

State Responsibility for the Citizens in Indoensia's Covid-19 Pandemic

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Abstract

This Covid-19 pandemic has elevated Indonesia to emergency status, prompting the government to implement an emergency PPKM policy, as detailed in Minister of Home Affairs Instruction 15 of 2021 on the enactment of restrictions on community activities in the Java and Bali provinces. However, the strategy does not imply that the government is abdicating its duty for all facets of citizens' life. This legal research examines the laws and regulations governing the treatment of the Covid-19 epidemic in Indonesia using the conceptual approach and the statute approach. This legal research draws on secondary primary law sources, including statutes and regulations pertaining to the legal topics covered, as well as legal publications such as textbooks, legal dictionaries, legal journals, and other legal literature.

Keywords

responsibility; Covid-19; PPKM



I. Introduction

Indonesia is a constitutional monarchy. The law is a manifestation of the desire to attain wealth, order, peace, and justice; it plays a significant part in numerous facets of community and state life (Sherina, 2021). One of them is food needs; food needs are human rights and a component of welfare that must be realized in accordance with the Indonesian nation's principles as articulated in the Pancasila and the Republic of Indonesia of 1945.

Human rights, or more frequently referred to as human rights, are fundamental rights that have been linked to a human being since he was born, by the Grace of God Almighty (Philipus, 1987). Nobody in this world can ignore or revoke these human rights; they are a gift from God to his creature from the moment he was born in a state of existence that must be honored, upheld, and defended by the state, law, government, and every individual for the sake of human dignity and honor. Human rights are universal, implying that they apply to all humans (Al Khanif, 2017). Then, this right is reduced to a fundamental right, whose enforcement, fulfillment, and protection must be delegated to the state. The country that plays a role in regulating these fundamental rights in the lives of its residents to ensure that they can be fulfilled fully and without violation since they are enshrined in legal instruments, both international and national (Sakharrina, 2020).

The entire community was shocked towards the end of 2019 by the discovery of a case of unexplained pneumonia in Wuhan, Hubei Province. On February 11, 2020, the WHO announced a new designation for the pneumonia, Coronavirus Disease (Covid-19). Covid-19 is a virus that is transmitted from animals to humans (Adityo, 2020). The virus's transmission does not end there; it has also been passed very easily from humans to humans, making the

virus's spread difficult to contain. This is the rationale for the WHO elevating Covid-19 from a local epidemic to a pandemic (Kurniawan, 2021).

All countries in the world were finally overwhelmed and had to take action to save their citizens from the outbreak of this deadly virus, all countries must establish several policies in their respective countries to break the chain of the spread of this virus. Some countries began to take actions such as regional quarantine known as Lock Down (Posman, 2020).

The Indonesian government disclosed the Covid-19 case for the first time on March 2, 2020, despite the fact that many specialists and spectators were skeptical of the declaration (Kurniawan, 2021). In the face of the pandemic, the government finally published a rule package as a formal legitimacy handling Covid-19, namely Presidential Decree No. 11 of 2020 concerning determination of public health emergencies, Government Regulation No. 21 of 2020 concerning large-scale social restrictions in the framework of the acceleration of handling Covid 19 which is actually a follow-up of the formulating article 15 paragraph (2) and Article 56 of Law Number 6 of 2018 concerning Chaosity of Health, Government Regulation Replacing Law No. 1 year 2020 concerning state financial policies and state financial system stability for handling Covid 19 and / or in order to face threats that endanger the national economy and / or financial system stability and interior minister's instructions number 15 of 2021 concerning the implementation of restrictions on Corono emergency community activities Virus Disease 2019 in the Java and Bali regions. Of course, the publication of the four rules gives implications, one of the instructions of the Minister of Home Affairs Number 15 of 2021 which gives legitimacy of the option chosen by the Government to decide on the spread of Covid-19, namely the option to enforce restrictions on Corona Emergency Community Activities Corona Virus Disease 2019 in the Java region Bali or can be called an emergency PPKM (Disantara, F.P. 2020).

The manner in which restrictions on the activities of the Darura Javanese-Bali community (Emergency PPKM) are implemented, namely: a) Mintinks of school and workplace; b) restrictions on religious activities; c) restrictions on activities in places or public facilities; e) limiting modes of transportation; and f) restrictions on other activities specifically related to detention.

