

Aspects of Constitutional Law in the Responsibilities of the Regional Government of North Sumatra Province During the Covid-19 Pandemic

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Abstract : *The stipulation of a state of emergency in a country can make the government override the rights and obligations that apply under normal conditions. The state's responsibility for the protection of human rights must remain (Cornell & Salminen, 2018). This must be considered considering that the state's responsibility is the constitutional right of every citizen that has been enshrined in the 1945 Constitution. On the other hand, various regulations issued during the Covid-19 pandemic only try to fulfill the constitutional aspects that have been stated in the formulation of Articles 12 and 22 of the 1945 Constitution. Therefore, the Regional Government of North Sumatra Province accelerates the acceleration of the vaccination program, this is one form of responsibility of the local government to the community. The Regional Government of North Sumatra Province must be present by providing excellent service in the health sector to the community. And must prepare strategic steps to overcome potential crises on all fronts. The protection of public security is also one of the mirrors of the state's responsibility. This needs to be considered, considering that other crises in the future, the responsibility of the North Sumatra Provincial Government can be carried out more optimally.*

Keywords: *Covid-19 Pandemic, Responsibilities, Regional Government of North Sumatra Province.*

1. INTRODUCTION:

The spread of the Covid-19 epidemic is still growing today. This pandemic continues to grow until there are reports of new deaths and cases outside China. On January 30, 2020, WHO declared COVID-19 a Public Health Emergency of International Concern (PHEIC).¹ On February 12, 2020, WHO officially designated this novel coronavirus disease in humans as Coronavirus Disease (COVID-19). President Joko Widodo announced that the Emergency Restrictions on Community Activities (PPKM) will be effective from July 3-20, 2021. PPKM is a policy with the aim of reducing the spread of the corona virus due to reduced mobility and community activities outside the home. KDP has 4 levels of PPKM from level 1 to 4. ² Level 1: The number of positive cases of Covid-19 is less than 20 per 100 thousand populations. There are 5 hospitalized cases per 100,000 populations. And 1 case died per 100,000 populations in the area. Level 2: There are 20 to 50 positive cases of Covid-19 per 100,000 populations. In addition, there are 5 to 10 hospitalized cases per 100,000 populations. And there are 1 to 2 cases of death per 100,000 residents in the area.

Level 3: The number of positive Covid-19 cases is 50 to 150 Covid-19 cases per 100,000 populations. There are also 10 to 30 hospitalized cases per 100,000 populations. In addition, as many as 2 to 5 cases died per 100,000 populations. And finally level 4: There are more than 150 Covid-19 cases per 100 thousand inhabitants. For the number of cases hospitalized per 100 thousand there are more than 30 cases. And there are more than 5 cases of death per 100,000 populations. This Emergency PPKM includes restrictions on community activities that are stricter than before. The policy, which is valid for two weeks and targets regencies/cities in Java and Bali, was carried out as a way to break the chain of transmission of the corona virus. However, PPKM was finally implemented throughout Indonesia.³ To implement the policy for the temporary extension of the PPKM, two Instructions from the Minister of Home Affairs have been issued, namely the Instruction of the Minister of Home Affairs Number 22 of 2021 regarding the

¹ Yuliaty, T., Rambe, A., Zulfendri, Z., & Satria, B. (2021). Kebijakan Karantina Kesehatan Dalam Upaya Mencegah Penularan Corona Virus 19 Di Kota Medan. *Jurnal Pembangunan Perkotaan*, 9(1), 1-8.

² Miharja, M., Salim, E., Nachrawi, G., Putranto, R. D., & Hendrawan, A. (2021). Implementation of Emergency Public Activity Restrictions (PPKM) in Accordance With Human Rights and Pancasila Principles. *Budapest International Research and Critics Institute (BIRCI-Journal): Humanities and Social Sciences*, 4(3), 6855-6866.

³ Dzulfikri, M. R. (2021). Implementasi Kebijakan Pemberlakuan Pembatasan Kegiatan Masyarakat Darurat Covid-19 di Kota Surabaya. *Dinamika Governance: Jurnal Ilmu Administrasi Negara*, 11(2)

Implementation of PPKM Level 4 for Regencies/Cities in the Java and Bali Regions, and the Instruction of the Minister of Home Affairs Number 23 of 2021 regarding the Implementation of Micro PPKM. (Level 4 and Level 3 for Regencies/Cities in Outer Java and Bali Regions).

