

HANDLING OF THE COVID-19 PANDEMIC BY THE GOVERNMENT IN VIEW FROM THE LEGAL PRODUCTS FORMED

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Abstract

It's been almost a year since WHO declared COVID-19 a pandemic; this outbreak has infected almost all countries and has affected various sectors. As a rule of law, Indonesia issued various legal products to deal with the impact of the COVID-19 pandemic, especially in the health and economic sectors. This article will explain what legal products the government has formed to deal with pandemics and discuss the problems of legal products that apply in dealing with pandemics. The research method used in this study is Normative Juridical with a conceptual, statutory, and comparative approach. This research will evaluate the legal products formed by the government because there are problems such as disharmony, in addition to another issue, namely the formation of laws formed by the House of Representatives together with the government, which have no connection with the acceleration of the handling of the Covid-19 pandemic and are considered to be negligent. To the sense of crisis. One of the recommendations that the Government can implement is to focus on establishing laws and regulations related to handling the Pandemic and evaluating the rules and regulations made in the context of handling the Pandemic in the past year.

Keywords: Government, legislation, Covid-19

Introduction

At the beginning of 2020, the world faced the COVID-19 pandemic, which is endemic in more than 200 countries and is thought to have originated in China. More than one year has passed amidst existing limitations; the world is forced to survive in the face of a pandemic which impacts aspects of health, socio-culture, education, tourism and the economy.

Until finally, the World Health Organization (WHO) declared COVID-19 a Global Pandemic on March 11 2020, the number of positive cases of COVID-19 in the world continued to increase. According to World o Meters, there were 121,780,395

positive confirmed cases of Covid-19 globally. Of these, 98,180,010 cases have been declared cured, and the virus has killed 2,691,392 people worldwide. The 5 (five) countries affected by the most infection cases are the United States, Brazil, India, Russia and the United Kingdom.¹

As we all know, the first case of COVID-19 in Indonesia was detected on March 2 2020. To date (21/03/2021), confirmed cases have reached 1,450,132, with the addition of positive cases in the last 24 hours reaching 6,279 people. From these data, Indonesia still has the 18th highest number of confirmed cases worldwide.² With a population of more than 267.7 million people, the Covid-19 Pandemic is a frightening scourge that threatens the survival of life. The impact of COVID-19 is very felt.

The pandemic has caused household consumption or purchasing power, which supports 60 percent of the economy, to fall quite deeply. This is evidenced by data from the Central Statistics Agency which recorded that household consumption fell from 5.02 percent in the first quarter of 2019 to 2.84 percent in the first quarter of 2020.³

In addition, the pandemic has created prolonged uncertainty, so investment has also weakened and has implications for business cessation. the whole world is experiencing an economic downturn, causing commodity prices to fall and Indonesia's exports to several countries also to a halt. The pandemic has implications for tax revenues, which until the first half of 2020 only reached IDR 513.65 trillion or 44.02 percent of the target based on Presidential Decree 72 of

¹ Kompas "Update Corona dunia", <https://www.kompas.com/tren/read/2021/03/18/085400365/update-corona-dunia-18-maret--5-negara-dengan-kasus-tertinggi-uji-coba?page=all>.

² Pikiran Rakyat "Update Covid-19 dunia", <https://www.pikiran-rakyat.com/internasional/pr-011639538/update-covid-19-dunia-20-maret-2021-jumlah-kasus-hampir-tembus-123-juta-jiwa?page=2>.

³ Republika "Tiga dampak besar Pandemi" <https://republika.co.id/berita/qdgt5p383/tiga-dampak-besar-pandemi-covid19-bagi-ekonomi-ri>.

2020 IDR 1,198.8 trillion. This figure contracted to 12.01% compared to the same period in 2019, namely IDR 604.3 trillion.⁴

The Education Sector was also affected, to anticipate the spread of Covid-19 so that it does not spread, the Ministry of Education and Culture adopted a policy to implement Distance Learning at various levels of elementary-secondary education to higher education. Although this policy cannot run optimally because one of the obstacles is internet access and uneven technological infrastructure.

The tourism sector has also been badly affected due to the pandemic which has limited tourist mobilization activities. Globally, there has been a decline in foreign tourist arrivals in various countries up to 700 million people. As a result, the tourism sector globally suffered a loss of USD 730 billion. Until October 2020, there was a decline in tourist arrivals of 72.4 percent.⁵

Responding to this, the government implemented various policies to overcome the spread of the epidemic so that it did not spread. As a rule of law country, legal instruments in this case laws and regulations cannot be separated from the Government to carry out its functions and authority in overcoming every problem. The government has issued various laws and policies.

