

Reconstruction of the Constitutional Law Post-Covid-19 Emergency

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Abstract

The purpose of this study is to identify and describe changes in constitutional law as a form of conformity in the post-Covid-19 emergency situation, especially in Indonesia. The method used in this research is descriptive qualitative. The data collection technique used a literature study in the form of a documentation study. The data analysis method uses qualitative analysis which is then directed to draw a conclusion using deductive thinking methods. The results show that the post-Covid-19 Emergency Constitutional Law has a lot to do with economic recovery efforts from the socio-economic impacts caused by the Covid-19 pandemic since the beginning of 2020. In 2022, since the decline in the positivity rate in Under WHO standards, Indonesia has begun to implement so many policies related to national economic recovery such as accelerating government spending, relaxing income taxes, and restoring the national economy by implementing state financial policies through the relaxation of the state budget.

Keywords

reconstruction; constitutional
law; covid-19



I. Introduction

The Indonesian state is in a state of emergency caused by the existence of the Covid-19 pandemic since the beginning of 2020. The government and society are frightened and defend their lives in an uncertain situation full of terror and uncertainty. Therefore, various legal instruments are required to be adapted to the urgent situation that is difficult to predict, especially constitutional law.

Constitutional law itself is divided into at least two types. Yusuf (2021) argues that it is necessary to distinguish between constitutional law that applies in ordinary or normal circumstances and constitutional law that applies in extraordinary or abnormal circumstances. This abnormal constitutional law is called the Emergency Constitutional Law. Sihombing (1996) describes that the Emergency Constitutional Law is a legal system that is carried out or implemented in abnormal or unusual circumstances or can be called a state emergency. This abnormal situation has very wide dimensions, ranging from a state of war that causes chaos in the government and which threatens the lives of many people. To the extent that the situation seems at first glance normal, but in order to do certain things that are urgent, certain government tasks, in certain areas, and in certain fields, are forced to deviate from the applicable legal rules. This situation does not pose a threat of danger at all. However, doing so will result in a violation of the law.

Asshiddiqie (2007) explained that the study of Emergency Constitutional Law is considered important, because the study that discusses the State of Emergency is very closely related to serious violations of human rights that can occur when the state of emergency is enacted. One of these emergencies that hit the whole world, including Indonesia, was the Covid-19 pandemic at the end of 2019. The Covid-19 pandemic itself has forced people to limit direct social interaction, which will thus have an impact on economic, political, cultural activities, and others. However, the practice of limiting direct social interaction must inevitably be implemented, and the Emergency Constitutional Law has produced several regulations related to this limitation of social interaction in order to stop or at least reduce the rate of the spread of Covid-19. In practice, this restriction certainly makes people, especially those whose sources of livelihood do not have an alternative Work from Home (WFH), suffer financially, and this is where one of the dilemmas lies in the implementation of the Emergency Constitutional Law in the Covid-19 emergency situation.

Although vulnerable to human rights violations and abuse of authority, the Emergency Constitutional Law in this context is explained by the United Nations with an appeal urging every country to avoid excessive security measures in response to the Covid-19 pandemic. Any country that chooses to determine the state of emergency is pressured to continue to comply with the principles and rules of the game contained in international law by prioritizing an approach to human rights.

After three years, the pace of the Covid-19 emergency has decreased, this is in line with the New Normal that has begun to be applied to the people of Indonesia. However, it is still necessary to know how the Emergency Constitutional Law which was previously made in an effort to conform to the Covid-19 emergency situation is applied to the post-Covid-19 emergency situation. This issue will be addressed further in this study.

Problem Formulation

The problems in this study focused on three things. First is how constitutional law relates to the national situation, second is how the Covid-19 pandemic demands adjustments to constitutional law, and third is how constitutional law is transformed in the post-Covid-19 emergency conditions.

II. Review of Literatures

Vollenhoven in Asshiddiqie (2008) explains that constitutional law regulates all superior legal communities and subordinate legal communities according to their levels, each of which determines the territory or environment of its own people, and determines the bodies within the legal community that concerned and their respective functions, as well as those from the state. Meanwhile, () continued that if the state organization is regulated, then the law that regulates it is what is referred to as constitutional law.

The state of emergency which is the reason for the existence of the Emergency Constitutional Law, simply called a state of danger, is described by Sihombing (1996) as a series of extraordinary and special state institutions and authorities to in the shortest possible time eliminate the dangers that threaten and return them to normal life. according to the common law and common law. Meanwhile, Asshiddiqie (2007) explains state of emergency as a state of danger that suddenly threatens public order, which requires the state to act in usual ways according to the rules of law that normally apply under normal circumstances.