Following up on the Instruction of the Minister of Home Affairs Number 41 of 2021 concerning the Enforcement of Restrictions on Community Activities at Level 3, Level 2 and Level 1 and Optimizing the Command Post for Handling Corona Virus Disease 2019 at the Village and Sub-District Levels to Control the Spread of Corona Virus Disease 2019, hereby instructs the Governor of North Sumatra regarding Enforcement of PPKM in North Sumatra Province as for the legal rules issued, there are still no provisions for sanctions that contain in the event of a violation such as in Law 6 of 2018 concerning Health Quarantine article 90. In order to lead a new era of life towards level 1, then based on the Instruction of the Minister Domestic Affairs Number 48 of 2021 concerning PPKM Level 4, Level 3, Level 2, Level 1 and Optimizing Covid-19 Handling Posts at the Village and Sub-District Levels to Control the Spread of Covid-19 in Sumatra, Nusa Tenggara, Kalimantan, Sulawesi, Maluku and Papua, it's gone k anyone else applies Level 4.

2. RESEARCH METHODOLOGY:

This legal research uses a conceptual approach and a status approach. This legal research uses secondary primary legal materials, in the form of legislation relating to the legal issues discussed as well as legal publications which include textbooks, legal dictionaries, legal journals, and other legal literature.

3. RESEARCH RESULTS AND DISCUSSION:

a. The Responsibility of the Regional Government of North Sumatra Province to the Community During the Covid-19 Pandemic

The responsibility of the state should be contained in the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, namely to protect the entire Indonesian nation and the entire homeland of Indonesia, promote public welfare, educate the nation's life, and participate in carrying out world order based on independence, peace, immortality and social justice. The above responsibilities are a mandate by the founding fathers of the nation for state administration.

Then, we all know that Indonesia is a country that stands based on law (*rechtsstaat*) not based on power alone (Disantara, 2020a: 66). The 1945 Constitution has a principal position as a guideline for the governance and implementation of state, government, and social life, including affirming the existence of the concept of the state. This has been confirmed in Article 1 paragraph 3 of the 1945 Constitution of the Republic of Indonesia which reads that "the State of Indonesia is a state of law". The implication is that all actions of state administration, both during PSPB and PPKM Level 1 to 4, must be based on legal instruments that lead to the goal of the state, namely to protect and prosper. The legal basis for the Emergency PPKM in North Sumatra Province was issued by the Governor's Circular Letter through the Instruction of the Minister of Home Affairs Number 48 of 2021 concerning PPKM Level 4, Level 3, Level 2, Level 1 and Optimizing the Covid-19 Handling Command Post at the Village and Sub-District Levels to Control the Spread of Covid-19 in Sumatra, Nusa Tenggara, Kalimantan, Sulawesi, Maluku and Papua, no one has implemented Level 4 anymore.

The Regional Government of North Sumatra Province hastened the acceleration of the vaccination program, this is one form of responsibility of the local government to the community. This shows that the Indonesian state adheres to the concept of the welfare state, meaning that the state must be present at all levels of society to ensure the realization of public welfare. The presence of the state (government) in realizing the welfare of the community must adhere to the applicable laws and regulations. Therefore, all government policies and actions must comply with the law in this case in order to create a sense of justice for all parties and apply the principle of equality before the law). In addition, the principle of legality must also be enforced to prevent acts of abuse of power and ensure that citizens' rights are fulfilled and not violated.

Policy is a standard that determines a goal to be achieved. Policy is also known as public policy⁴. The following policy is divided into 3 stages⁵, that is:

- 1) Policies that are macro in nature or, basically in the form of laws and regulations that are regulated in the laws and regulations of the legislature.

⁴ Rawls, J. (1991). Justice as fairness: Political not metaphysical. In *Equality and Liberty* (pp. 145-173). Palgrave Macmillan, London.

⁵ Wrihatnolo, R. R., & Dwidjowijoto, R. N. (2007). *Manajemen Pemberdayaan*, Jakarta, PT. Elex Media Komputindo.

- 2) Meso or medium policies or weekly explanations in this sense can be in the form of Ministerial Regulations, Governor Regulations, Regents-Regents Regulations and Mayor Regulations. The policy can also be in the form of a Joint Letter between the Minister, governors, and regents and mayors.
- 3) Public policies of a micro nature, namely policies that regulate the implementation of policies above. The form of policies is regulations issued by public officials under the Minister, namely governors, regents, and mayors.

The policy concepts referred to by the law, Ministerial Instructions, and the Governor's Circular which are standard to determine the desired goals realized by the state through the Emergency PKKM in Handling the Eradication of Covid-19 run by the Regional Government of North Sumatra Province. These policies can affect the responsibility of the Regional Government of North Sumatra Province for the community during the Covid-19 Pandemic.

b. The Responsibilities of the Regional Government of North Sumatra Province in the Emergency Situation of the Covid-19 Pandemic.