These legal products include Presidential Decree Number 7 of 2020 concerning the Task Force for the Acceleration of Handling COVID-19, Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions (PSBB) in the Context of Accelerating the Handling of COVID-19, Presidential Decree Number 11 of 2020 regarding Determination of Status Public Health Emergency, Government Regulation in Lieu of Law No. 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the COVID-19 Pandemic, Presidential Regulation Number 54 of 2020 concerning Changes in Posture and Details of the State Revenue and Expenditure Budget for Fiscal Year 2020 and finally

⁴ Republika.

⁵ Liputan 6 "Sektor Pariwisata Dunia rugi USD 730 Miliar", <https://www.liputan6.com/bisnis/read/4447932/sektor-pariwisata-dunia-rugi-usd-730-miliar-dampak-pandemi-covid-19>.

Presidential Decree Number 12 of 2020 concerning Determination of non- the spread of COVID-19 as a National Disaster, as well as various Ministerial/Agency Regulations that are more technical.

However, in practice, there are still problems, namely the disharmony of laws and regulations, especially at the level between ministerial regulations and institutions, which still have the impression of sectoral ego in their formation.

There are 2 (two) problem formulations in this research, namely, what are the strategic legal products issued in handling the COVID-19 pandemic? and what are the problems related to the application of legal products in handling the COVID-19 pandemic?

Methods

The research method used in this study is normative-juridical, with a conceptual, statutory, and comparative approach. Based on this, the analytical method used in this study is qualitative, which is supported by data and analysis of studies from laws and regulations, books, journals, and doctrine regarding laws and regulations and government.

Discussion

Legal Products in The Framework of Handling The Covid-19 Pandemic

As a rule of law state confirmed in the Constitution, it has the consequence that every administration of government power must be based on statutory regulations. According to Padmo Wahdjono, in Indonesian literature the rule of law is a direct translation of *rechtstaat*.⁶ Another term that appears is the rule of law, which is the idea behind AV Dicey. As for the notion of a rule of law state, there was no common opinion among legal scholars until there was a formulation of juridical ideas about the idea of constitutionalism, which was achieved in the 19th and 20th centuries

⁶ Nimatul Huda, *Negara Hukum, Demokrasi Dan Judicial Review*, (Yogyakarta, UII Press, 2005), 8.

which was marked by the terms *rechtstaat* and rule of law, at this time it was called a classical or formal rule of law. with their own characteristics.⁷

According to Philipus M Hadjon, as quoted by Ridwan HR, the difference between the concept of *rechstaat* and the rule of law is that the concept of *rechtstaat* is based on a continental legal system called civil law or modern roman law, while the concept of rule of law rests on the common law legal system, the characteristics of civil law are administrative while the characteristics of common law is judicial.⁸

According to Julius Stahl, as quoted by Jimly Asshiddiqie, *rechtstaat* has four important elements, namely protection of human rights, division of powers, government based on laws and the existence of a State Administrative Court.⁹

Responding to the spread of Covid-19 so that it does not spread further, the President issued Presidential Decree Number 11 of 2020. This Presidential Decree contains the stipulation of public health emergency status during the Covid-19 pandemic, in his considerations stating that the spread of Corona virus disease 2019 (COVID-19) is extraordinary usually marked by the number of cases and/or the number of deaths has increased and spread across regions and across countries and has had an impact on political, economic, social, cultural, defense and security aspects, as well as people's welfare in Indonesia.

Then, Establish Corona Virus Disease 2019 (COVID-19) as a type of disease that causes a Public Health Emergency, and Establish a Public Health Emergency for Corona Virus Disease 2019 (COVID-19) in Indonesia which must be carried out in response to the provisions of laws and regulations.

Simultaneously the President also issued Perppu Number 1 of 2020, the issuance of government regulations in lieu of laws is the constitutional authority of the President as Article 22 paragraph (1) of the 1945 Constitution, then the Constitutional Court confirmed in Decision Number 138/PUU-VII/2009 that the

⁷ Moh Mahfud MD, *Demokrasi Dan Konstitusi Di Indonesia*, (Jakarta, Rineka Cipta, 2000), 27.

⁸ Ridwan HR, *Hukum Administrasi Negara*, (Jakarta Rajagrafindo Persada, 2006), 4.

⁹ Jimly Asshiddiqie, *Pokok-Pokok Hukum Tata Negara Pasca Reformasi*, (Jakarta, Bhuana Ilmu Populer, 2008), 304.

critical parameters force that is. First, there is an urgent need to resolve legal issues quickly based on the law. Second, the legal vacuum or the current law is inadequate. Third, the legal vacuum cannot be overcome by making laws with the usual procedures which are quite long, while the urgent situation requires certainty to be resolved.

