with the death of family members as the backbone in making a living, the state must be present to replace him. This is the implementation of the protection of human rights in the form.

In providing protection, safety, and health of citizens from the threat of Covid-19, the Government can imitate the legal order of other countries that have proven

effective in tackling the pandemic in the application of partial lockdown, total lockdown application, application of physical distancing.

Although many criticized the initial handling of Covid-19 by the Chinese Government that seemed to cover up china's presence in preventing the spread of the Covid-19 virus to other countries did not cover China's success in implementing a partial lockdown in Wuhan, Hubei Province, as the first place the pandemic appeared. With the partial lockdown policy in Wuhan, all borders in and out of Wuhan are closed while other provinces can still carry out activities by implementing health protocols. The entire population of Wuhan is prohibited from traveling outside, all forms of activities involving many people are not permitted, including offices, tourist attractions, and school activities. If anyone wants to go out of the house for an urgent purpose such as buying medicine, then the person is required to bring a certificate. The Chinese Government also guarantees all the daily needs of Wuhan residents, so they don't worry about hunger.

The effectiveness of the Chinese government's policy in dealing with Covid-19 cases also impacts China's economic growth. China's financial condition gained momentum in November 2020 after China managed to control the Covid-19 pandemic [14]. Macroeconomic indicators such as industrial results, investment, consumption increased during the July-November period. Even China's industrial results increased rapidly in November 2020 by 7.0%, which is the highest level in two years. China's success in recovering its economy is inseparable from its success in dealing with this pandemic [15].

New Zealand has recorded 100 days without a case of the COVID-19 virus. New Zealand's success in conquering the coronavirus was due to the firmness of its government that immediately responded to the lockdown when Covid-19 cases entered the country. New Zealand directly conducts mass detection or tests, then isolation of patients, quarantine, mass hygiene campaigns, and provides hygiene facilities in public spaces, as well as closing public spaces. The government echoes that people stay at home and reduce contacts that are also adhered to by their citizens. All non-essential sectors must close, such as bars, restaurants, cafes, cinemas, and public aviation.

The excellent coordination between the Local and Central Government facilitates the implementation of policies issued by the Government of New Zealand [16]. Most importantly, the community supports and adheres to the guidelines issued by the Government of New Zealand in handling the Covid-19 pandemic. New Zealand's success in handling Covid-19 can be seen in the number of Covid-19 cases in New Zealand until January 28, 2021, only 2,299 cases [17].

South Korea is among the countries that managed to overcome the spread of the coronavirus[18], even without applying a lockdown [19]. There are three main things that the South Korean government does in handling the coronavirus:

1. The South Korean government conducted testing using drive-thru-clinics. In one day, about 15 thousand citizens can be tested for the virus to minimize transmission, both still in the form of mild symptoms to severe symptoms.

2. The South Korean government always provides information that is open to the public. For example, the public can find out the location through the Global Positioning System (GPS) of someone who is confirmed Covid-19 through an application so that other residents who have not been infected can stay away from the area.
3. The South Korean government conducts Social Distancing by limiting large gatherings.

In contrast to the three countries that succeeded in tackling Covid-19. The policy chosen by the Government of Indonesia is far from successful in combating the Covid-19 pandemic, seen the number of Covid-19 cases in Indonesia has now reached 1 million cases. The author assesses several factors that cause the failure of the Government of Indonesia in preventing the spread of the coronavirus, including:

- a. At the beginning of the pandemic in Indonesia, the Government seemed slow to respond and prepare strategic steps. The Government's denial even appeared to underestimate the Covid-19 pandemic.
- b. There is no good coordination between the central and regional governments. This is seen in how often different policies between the Central and Local governments handle Covid-19. At the beginning of Covid-19 into Indonesia, the Jakarta Regional Government wanted to implement a lockdown but was rejected by the Central Government.
- c. There is no firmness of the Government to lockdown at a time when Covid-19 cases continue to increase. The Government argues not to lock down because economic and security problems drive it. Governments with large-scale social restriction policies do not bear the community's basic needs, so people have no choice to keep working despite concerns about the Covid-19 pandemic. The Government also relaxed large-scale social restrictions and chose to adopt a new normal lifestyle when the rate of Covid-19 cases is still high and has not shown a decrease.
- d. The Government's lack of seriousness in tracing Covid-19 cases makes it difficult to make a termination against the spread of the Covid-19 virus.
- e. Low public awareness to comply with government policies in implementing a healthy lifestyle, the public seemed to underestimate the Covid-19 virus. It is not disciplined to wear a mask and keep your distance.

Based on some of these reasons, the Indonesian Government's political policy in handling the Covid-19 coronavirus is not maximal in protecting the health rights of Indonesian people, should from the beginning of the Covid-19 case enter Indonesia, the Government imitates how China's success in partial lockdown in Hubei Province, Wuhan is doing a partial lockdown in Jakarta Province as an epicenter of the Covid-19 pandemic in Indonesia to minimize the spread of the virus to the province other.

With the partial lockdown in Jakarta, the Government will focus more on handling the Covid-19 virus in Jakarta and minimize the spread of Covid-19 to other

provinces. Other provinces can continue to carry out activities as usual by implementing health protocols as mitigation measures. On economic issues, with only Jakarta lockdown, the economic wheels in 33 other provinces will continue to run normally. Of course, other provinces and the Central Government need to cooperate to help the economy of Jakarta affected by the lockdown. Against the threat of an influx of viruses from other countries, the Government can emulate New Zealand, which closed all travel access to airports, ports, and borders and banned foreign nationals from entering New Zealand [20].

In the administration of vaccination, the Government also needs to be careful. The Government must ensure that the vaccine to be used is safe, scientifically tested, and effective in preventing the Covid-19 virus. For the success of the vaccination program, there needs to be massive socialization of vaccination as the safest and most effective effort in preventing the Covid-19 pandemic. Vaccination must also be supported by reliable resources, transparent and non-overlapping regulations, good coordination and communication between the Central Government and Local Government, funding sources for free mass vaccination policies, facilities and infrastructure that support optimal management of vaccine supplies ranging from the production process, distribution to the operation of injecting vaccines into the community. To ensure accountability for the implementation of vaccination, there needs to be supervision of mass vaccination throughout the region against the provision of vaccines, the quality of vaccines, the use of budgets, and the management of health risks posed by vaccine administration. This is because each person may feel the effects of vaccines are different. It is hoped that the vaccine process will be successful, and he desires to live back to normal before the Covid-19 outbreak appears. Likewise, in the event of other epidemics in the future, the Government must be better prepared with policies that are more oriented to health rights which are fundamental rights that must be protected and fulfilled.

IV. CONCLUSION

The Government of Indonesia has chosen political Law in Large-Scale Social Restrictions. Physical distancing in handling Covid-19 has not been maximal in protecting the health rights of the Indonesian people. Legal products issued by the Government must be supported and implemented by all parties. This Covid-19 pandemic makes learning for the Government to move quickly and responsively to maintain the national economy, public health, basic needs of the community from the threat of Covid-19 . The choice of a large-scale social restriction system rather than quarantine of the territory as a policy taken by the Government is suspected as a legal maneuver to avoid the Government's responsibility to the people, where if the abomination born is a regional quarantine, the Central Government is required to meet

the basic needs of its citizens and farm animals in the quarantine area. While in the policy of Large-Scale Social Restrictions, the Government is not obliged to fulfill basic needs as in the normative provisions of *pp a quo*. The application of legal policy in an emergency must be acted wisely, not to debate so that people's rights are ignored. In addition, the role of the community is also needed to remain in compliance with health protocols in a disciplined manner so that the transmission of the Covid-19 virus can be suppressed.

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