The PPKM option undoubtedly has ramifications for the government, specifically the government's or state's responsibilities to the people during the Covid-19 epidemic phase. The state's responsibility to the population was critical during the Covid-19 pandemic, given that the people in Indonesia are the 'owners' of the highest sovereignty (Article 1 paragraph (2) of the Republic of Indonesia's state law of 1945).

Humanity is currently undergoing a worldwide crisis that may be one of the most severe in human history. This predicament necessitates collaboration across all segments of society, the government, and the political elite in order to overcome the complexity of the implications generated throughout the spectrum of health, economics, sociopolitics, and culture (PLEADS, 2020). Indonesian government policies, as well as those of other countries, undoubtedly have a significant impact on the lives of its citizens, resulting in the closure of a number of stores, factories, and businesses. Additionally, community social activities are severely constrained in order to disrupt the Covid-19 virus's chain of transmission (Safiih, A.R. 2020), Indirectly have an effect on economic life, because some people are responsible for the large number of job losses, job losses must undoubtedly have an effect on daily survival, particularly on the fulfillment of citizens' rights, because there will be more people or people who will suffer from hunger and a lack of food.

Government policies should be balanced against the wellbeing of the populace (Sherina, 2021), for this reason, the state must be present as part of the state's obligation to fulfill human rights for its citizens especially in terms of fulfilling the right to food because the right to food is the basic right that must be fulfilled as stated in the concept of human rights (Sakharrina, 2020).

Therefore, this article will discuss further regarding how the state's responsibility for the forced dissolution of traders in the Emergency PPKM period and how the state's obligations in fulfilling the right to food for their citizens in the PPKM period.

II. Research Methods

The type of research is legal research. Legal Research is finding the truth of coherence, namely the rule of law according to legal norms and there are norms in the form of commands or prohibitions in accordance with the principle of legal, as well as what act is in accordance with legal norms (not only according to the rule of law) or legal principle (Mahmud, 2017). This legal research uses the conceptual approach approach (Conceptual Approach) and (Statue Approach) laws and regulations relating to the handling of Covid-19 pandemic in Indonesia (Jonaedi, 2018). This legal research draws on secondary primary law sources, including statutes and regulations pertaining to the legal topics covered, as well as legal publications such as textbooks, legal dictionaries, legal journals, and other legal literature (Suardita, 2017).

III. Discussion

3.1 What is the Country's Role for the Forced Dissolution of Anthrown during the Emergency PPKM Period?

The world is facing an unprecedented threat from the Covid-19 pandemic caused by the SARS-COV-2 virus (referred to as Covid-19 virus). Many countries follow the advice of the World Health Organization (WHO) regarding the application of physical steps distancing as one way so that disease transmission can be reduced (WHO, 2020). As Indonesia took steps by making a policy to break the spread of Covid-19, namely by making the Minister of Home Affairs' instruction policy number 15 of 2021 concerning the implementation of restrictions on community activities in the Java and Bali regions.

These steps have led in the closure of numerous companies, schools, and educational institutions, as well as travel and social gathering restrictions. Working from home, teleworking, and participating in discussions and online meetings through the internet has become a common habit for certain people. However, food sector employees are not permitted to work from home and must continue to work at their regular place of employment (Azmy, 2020).

However, since the outbreak of the epidemic, the government has consistently evaded this regulation by utilizing emergency PPKM, a word not defined in the Securities Constitution of Health. This condition forces the community to choose between dying of the infection or famine (Andryanto, 2021).

The election of emergency PPKM from the regional quarantine as a policy taken by the government was suspected of being legal maneuvering to avoid the government's responsibility for the people (Rafi, 2021), Where if the policy taken is quarantine region, the central government is required to meet the basic needs of its citizens and livestock in the quarantine area as stated in Article 55 of Law Number 6 of 2018 concerning Health

Quarantine. Whereas in the emergency PPKM policy, the government is not mandatory to provide the fulfillment of basic needs as in the normative provisions of the PP a quo (Rafi, 2021).

This is one of the obstacles obstructing the implementation of PPKM in Indonesia. On the one hand, residents are urged to remain at home and refrain from leaving, but on the other, their basic requirements are not guaranteed by the government, leaving residents, particularly daily wage employees and traders, with little choice but to continue working outside to meet their basic needs. Regardless of concerns of contracting Covid-19 (CNN Indonesia, 2021).