According to Jimly Asshiddiqie, three important elements are needed to form an understanding of a state of emergency that can lead to a compelling crisis, namely the presence of a dangerous threat, a reasonable necessity and the limited time available.¹⁰

Meanwhile, according to Bagir Manan, the element of urgency that forces must show 2 (two) general characteristics, namely there is a crisis and there is an emergency. A crisis situation when there is a serious and sudden disturbance. Urgency, if there are various circumstances that were not calculated beforehand and demand an immediate action without waiting for deliberation beforehand, or there are clear signs of initiation and according to reasonable reason if this is not immediately regulated it will cause disturbance both to the community and to running of government.¹¹

The purpose of the government regulation in lieu of law Number 1 of 2020 is First, to provide a legal basis for the Government in establishing extraordinary policies and measures in the field of state finance and the financial sector, in the context of handling health, humanitarian, economic and financial crises as a result from the COVID-19 pandemic. Second, as a form of anticipation in the context of handling the COVID-19 pandemic and/or its implications in the form of threats that endanger the national economy and/or financial system stability.¹²

¹⁰ Ibnu Sina Chandranegara, "Pengujian Perppu terkait Sengketa Kewenangan Konstitusional antar-Lembaga Negara: Kajian atas Putusan MK No. 138/PUU-VII/2009", *Jurnal Yudisial*, Vol. 5, No. 1, April 2012, 15.

¹¹ *Ibnu Sina*, 16

¹² Kemenkeu, "DPR Sahkan Perppu 1 2020 menjadi Undang-Undang" <https://www.kemenkeu.go.id/publikasi/berita/dpr-sahkan-perppu-no12020-jadi-undang-undang-karena-sudah-memenuhi-syarat-syarat-produk-hukum/>.

Substantially, the government regulation in lieu of law Number 1 of 2020 is divided into the areas of state financial policy, taxation and financial and business system stability policies. This government regulation in lieu of law stipulates a budget for handling COVID-19 of IDR 405.1 trillion. In detail, Rp. 75 trillion for the health sector, Rp. 110 trillion for social safety nets. Then Rp. 70.1 trillion for tax incentives and stimulus for People's Business Credit. As well as IDR 150 trillion allocated to finance the national economic recovery program.¹³

Regarding the social safety net, the government allocates a Family Hope Program of 10 million Human Development Cadres which is paid monthly starting April. There is also a staple food card, the recipient of which has been increased to 20 million with an increase in benefits of IDR 200,000 for 9 months. In addition, the Pre-Employment Card funds were increased to IDR 20 trillion to be able to cover around 5.6 million informal workers, micro and small business actors. Beneficiaries receive post-training incentives of IDR 600,000, with training costs of IDR 1 million. Furthermore, a 3-month electricity fee exemption for 24 million 450VA electricity customers, and a 50 percent discount for 7 million subsidized 900VA customers. There are also additional housing incentives for housing construction for low-income people of up to 175 thousand and support for basic food logistics and basic needs of IDR 25 trillion.¹⁴

As a follow-up to the issuance of a government regulation in lieu of law which must obtain the approval of the People's Representative Council as emphasized in Article 22 paragraph (2) of the 1945 Constitution, the people's representative council on May 12 2020 passed Government Regulation in Lieu of Law Number 1 of 2020 concerning Financial Policy and Financial System Stability for Handling the Covid-19 Pandemic to become Law. It is hoped that the passing of this Government

¹³ Liputan 6, "Sederat Aturan Penanganan Corona" <https://www.liputan6.com/news/read/4227914/sederet-aturan-yang-dikeluarkan-jokowi-melawan-pandemi-virus-corona>.

¹⁴ Liputan 6.

Regulation in Lieu of Law will provide a foundation for the Government to take extraordinary steps in ensuring public health amid the Covid-19 pandemic.¹⁵

The Covid-19 pandemic has also had an impact on the holding of simultaneous regional head elections, this is what underlies the President to issue Government Regulation in Lieu of Law Number 2 of 2020 concerning the Third Amendment to Law Number 1 of 2015 concerning Stipulation of Government Regulation in lieu of Law Number 1 2014 concerning the Election of Governors, Regents and Mayors. The stages for the Simultaneous 2020 regional head elections have changed, the voting will initially be held in September. However, the situation with the Corona virus pandemic (COVID-19) meant that the implementation had to be postponed until December 9, 2020.

In fact, to deal with the spread of the Covid-19 outbreak, the state already has legal instruments, including Law Number 4 of 1984 concerning Disease Outbreaks and Contagion, Law Number. 36 of 2009 concerning Health, Law Number. 6 of 2018 concerning Health Quarantine, and Law Number 24 of 2007 concerning Disaster Management.