Prasetyo (2021) explains that in practice there are many reasons for the implementation of an emergency. In terms of categories, emergencies themselves vary greatly in form, level, and scale of danger. In general, these emergencies can come either from within (internally) or

from outside (externally). External threats are identified with military threats, both armed and unarmed, but still threaten the lives of citizens. Meanwhile, the threat from within is identified with the threat of rebellion, social unrest, or natural and non-natural disasters. Currently, non-natural disasters tend to be identified with infectious disease outbreaks.

III. Research Method

The research method used in this research is descriptive qualitative. The method was chosen based on the assessment of the object of study which is dynamic and developing. The data collection technique used in this research is a documentation study, where the authors collect books, journals, and other relevant research results and then review them. The analytical method used here is qualitative analysis, to then draw a deductive conclusion through the data obtained from the results of the documentation study and describe it in the discussion.

IV. Discussion

Covid-19 or better known as the Corona Virus has become a public concern since its appearance was detected in China for the first time in early 2020. The death of thousands of people due to this virus has made it the center of attention of many countries, including Indonesia. The Covid-19 pandemic has proven to have put pressure on economic and social conditions in Indonesia since the end of 2019. This economic impact has a wide impact throughout Indonesia. The economy of each region is threatened, coupled with worse regional conditions than before (Kurniasih, 2020). Sihombing (2020) state that Covid-19 pandemic caused everyone to behave beyond normal limits as usual. The outbreak of this virus has an impact especially on the economy of a nation and Globally (Ningrum, 2020). The problems posed by the Covid-19 pandemic which have become a global problem have the potential to trigger a new social order or reconstruction (Bara, 2021). This phenomenon, which is a situation without precedent, makes the entire nation feel terror and restlessness. The fear and anxiety arose in the messy application of the previous law as a procedure which, in this particular situation, was irrelevant. Demands that were previously not covered by existing laws, for example in the field of employment, or the bankruptcy of various companies, or even the human right to interact, surfaced intensely. It is also necessary to carry out international coordination in an effort to readjust various policies and agreements, for example in the export-import process, in which several incidents such as transportation limitations due to the policy of limiting interactions, and also the tendency to "secure supply " until the situation is at least under control, can be handled properly.

The Covid-19 pandemic has had a huge impact on social life. This social dimension is not only felt by the community, but also by the government which is required to make policies without precedent that are appropriate and effective without sacrificing the people. But in practice, the government faces a serious dilemma when it comes to implementing various policies such as mandatory vaccination, social restrictions, and changing modes of being in various professions. However, despite reaping many cons, the government is required to take decisive steps to be able to break the chain of the spread of Covid-19. In addition to the difficulty of coordinating with the community, the government also has difficulties in internal coordination, this is caused by, for example, each institution has its own dominant interest that must be defended, and this has not caused a slight polemic.

Yusuf (2021) explained that coordination is the main key to resolving the Corona Virus Disease 2019 (Covid-19) conflict. In its development, the coordination system is reflected in a number of strategic steps taken, although in its implementation there are still many

shortcomings, the steps that reflect the coordination between actors and government institutions are shown, among others in the policies: Re-allocation of budgets of Ministries and Institutions, Regional Original Revenue, Regional Treasury Funds, imports of medical equipment, determination of Wisma Atletes in Jakarta as a Covid-19 emergency hospital and preparation of anticipatory measures for the impact.

In the context of constitutional law, Adhari (2020) said that if examined theoretically the term emergency itself is understood differently between adherents of state of emergency and state of exception. There were several emergencies that were presented there, the first was emergency that concentrated on an unavoidable emergency and demanded adjustments to procedures or constitutional law products that could provide solutions. The second is exception or exception. This part of the exception is slightly different from the first emergency, although this exception is also identical in nature if it exists in an emergency (emergency).

The Covid-19 emergency is forcing the law to adapt itself. Referring to the view of Schmitt (1985), the state of the country in the future, will experience the threat of an emergency like what could not be predicted beforehand. Therefore, it is better to determine who should have the authority to deal with the emergency. Instead of losing the country just because it has to obey rigid written rules and will only sacrifice goals because it is concerned with the means. In this case, formal legal methods that tend to be rigid in emergency situations will only increase the potential for victims. So it can be assumed that the existence of constitutional law exists as an instrument with the aim as its main focus as long as it is possible.

The application of the Emergency Constitutional Law in the context of dealing with emergencies caused by the Covid-19 pandemic in accordance with the Public Health Emergency corridor does provide a penetration that makes the government stutter in handling it. This sudden and unpredictable phenomenon has made inter-institutional coordination become chaotic because of the demand for firm and precise decision making. However, in practice, several regulations, such as those contained in the Decree of the President of the Republic of Indonesia No. 11 of 2020 concerning Public Health Emergency and Government Regulation no. 22 of 2020 concerning Large-Scale Social Restrictions (PSBB) caused quite a lot of reactions and public dissatisfaction.