Emergency PPKM Application Through Home Interior Instruction (Inmendagri) No. 15 of 2021 concerning Covid-19 Emergency PPKM in the Java-Bali region, legal defects. Even contrary to the constitution because the instructions of the Minister of Home Affairs there is no legal basis for implementing a limiting Emergency PPKM, even forbid people who are in the implementation area of Emergency PPKM to be able to make a living (Aida, 2021). Article 28A of the 1945 Constitution guarantees everyone to maintain his life and life. Then Article 28D paragraph (2) of the 1945 Constitution guarantees people who have the right to work. This means that in any circumstances the government should not prohibit everyone to work to maintain their lives and lives (make a living).

The application of the PPKM rules must be carried out in accordance with the legal corridor and remain referring to the principle of state obligations to respect, ensure and protect human rights (HAM) (Matampo, 2014). Excessive action carried out by the joint personnel of the apparatus also did not escape in impartial records. Amiruddin then reminded that all forms of use of violence or forced efforts must be carried out by referring to the principles of necessity, proportionality and professionalism. It was all regulated in Article 17 and Article 34 of Law Number 39 of 1999 concerning Human Rights regarding the protection of the right to obtain justice and the right to live a person.

According to Black's Law Dictionary: Protection is (1) a. the act of protecting: defence; shelter of evil; preservation from loss, injury or annoyance; as we find protection under good laws and an upright administration; b. an instance of this; (2) one who or that which protect (Bryan, A. 2004). Legal protection is something or actions taken to safeguard legal subjects in accordance with applicable legislation, accompanied by punishment in the event of a breach. Legal protection is defined as the guarantee of a person's rights and obligations in order to pursue their own interests and those of other individuals (Mertokusumo, 1991).

Passive legal protection in the form of external activities (in addition to the judicial process) that offer acknowledgment and guarantees for the rights of criminals and victims through legislation or policies. While active can take the shape of acts taken in pursuit of their rights. This active legal protection might be further classified as proactive and oppressive. Active preventive measures in the form of rights granted by perpetrators and accepted by victims in connection with the execution of legal regulations or government policies. Active repression in the form of requests made to the government or law enforcement officers regarding the regulations and policies that have been enforced to deemed harmful victims.

According to Article 1 Number 6 Law No. 13 of 2006, protection is an effort to fulfill the right and giving assistance to provide a security for witnesses and / or victims who must be carried out by LPSK or other institutions in accordance with the provisions of this law. Article 2 Law Number 13 of 2006 provides protection of witnesses and victims in all stages of the criminal justice process in the justice environment. Article 3 Regarding the protection of witnesses and victims based on: a. Appreciation for human dignity and dignity; b. Sense of security; c. Justice; . Not discriminatory; and e. Legal certainty.

Indonesia has also ratified the Convention against torture and other cruel, inhuman, inhumane or demeaning human dignity (Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, UNCAT). This Convention requires States Parties to adopt appropriate measures to avoid torture on their territory, and it prohibits forcible repatriation or extradition to a nation where the risk of torture exists (Wiranata, 2007). Since 2011, the Committee against Torture (Committee Against Torture), a committee formed to monitor uncat, has recommended that the Indonesian government immediately regulate the acts of torture in the legal system. The committee requested that the Indonesian government increase the concept of abuse (Illtreatment) and the concept of torture in the rules of the law (Eddyono, 2014).

Legal safeguards for victims' rights are critical, as the conduct of others can result in a person experiencing losses and suffering on a physical, psychological, and property level. Legislation providing protection for victims' rights enables them to get legal certainty and justice as a result of criminal conduct (Ransun, 2012). Victims of criminal acts must be compensated for human rights abuses, and victims of criminal acts not involving significant human rights violations must receive restitution and aid with physical and psychological healing (Ransun, 2012).

3.2 What is the State Obligation to Fulfill the Right to Food for its Citizens in the Emergency PPKM Period?

Certainly, the Covid-19 epidemic period places the government in charge of maintaining order, security, comfort, and community welfare. The State's responsibility is stated in the IV Alinea Opening of the State Constitution of the Republic of Indonesia in 1945, namely to protect all Indonesians and all Indonesian blood spilled, to advance general welfare, to educate the nation's children, and to participate in a world order based on independence, eternal peace, and social justice.

The four responsibilities above are mandate by the founders of the nation for the organizing countries. Then, we have known together, that Indonesia is a country that stands based on the law (rechtsstaat) not based on power. The NRI 1945 Constitution has a principle position as a guideline for Tata and Like state, government, and community life, including the existence of the concept of the state (Joko, 2007).