Based on the law's instrument, the President chose a policy to implement Large-Scale Social Restrictions as regulated in Article 59 of Law Number 6 of 2018 concerning Health Quarantine. The Large-Scale Social Restrictions part is part of the Public Health Emergency response which aims to prevent the spread of the Public Health Emergency disease that is currently occurring between people in a certain area, in this case Covid-19. Large-Scale Social Restrictions include closing schools and workplaces, restrictions on religious activities and/or restrictions on activities in public places or facilities.

Technically Large-Scale Social Restrictions require implementing regulations in the form of Government Regulations as mandated by Article 60 of Law Number 6

¹⁵ DPR RI "DPR Sahkan Perppu No. 1 Tahun 2020 menjadi Undang-Undang" dikutip dari [https://www.dpr.go.id/berita/detail/id/28732/t/DPR+Sahkan+Perppu+Nomor+1+Tahun+2020+J+adi+UU#:~:text=DPR%20RI%20akhirnya%20mengesahkan%20Peraturan,Undang%2DUndang%20\(UU\).](https://www.dpr.go.id/berita/detail/id/28732/t/DPR+Sahkan+Perppu+Nomor+1+Tahun+2020+J+adi+UU#:~:text=DPR%20RI%20akhirnya%20mengesahkan%20Peraturan,Undang%2DUndang%20(UU).)

of 2018 concerning Health Quarantine, therefore Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions was issued in the Context of Accelerating the Handling of COVID-19 , stated in the preamble that the spread of COVID-19 with the number of cases and/or the number of deaths has increased and expanded across regions and across countries and has had an impact on political, economic, social, cultural, defense and security aspects, as well as people's welfare in Indonesia, then the impact the spread of COVID-19 has resulted in certain conditions occurring so that countermeasures need to be made, one of which is by implementing large-scale social restrictions.

Meanwhile, the President issued Presidential Regulation Number 54 of 2020 concerning Changes in Posture and Details of the State Revenue and Expenditure Budget for the 2020 Fiscal Year. The presidential regulation was issued by the President based on Government Regulation in lieu of law No. 1 of 2020. This Presidential Decree is an adjustment to the budget of ministries and agencies cut to facing the coronavirus. Since the beginning, the President has asked the central and regional governments to cut budgets for non-priority activities whose benefits are not directly felt by the people. Most ministries and institutions have experienced budget cuts. However, two ministries, namely the Ministry of Health and the Ministry of Education and Culture, have had their budgets increased to deal with the Covid-19 pandemic. Meanwhile, ministries that have experienced sizeable budget cuts include the Ministry of Research and Technology and the Ministry of Public Works and Public Housing. Not only that, other non-ministerial government agencies such as the police and the Corruption Eradication Commission have experienced budget reductions. The People's Consultative Assembly, the People's Representative Council and the Regional Representative Council have also experienced budget cuts.¹⁶

¹⁶ Liputan 6 “Sederet Aturan Melawan Pandemi”, <https://www.liputan6.com/news/read/4227914/sederet-aturan-yang-dikeluarkan-jokowi-melawan-pandemi-virus-corona>.

Then on April 13, 2020, the President issued Presidential Decree Number 12 of 2020 concerning Designation of Non-Natural Disasters with the Spread of Corona Virus Disease 2019 (Covid-19) as a National Disaster. National disaster management caused by the spread of Covid-19 is carried out by the Task Force for the Acceleration of Handling Covid-19 in accordance with Presidential Decree Number 7 of 2020 concerning the Task Force for the Acceleration of Handling Covid-19 as amended by Presidential Decree Number 9 of 2020 concerning Amendments to Presidential Decrees Number 7 of 2020 concerning the Task Force for the Acceleration of Handling Covid-19 through synergy between ministries/agencies and local governments. This presidential decree emphasizes that regional heads as chairmen of the Task Force for the Acceleration of Handling Covid-19 in the regions, when setting policies in their respective regions, must pay attention to the policies of the central government.

Regarding Presidential Decree Number 9 of 2020 which amends Presidential Decree Number 7 of 2020 concerning the Task Force for the Acceleration of Handling Covid-19, there are several differences, mainly in terms of the structure of the officials. Previously, in Presidential Decree Number 7 of 2020, there were only four members of the Steering Committee for the Task Force for the Acceleration Handling of COVID-19. Namely, the Coordinating Minister for Human Development and Culture, the Coordinating Minister for Politics, Law and Security, the Minister for Health, and the Minister for Finance.