The stipulation of a state of emergency in a country can make the government override the rights and obligations that apply under normal conditions. The dominance of the emergency law approach during the Covid-19 pandemic is commonplace. The procedural and substantial aspects of state administration during the Covid-19 pandemic are of course also different from state administrators in normal circumstances. Handling the spread of Covid-19 is in the second amendment to the 1945 Constitution, regarding health which is affirmed as part of human rights, in Article 28 H paragraph (1). Has something to do with state responsibility, but rather a legal right which is guaranteed by the state.⁶

The state's responsibility for the protection of human rights must remain (Cornell & Salminen, 2018). This must be considered considering that the state's responsibility is the constitutional right of every citizen that has been enshrined in the 1945 Constitution. On the other hand, various regulations issued during the Covid-19 pandemic only try to fulfill the constitutional aspects that have been stated in the formulation of Articles 12 and 22 of the 1945 Constitution. Not only emphasizing the rights and obligations of the government in an emergency, this legal umbrella will later become a guideline and orientation for the legislation under it, not to mention the laws and regulations that have content related to the legal umbrella. Furthermore, the existence of principles and principles in the legal umbrella will be the 'estuary' for the legislation under it as an empirical implementation.

On the one hand, the circular letter was made not based on statutory regulations, meaning that the government in making the circular was not due to carrying out statutory orders so that there was no legal attachment or umbrella on it. On the other hand, when the touchstone is a general principle of good governance, it has created confusion in the institutions authorized to test or revoke the circular, so it is necessary to test the validation of the rules issued to the government. The basic legal framework in the legal umbrella is expected to minimize disharmony between various related laws and regulations. On the other hand, one of the strategic steps in the aspect of implementing regulations is adjusted to the situation that continues to develop.

The criteria for policy regulation are: 1) The regulation is either directly or indirectly based on formal legal provisions 2) The regulation is unwritten issued by the government based on the authority to carry out its duties in the government 3) The regulation provides general provisions direction. Based on the theory, the rules set by the government should not conflict with the above provisions, such as regional regulations should not conflict with the law, or the Regents's regulations should not conflict with regional regulations. The 1945 Constitution and local government law number 23 of 2014 do not specify the types and types of statutory regulations called regional regulations. Article 18 paragraph (6) of the 1945 Constitution states that local governments have the authority to make regulations and other regulations in carrying out their obligations and autonomy.

Regarding the legal emergency status, it is hoped that it can answer public doubts about the perception of legal uncertainty in the laws and regulations that have been issued by the government during the current emergency. The uncertainty is not only in terms of terminology in the norms of legislation, but the orientation or purpose of the establishment of the legal umbrella must be explained expressively orally. The general description in should be explained in detail to provide additional information. On the other hand, a holistic explanation will minimize misinterpretations by readers and state administrators.

⁶ Karyono, "Penanganan dan Pencegahan Pandemi Wabah Virus Corona (COVID 19) Kabupaten Indramayu" *Jurnal Kolaborasi Resolusi Konflik*, 8 No 2 (2020); 164-173.

Therefore, the structure and quality of internal norms must be accommodated comprehensively in relation to all legal emergencies.⁷ If it is related to state responsibility, the legal umbrella can provide a systematic standard for forms of state accountability in times of legal emergency. This responsibility must be interpreted in essence⁸, so that the norms of government responsibility as state administrators are not only black and white.

Accountability is one form of crystallization of the protection of people's human rights during the Covid-19 pandemic. It is the basic principle of the state's demand to respect, protect and fulfill the human rights of every person. During the Covid-19 pandemic, the state was extended by the North Sumatra Provincial Government to be present by providing excellent service in the health sector to the community and must prepare strategic steps to overcome potential crises on all fronts. The protection of public security is also a reflection of the state's responsibility. This needs to be considered considering that other crises in the future, the responsibility of the North Sumatra Provincial Government can be carried out more optimally.

4. CONCLUSION:

The North Sumatra Provincial Government's policy of implementing Emergency PKKM is the reason for reducing the spread of the Covid-19 virus every day. The Central Government requires strategic steps in making decisions, so that as a basis for implementing its implementation, although many legal arrangements have been issued previously, new regulations are still needed because they are not effective. Therefore, the government must remain faithful to be present in any situation to ensure the fulfillment of people's rights as regulated in various national and international laws and regulations. The implication is that the government cannot make policies without considering the responsibility to the community for the fulfillment of basic rights during the Covid-19 pandemic. The government must continue to carry out moral and legal responsibilities to the community in order to realize excellent public services, empowerment, and development during the Covid-19 pandemic. There is a need for a new formulation related to the determination of the legal emergency status in the future, namely the completion of the legal emergency status which is expected to strengthen the rights and obligations of the government during an emergency, especially in terms of state accountability as a reflection of the protection of human rights during a legal emergency, not only in terms of state accountability. people in North Sumatra Province, but people in the Indonesian hemisphere as a whole.

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⁷ Adiwilaga, R., Alfian, Y., & Rusdia, U. (2018). Sistem Pemerintahan Indonesia. Deepublish.

⁸ Luthfi, K. (2018). Masyarakat Indonesia dan Tanggung Jawab Moralitas. Guepedia.