This is reiterated in Article 1 paragraph 3 of the 1945 National Constitution, which states, "Indonesia is a lawful state." As a result, all state activities (including PPKM) must be justified by legal instruments that ultimately benefit the country, namely protecting and thriving.

In the context of the Covid-19 pandemic, the human rights protected by several international legal instruments and also by several pieces of legislation are largely restricted by the government, as violations of human rights by some individuals will result in a new case cluster against Pandemic Covid -19. One of the human rights prohibitions in the Covid-19 epidemic is the prohibition of mass collection or gathering (Perbawa, 2021). Regarding the fundamental conditions, Indonesia has stated that Indonesia was in an emergency in March 2020 with the Head of the National Disaster Management Agency who had staged it. With the enactment of the emergency Indonesia can reduce human rights in accordance with the mandate of the ICCPR, and the policies carried out by Indonesia to reduce human rights is to impose social distances or restrictions on mass crowds which can result in clusters against Covid-19 virus pandemics with Making a policy, namely the instruction of the Minister of Home Affairs Nomro 15 of 2021 concerning the enactment of restrictions on community activities in the Java and Bali regions (Perbawa, 2021).

The country is obligated to address the requirements of its citizens for inexpensive and enough food and nourishment. As a result, the state's disregard of food and nourishment can

be deemed a violation of human rights. Indeed, when the right to food is consistently violated, the infringement might be compared to the destruction of the silent genocide (Perbawa, 2021).

Food rights are recognized as fundamental human rights in international, regional, and national agreements. Human rights are universally recognized as an indivisible and interrelated notion that emphasizes equality and non-discrimination between countries and individuals. Human rights are not associated with any particular economic, political, or social system. Among other rights, food rights are one of the most critical (Baslar, K. 1998). All other human rights are meaningless without the right to sustenance. As soon as persons suffer from hunger, the human life that is at the heart of human rights may become extinct. Because human rights are regarded as a universal value, a country's obligations may not be limited to its jurisdiction, but may extend beyond it (Amalia, Z 2019).

Food rights are a rallying cry for action and the worldwide legal framework for coordinated reforms in the food and agriculture sectors. When a pandemic reshapes public life worldwide, it also presents a chance to regulate and defend the human rights of everyone in Indonesia who consumes food. decentralization as a political and institutional tool is expected to strengthen the mandate of county governments in watershed governance and facilitate the involvement of stakeholders at different levels in the food sector (Naburi, 2020). According Astawan in Komarayanti (2008) suggest that consuming public at least five food groups everyday color, namely red, white, blue or purple, yellow, and green. Each color indicates the presence of certain phytochemical compounds are efficacious for preventing various diseases. Food loss occurs in early and middle stages of the food supply chains (upstream) during food production (Huho, 2020).

Food rights emphasized in the International Covenant on Economic, Social and Culture Right (ICESCR) Article 11 paragraph (1) that is, the Covenant participating countries recognize the right of everyone to the standard of life worthy of him and his family, including food, clothing and housing worthy, as well as improving the conditions of living continuously. Participating countries will take the steps needed to ensure the realization of this right, and recognize the importance of voluntary international cooperation to achieve this goal.

In Indonesia, the provisions relating to food rights are also stated in the Chapter of the 1945 Constitution of Human Rights, specifically in Article 28 H, which states that everyone has the right to live in their inner birth, and 28 I paragraph (4), which declares protection, promotion, and enforcement. And, as Article 34 paragraph (2) specifies, the state establishes a social security system for all individuals and empowers a weak and unable community in accordance with human dignity. Similar rights are also mentioned in Food Law No. 18 of 2012, and because Indonesia is also a signatory to the ICESCR, they are also mentioned in Law No. 11 of 2005 on Ratification of the Ecosobe Covenant in Conjunction with the Covenant International Civil and Political Rights into Law No. 12 of 2005. Both of these covenants are often called twin covenants, because both are two important instruments of human rights that are legally binding and commonly called the Bill of Rights (Phlip, 2008).

Ratification of the international covenant has resulted in Indonesia becoming a state party or signing state, implying that the state, through its government, is now bound by international legal duties to execute the Covenant's provisions, including the right to food for all of its population (Sakharrina, 2020).

But because of the implementation of restrictions on community activities or emergency PPKM means that the community (wage workers or traders) are limited to their space to work so that it will trigger hunger, it is one of the obligations of the state to guarantee the right of everyone to food and to fulfill the availability of food needs as

mandated, the three pillars above must be used as the basis for the implementation of national efforts to fulfill the right to food.