The Steering Committee structure consists of 27 elements from 19 Ministers and institutional elements such as the Head of the State Intelligence Agency, the Head of the Food and Drug Supervisory Agency, the Presidential Staff Office, and the Governors. Executive Members increase in membership. If previously there were 12 ministries, they changed to 33 elements of ministries and other elements.

In particular, the President also requested that state apparatus spend the budget to focus on dealing with the Pandemic, therefore the President issued Presidential Instruction Number 4 of 2020 concerning Refocusing Activities, Budget

Reallocation, and Procurement of Goods and Services in the Context of Accelerating the Management of Corona Virus Disease 2019 (COVID-19)). The Presidential Instruction itself is not included in statutory regulations, but its existence is quite important as a guideline or guideline in carrying out statutory regulations, and the nature of the Inpres only applies internally in this context to the executive, namely the President and his subordinates.

Presidential Instruction Number 4 of 2020 instructs the Minister of Finance to facilitate the budget revision process in a fast, simple and accountable manner. Then the Minister of Home Affairs to take further steps in the context of accelerating the use of the Regional Revenue and Expenditure Budget and/or changes to regional head regulations regarding the elaboration of the Regional Revenue and Expenditure Budget to accelerate the handling of Covid-19 to Governors/Regents/Mayors. The Minister of Public Works and Public Housing is expected to accelerate the preparation and development of the infrastructure needed to handle the corona.

The Minister of Health was also ordered to speed up the registration of medical devices and medical devices for handling corona for those who do not have a registration number in accordance with statutory provisions, considering that at the beginning of the pandemic we knew that the availability of Personal Protective Equipment was very limited. The Head of the Development Finance Supervisory Agency was ordered to carry out financial assistance and supervision in accordance with statutory provisions on state financial accountability to accelerate the handling of corona. Finally, the Head of the Government Goods/Services Procurement Policy Institute was ordered to assist the implementation of the procurement of goods and services to accelerate the handling of Covid-19.

In addition to Presidential Instruction Number 4 of 2020, the President also issued Presidential Instruction Number 6 of 2020 on 4 August 2020, this Presidential Instruction was motivated by the fact that there were still many

violations of the Health Protocol which resulted in the widespread spread of Covid-19.

In principle, this Presidential Instruction encourages the Indonesian National Army, police, Governors, Regents and Mayors to massively increase socialization regarding health protocols in the prevention and control of COVID-19 in a participatory manner from all elements of society. The President instructed each regional head to compile and stipulate regulations in the form of Regional Head Regulations or Regional Regulations, as well as sanctions in each region based on existing legal provisions, as well as local wisdom from each region in order to support integrated and sustainable public health protection. These sanctions can be in the form of verbal or written warnings, social work, administrative fines, to cessation or closure of businesses, business operations, in public spaces.

Towards the end of 2020, the world has started a vaccination program that has been developed to overcome the Pandemic. To prepare everything related to the vaccination program, apart from procuring the vaccine itself, the President has issued the latest Presidential Regulation, namely Presidential Regulation Number 14 of 2021 concerning Amendments to Presidential Regulation Number 99 of 2020 concerning Procurement of Vaccines and Implementation of Vaccinations in the Context of Mitigating the Covid-19 Pandemic.

This presidential regulation has become controversial because it contains administrative sanctions for anyone who refuses to be vaccinated. Provisions regarding the threat of sanctions for vaccine refuse are regulated in Article 13A of the Presidential Decree. In general, it states that, based on data collection, everyone who is determined as a target recipient of the Covid-19 vaccine is required to take part in the Covid-19 vaccination. Exempted from this obligation are targeted vaccine recipients who do not meet the criteria according to the indications for the available Covid-19 vaccine. Those who are designated as recipients of the Covid-19 vaccine but who do not take part in the vaccination can receive sanctions in the form of postponement or termination of the provision of social security or social assistance,

postponement or termination of government administration services, and/or fines. Administrative sanctions are imposed by ministries, agencies, regional governments or agencies according to their authority.

According to the Director of Direct Communicable Disease Prevention and Control of the Directorate General of Disease Prevention and Control of the Ministry of Health, Siti Nadia Tarmizi, said the administrative sanctions contained in the regulation are the final step. The government prioritizes providing education to the public regarding the vaccination program. He hopes that these administrative sanctions will be the last resort that does not need to be carried out because the community understands their rights and obligations.¹⁷

In line with this, according to the Spokesperson for the Covid-19 Handling Task Force, Wiku Adisasmito, administrative sanctions were not needed for people who refused to be vaccinated against the corona virus. Sanctions are the last option if persuasive measures are ineffective and significantly impede the operational plan for vaccination which threatens to establish community immunity. According to Wiku, the government is prioritizing persuasive efforts to invite residents to participate in vaccinations.