Mas'udi and Poppy (2020) The chronology of the government's initial response in the period February-March 2020 shows that there has been a policy crisis in preparing for possible crises and early responses to crises. This policy crisis is manifested in the governance of the handling of the pandemic itself and the governance of the distribution of authority between government institutions. This is especially marked by the existence of conflicts of authority between institutions both at the national level and in central-regional relations. What happened next was the lack of clarity in coordination in handling the crisis.

There are quite a number of blunders in the regulations regarding PSBB, one of which is the impact of the economic decline of the community resulting from demands for restrictions on interaction. Meanwhile, the Work from Office (WFH) regulation can only be applied in limited professions, and not with MSME actors and other workers who do not have alternative professional arrangements. There are many people who really do not have alternative interactions in their business and work, so the existence of regulations restricting these interactions has a profound social, even psychological, impact. We can know that in the early period of the entry of the Covid-19 pandemic into Indonesia, a wave of protests in helplessness emerged from various levels of society, especially the lower middle class. They expressed the aspiration that, "Little people can't #stayhome". This poses a serious dilemma at the government level in formulating policies. However, in an emergency, the principle of

multiple rescues and efforts to break the chain of transmission of Covid-19 is considered the most appropriate choice.

Reporting from the Ministry of Finance (2021) the Covid-19 pandemic greatly affected the economy in Indonesia starting in the early second quarter of 2020. This was due to the regulation on Large-Scale Social Restrictions (PSBB) which caused a lockdown in several cities aimed at breaking the chain of the spread of Covid-19. This regulation causes an increase in the economic downturn in both formal and non-formal companies. The decline in the economy led to the emergence of Termination of Employment (PHK) caused by the company not being able to pay the wages it should have. Not only that, this decline has caused many companies to decide to go out of business or go bankrupt. However, the number of Covid transmissions is slowly decreasing, and it is possible for the national economy to bounce back.

In 2022, as reported in the Ministry of Health (2022), it is stated that the positivity rate weekly This figure is already below the WHO figure of 5%. This means that on average, the rate of spread of the virus in Indonesia is already below the WHO standard, thus preventing Indonesia from entering the category of high transmission. This is what since the end of 2021 has made Indonesia start implementing New Normal or looser physical interactions than before, although still with health protocols. As in DKI Jakarta the figure is at 0.1%, Central Java is below 0.1%, and other areas.

The start of this easing of interactions provides hope for all elements of society and the government to restore the socio-economic situation after the Covid-19 emergency that hit Indonesia within 3 years. Expectations from the decline in the death rate and transmission of this virus among the community have made constitutional law regulations that were previously so strict to limit physical interactions among humans to begin to disarm some of the rules. For example, it is allowed to congregate in a limited manner (from which previously it was not allowed at all). This situation arises, one of which is caused by the existence of international and national vaccination efforts in order to grow herd immunity in society.

In the context of the readjustment of regulations in post-Covid-19 constitutional law, there are three stimuli that the government seeks to support changes in the recovery of the national economy through the Constitutional Law, namely:

1. Acceleration of Government Expenditures

The government seeks to accelerate the disbursement of capital and expenditure funds, increase the speed of appointment of officials the state treasury, then conduct tenders, accelerate the disbursement of social assistance and transfer regional and village funds. reality New Normal so that it can carry out reformative reinforcement to free oneself from the middle-income trap.

2. Income Tax Relaxation

The amount of income tax in Article 21 is reduced, then there is an exemption from income tax imports in Article 22, accelerated VAT refunds, tax reductions in Article 25, simplifies and simplifies the export-import process, simplifies funds for reducing export and import restrictions, and services export-import through the national logistics mechanism.

3. National Economic Recovery by Implementing State Financial Policy through State Budget Relaxation the State Budget

Relaxation prepares a deficit that has the potential to exceed 3% with the aim of 2023 returning to the initial level of a maximum of 3%. This relaxation is related to the organization's expenditure allocation and others.

V. Conclusion

The Emergency Constitutional Law after the Covid-19 Emergency has a lot to do with efforts to recover the economy from the socio-economic impacts caused by the Covid-19 pandemic since the beginning of 2020. This is due to the phenomenon of declining income, layoffs, and companies that went out of business due to the suppression of physical interaction between people. In 2022, since the decline in the positivity rate which is below the WHO standard, Indonesia has begun to implement so many policies related to national economic recovery such as acceleration of government spending, relaxation of income taxes, and national economic recovery by implementing state financial policies through relaxation of the state budget. The purpose of this regulatory resolution is to restore the national economy as one of the sectors most affected by the previous Covid-19 emergency.

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