By enabling and providing sufficient food ingredients, the government may ensure that the community or population does not suffer from hunger during this pandemic. Not only must the government ensure that there is an adequate supply of food on the market, but it must also ensure that all those in the region can easily access, purchase, or obtain these foods. If the affected society is impacted by this pandemic, the government should assist them in purchasing staple foods for free in order to deal with the inability to purchase food due to the loss of employment and income in this area (Sakharrina, 2020).

As stated in general comments number 12 Ekosob rights, number 14, the primary obligation is to take actions to gradually realize the right to food in its entirety. This imposes an obligation to work expeditiously toward that objective. Each country is responsible for ensuring that everyone in the region has access to sufficient, nutritious, and nutrient-dense food in order to avoid hunger (Generals Comments, 1999).

As stated in Article 1 paragraph (27), the Food Law number 18 of 2012 concerning food assistance that food aid is the basic food and food assistance provided by the government, regional government, and / or the community in overcoming food and crisis problems Food, increases food access for the poor and / or food and nutrition, and international cooperation. In this pandemic period where some people experience difficulties in access to the fulfillment of food rights due to not work, as described on the previous page, so food assistance, especially the assistance of basic feeding materials, to the community must be given by the government, to reduce or prevent Hunger occurrence in the community. Because of the occurrence of starvation can be categorized as a human rights violation, both omission Sakharrina, (2020).

Food problems are a state of scarcity, excess, and/or inability of individuals or households to meet food needs and ensure food security. In times like today, many households or individuals experience food problems, as stated in Law Number 18 of 2012, because it has become an obligation for the country to continue guaranteeing the fulfillment of every citizen's need for food.

IV. Conclusion

Covid-19 pandemic induced by the SARS-COV-2 virus (referred to as a Covid-19 virus). Numerous countries follow the World Health Organization's (WHO) advice about the use of physical steps distancing as a means of reducing disease transmission. As Indonesia took steps to halt the spread of Covid-19, especially by issuing Minister of Home Affairs Instruction No. 15 of 2021 restricting community activities in the Java and Bali provinces. The policy's implementation resulted in the closure of numerous schools, businesses, places of worship, and offices. This situation places the population in a precarious position between death from the virus and famine, particularly for daily wage earners and traders. Problèmes et principales difficultés rencontrées en appliquant les directions du Ministère de l'Intérieur relatives à l'Emergency PPKM, en particulier, dans ce qui concern le droit à la nourriture et à la satisfaction des besoins essentiels pendant la période d'application de l'Emergency. Additionally, the attention is on how to rein in arrogant agencies and dealers who are disobedient to policy. Arrogance of officers who are perceived to be authoritarian and acting excessively aggressively toward traders, including spraying disinfectants random against stalls, confiscating items, imposing fines of millions of rupiah, and even resorting to violence. The PPKM standards must be applied consistently with the legal criteria and in line with the principle of governmental obligations to respect, ensure, and safeguard human rights (HAM). As mandated by the 1945 Constitution, the state's responsibilities are outlined in the IV

Alinea Opening of the Republic of Indonesia in 1945, namely protecting all Indonesian nations and all Indonesian blood spills, advancing general welfare, educating the nation's youth, and associating with a world order based on independence, lasting peace, and social justice. That is, the state is accountable for maintaining order, security, comfort, and the general welfare of the community. Thus, when security forces act arrogantly, the state's legal protection of victim rights is critical, since the result of acts might result in a person experiencing losses and suffering on a bodily, psychological, and property level. Legislation providing protection for victims' rights enables them to get legal certainty and justice as a result of criminal conduct. Victims of criminal acts must be compensated for human rights abuses, and victims of criminal acts not involving significant human rights violations must receive restitution and aid with physical and psychological healing.

The state is also obligated to address the needs of individuals for inexpensive and appropriate food and nutrition, as a result of the PPKM policy's influence on one of them, particularly wage employees who rely on their salaries to purchase food. By enabling and providing sufficient food ingredients, the state can ensure that the community or population does not suffer from hunger during this pandemic. Not only must the market have an adequate supply of food, but the state must also ensure that all people in the region can easily access, purchase, or obtain these food ingredients. If the affected society is caused by this pandemic, the government should assist them in purchasing staple foods for free in order to deal with the inability to purchase food due to job loss and inclement weather.

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