Problems of Legal Regulations During The Covid-19 Pandemic

The issuance of Government Regulation in lieu of Law Number 1 of 2020, which was approved to become Law Number 2 of 2020, is quite controversial because it is considered to be more concerned with economic aspects than health aspects due to the Pandemic. In substance, there are 5 (five) regulatory points.¹⁸ First, setting a budget for handling COVID-19 of IDR 405.1 trillion. In detail, Rp. 75 trillion for the health sector, Rp. 110 trillion for social safety nets. Then Rp. 70.1

¹⁷ Kompas, "Rincian Sanksi untuk Penolak Vaksin Covid-19 dalam Perpres No. 14 Tahun 2021", <https://www.kompas.com/tren/read/2021/02/19/085700865/rincian-sanksi-untuk-penolak-vaksin-covid-19-dalam-perpres-nomor-14-tahun?page=all>.

¹⁸ Sekretariat Kabinet, "5 Poin Penting Presiden soal Perppu No. 1 Tahun 2020", <https://setkab.go.id/5-poinpenting-presiden-soal-perpu-kebijakan-keuangan-negara-dan-stabilitas-sistem-keuangan/>.

trillion for tax incentives and stimulus for People's Business Credit. As well as IDR 150 trillion allocated to finance the national economic recovery program.

Second, the health sector budget will be prioritized for the protection of health workers, especially the purchase of Personal Protective Equipment, the purchase of medical devices such as test kits, reagents,

ventilators, and others, as well as for upgrading referral hospitals including the Athlete's House, as well as for incentives for doctors, nurses, and hospital staff, as well as for medical personnel death benefits, and handling other health problems.

Third, regarding the social safety net, the government allocates a Family Hope Program of 10 million Human Development Cadres which is paid monthly starting April. There is also a staple food card, the recipient of which has been increased to 20 million with an increase in benefits of IDR 200,000 for 9 months. In addition, the Pre-Employment Card funds were increased to IDR 20 trillion to be able to cover around 5.6 million informal workers, micro and small business actors. Beneficiaries receive post-training incentives of IDR 600,000, with training costs of IDR 1 million. This budget is also allocated for a 3-month electricity fee exemption for 24 million 450VA electricity customers, and a 50 percent discount for 7 million subsidized 900VA customers. There are also additional housing incentives for housing construction for low-income people of up to 175 thousand and support for basic food logistics and basic needs of IDR 25 trillion.

Fourth, for economic stimulus for Micro, Small and Medium Enterprises and business actors, priority will be given to the waiver of Income Tax 21 for workers in the manufacturing sector producing a maximum of IDR 200 million, for the exemption of Import Value Added Tax for taxpayers then imports for export purposes. Especially for small and medium industries in 19 certain sectors, and will also be used to reduce the Income Tax rate by 25 percent for taxpayers then imports for export purposes, especially small and medium industries in certain sectors.

Fifth, for the non-fiscal sector in ensuring the availability of goods that are currently needed, including industrial raw materials, the government implemented

several policies, namely simplification of limited export bans, simplification of limited or limited import restrictions, and acceleration of export-import process services through the national logistics ecosystem .

The debate is contained in Article 27 of the Regeling, which is considered to provide wide discretion and minimal accountability so that it reflects absolute power. Article 27 paragraph (1) states that "The costs incurred by the Government and/or Institutions members of the Financial System Stability Committee in the context of implementing state revenue policies including policies in the field of taxation, state spending policies including policies in the field of regional finance, financing policies, stability policies the financial system and the national economic recovery program, are part of the economic costs to save the economy from the crisis and are not a state loss".

Furthermore, in Article 27 paragraph (2) it is explained that "Members of the Financial System Stability Committee, Secretary of the Financial System Stability Committee, Members of the Secretariat of the Financial System Stability Committee and officials or employees of the Ministry of Finance, Bank Indonesia, the Financial Services Authority and the Deposit Insurance Corporation and other officials, relating to the implementation of this Government Regulation in Lieu of Legislation, cannot be prosecuted both civilly and criminally if the carrying out of duties is based on good faith and in accordance with the provisions of laws and regulations."

Finally, the formulation of Article 27 paragraph (3) reads "All actions including decisions taken based on this Government Regulation in Lieu of Law are not the object of a lawsuit that can be submitted to the state administrative court".

Because the Perppu was considered to be contrary to the constitution, several parties submitted a Judicial Review to the Constitutional Court. It was recorded that there were 3 (three) requests filed. First, Case No. 23/PUU-XVIII/2020 was proposed by former Chairman of the People's Consultative Assembly Amien Rais, former General Chairperson of the Muhammadiyah Central Executive Sirajuddin (Din) Syamsuddin, and University of Indonesia Professor of Economics Sri Edi

Swasono. Second, Case No. 24/PUU-XVIII/2020 was submitted by the Indonesian Anti-Corruption Society (MAKI), Yayasan Mega Bintang Solo Indonesia 1997, KEMAKI, LP3HI, and PEKA in which both cases stated that in their decision, the Constitutional Court stated that the petitioners' requests could not be accepted. Third, requested by Damai Hari Lubis with No. Case 25/PUU-XVIII/2020, but the petition was withdrawn by the Petitioner.

In fact, the government regulation in lieu of law number 1 of 2020 was formed by looking at the experience of the 1998 crisis up to the Century Bank bailout incident. According to the government, the birth of this article cannot be separated from experiences during the 1998 and 2008 crises, where policy makers were vulnerable to being sued in court if state losses were discovered. One example is the policy of the Indonesian Bank Restructuring Agency in issuing settlement certificates in the case of Bank Indonesia Liquidity Assistance due to the 1998 monetary crisis and also the policy of the Financial System Stability Committee which provided a Short Term Funding Facility alias bailout to Bank Century to prevent a banking crisis in 2008. The policies/discretions taken by the Government to overcome the economic crisis were repeatedly questioned in the future, both by law enforcement officials and the Government's political opponents.¹⁹

Government Regulation No. 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating the Handling of Corona Virus Disease (Covid-19) also has formal problems, because the Government Regulation does not meet the requirements as an implementing regulation Article 60 Law No. 6 of 2018 concerning Health Quarantine.

Article 60 Law no. 6 of 2018 concerning Health Quarantine explains that "Further provisions regarding the criteria and implementation of Home Quarantine, Regional Quarantine, Hospital Quarantine, and Large-Scale Social Restrictions are regulated by Government Regulation".

¹⁹ Tirto "Polemik Perppu No. 1 Tahun 2020", <https://tirto.id/polemik-perppu-corona-saat-sri-mulyanidkk-tak-bisa-dipidana-eKdC>.

According to the Indonesian Center for Law and Policy Studies (PSHK), there are three reasons for Government Regulation number 21 of 2020 not meeting the criteria as a delegation regulation.²⁰ three reasons why the Government Regulation does not meet the requirements as an implementing regulation. First, the title of the Government Regulation is specific to accelerating the handling of Corona Virus Disease 2019 (Covid-19). Whereas the delegation of Article 60 of Law 6 of 2018 is general in nature for any situation and at any time that has been designated as a Public Health Emergency. The specific title mentions that Covid-19 has two implications. In the future, if Covid-19 has disappeared, this Government Regulation will automatically have no effectiveness, so that the function of the Government Regulation as a delegation of Law Number 6 of 2018 concerning Health Quarantine is not fulfilled. If in the future there are new outbreaks other than Covid-19 which are deemed to have caused a health emergency, Government Regulation number 21 of 2020 cannot be used.

Second, the consideration does not mention that Government Regulation Number 21 of 2020 was formed as the implementation/delegation of Article 60 of Law Number 6 of 2018. Government Regulation number 21 of 2020 should have stated the basis for consideration for the formation of implementing regulations of a law. Government Regulation number 21 of 2020 should have emphasized that the formation of this Government Regulation was to implement Article 60 of Law number 6 of 2018 concerning Health Quarantine.

Third, the contents of Government Regulation number 21 of 2020 only include the criteria/requirements and the implementation of Large-Scale Social Restrictions. In fact, Article 60 of Law no. 6 of 2018 states that what is further regulated is not only large-scale social restrictions, but also a package with criteria and implementation of home, regional and hospital quarantine. The content

²⁰ Hukum Online, "Alasan Hukum PP PSBB Disebut Tak Penuhi Syarat" <https://www.hukumonline.com/berita/baca/lt5e85796f160b4/alasan-hukum-pp-psbb-disebut-tak-penuhi-syarat/>.

regulated in this Government Regulation is nothing more than a repetition of the norms contained in the Health Quarantine Law. For example, the wording of Article 4 paragraph (1) of this Government Regulation is exactly the same as Article 59 paragraph (3) of the Health Quarantine Law, namely "Large-Scale Social Restrictions cover at least: a. school and workplace closures; b. restrictions on religious activities; and/or c. restrictions on activities in public places or facilities. Ideally, government regulations explain in detail the implementation. There are no further technical arrangements regarding the implementation of Large-Scale Social Restrictions. -19 namely between Lockdown (Regional Quarantine) or Large-Scale Social Restrictions.

Law Number 6 of 2018 concerning Health Quarantine actually provides an order for the formation of 4 (four) delegation regulations in the form of Government Regulations, namely procedures for the central government to establish and revoke Public Health Emergencies, prevention of Public Health Emergencies, procedures for imposing administrative sanctions, and criteria and implementation of Home Quarantine, Regional Quarantine, Hospital Quarantine, and Large-Scale Social Restrictions. In the future, to make it more implementable and anticipatory, it is necessary to revise Government Regulation Number 20 of 2020 by changing the title and content material to be more general in accordance with the mandate of Law Number 6 of 2018 concerning Health Quarantine. Revised Government Regulations must stipulate procedures and criteria for implementing home, regional and hospital quarantine. In addition, it is necessary to include Article 60 and/or other articles in Law number 6 of 2018 in the preamble considering that this Government Regulation is an implementing regulation.

If the government is total and committed to implementing Law Number 6 of 2018 concerning Health Quarantine, the Government should establish 4 (four) Government Regulations that specifically regulate these four matters, or form these four arrangements into one in one Government Regulation. Unfortunately, Government Regulation Number 21 of 2020 only contains provisions for Large-

Scale Social Restrictions.

Another problem also occurs in the form of conflicting norms between laws and regulations aimed at preventing the spread of Covid-19, this occurs at the ministerial regulation level, namely Minister of Transportation Regulation Number PM.18 of 2020 concerning Transportation Control in the Context of Preventing the Spread of Corona Virus Disease 2019 (COVID-19) which contradicts Minister of Health Regulation Number 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions in the Context of Accelerating the Management of Corona Virus Disease 2019 (COVID-19).

The Minister of Transportation's Regulation on Transportation Control in the Context of Preventing the Spread of Covid-19, precisely in Article 11 Paragraph (1) letter d, was used as an argument by the Ministry of Transportation to allow online motorcycle taxis to carry passengers during the Large-Scale Social Restrictions. In fact, the rules in letter (d) explain that motorcycles with certain purposes can still carry passengers, as long as they meet the requirements, namely other activities that are permitted during Large-Scale Social Restrictions, including disinfecting vehicles and equipment before and after use, and using masks and gloves.

This rule actually regulates motorbikes in general, and does not specifically regulate online motorcycle taxis, as regulated in Article 11 Paragraph (1) letter c. In fact, allowing online motorcycle taxis to transport passengers appears to contradict Article 11 Paragraph (1) letter c of the Minister of Transportation itself which reads: "Application-based motorbikes are restricted to use only for the transportation of goods." Because, in the letter c rules it is clearly written that application-based motorcycles are only for transporting goods.

Meanwhile, in Article 15 of Permenkes Number 9 of 2020, the rules regarding application-based motorbikes stipulate that freight forwarding services, including application-based two-wheeled transportation facilities with limitations are only for transporting goods and not for passengers or people.

To overcome the problem of overlapping of the two regulations, this can be

done in 2 (two) ways, which are resolved directly by the President as the head of government in charge of ministers, the president can order the revocation of ministerial regulations directly.

The second way is to approach the *lex specialis derogat legi generalis* principle, namely the principle of legal interpretation which states that special laws (*lex specialis*) override general laws (*lex generalis*). If you use this approach, the Ministry of Transportation deserves to apply it. Because the Ministry of Transportation acts as a leading sector ministry that specifically deals with the field of Transportation.

Conclusion

The Covid-19 outbreak that has plagued the world for more than a year has had many negative impacts, many countries are overwhelmed and no one is ready to deal with it, including Indonesia. The rule of law adhered to in Indonesia requires the government to form products to deal with the Covid-19 pandemic. It is recorded that the government has issued various laws and regulations and policy regulations as an effort to deal with the pandemic. However, the formation of various laws and policy regulations to deal with Covid-19 cannot be separated from the usual legal problems, namely the lack of harmonization which results in conflicting and overlapping norms. The laws and regulations that are formed in a hurry are also confuse its implementation because the contents in it are not technically regulated.

We don't know when the COVID-19 pandemic will end, but to anticipate it, of course, we still have adequate legal instruments. The government needs to evaluate the applicability of the legal products in force during the handling of the pandemic and whether they have been effective. The House of Representatives, as the branch of legislative power and the President, must also immediately revise Law Number 4 of 1984 concerning Outbreaks and Contagious Diseases, which is currently included in the 2021 Priority Prolegnas list. This is important considering that this law is quite old and is no longer in accordance with the times and the legal needs of society.

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