



Regional Head Policies In The Republic Of Indonesia During The Covid-19 Pandemic

Dwi Andayani B.S

Universitas Pakuan, Indonesia

dwi.andayani@unpak.ac.id

Muhammad Rizqi Fadhlillah

Universitas Syekh Yusuf, Indonesia

muhammad.rizqi@unis.ac.id

Alif Sena Yudi Jastri

Universitas Pakuan, Indonesia

alifsyj45@gmail.com

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Abstract

Abstract

The spreading of Covid-19 cases is happens so quickly to every countries around the world. In this case the local government are playing a huge role to control the spreading of the virus. The authority of regional heads in issuing various policies during the Covid-19 pandemic refers to Law Number 6 of 2018 concerning Quarantine, Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating Handling of Corona Virus Disease 2019 (Covid-19), Minister of Health Regulation Number 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions in the Context of Accelerating Handling of Corona Virus Disease 2019 (COVID-19). The type of research method used in this research is normative research, namely research on library materials which are basic data in science is classified as secondary data, which relies on data collection tools in the form of library studies or document studies. The conclusion in this paper is the



obstacles faced by regional heads in handling the Covid-19 pandemic, and its resolution includes the dominant authority of the central government in regulating and implementing PSBB. To address this problem, it is necessary to create good collaboration between the central government and local governments in regulating policies so that the handling of the COVID-19 pandemic is immediately resolved.

A. Introduction

Indonesia's national development aims at promoting the general welfare, creating a just and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia. To achieve these goals, the Government of Indonesia seeks to develop and strengthen all sectors of people's lives, including health. This is following the right to live needs of Indonesian citizens as reflected in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that:

“Everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and has the right to obtain health services which are realized through the development of the health sector”.

Health development, according to Article 3 of Law Number 36 of 2009 concerning Health, aims to increase awareness, willingness and ability to live healthy for everyone, so that the highest degree of health of the community is realized, as an investment for the development of socially productive human resources. and economical.

In realizing health development, of course, it is accompanied by the development of law because all implementing instruments and their enforcement require legal instruments. Legal development can be interpreted as fostering the law and improving legal policies in a better direction. Therefore, the law must be able to carry out the role of guarding the realization of the desired development goals, which in the development of the law include the development of legal materials, legal structures including legal apparatus, legal facilities and infrastructure as well as legal awareness and culture.¹

On December 31, 2019, the World Health Organization (WHO) China Country Office reported a case of pneumonia of unknown aetiology in Wuhan City, Hubei Province, China on January 7, 2020, China identified pneumonia of unknown aetiology as a new type of coronavirus (coronavirus disease, Covid-19). On January 30, 2020, WHO has declared it a Public Health Emergency of International Concern (KKMMD/PHEIC).²

The increase in Covid-19 cases is happening quite quickly and has spread between countries.³ Various countries in the world implement technical policy strategies. One of them is implementing a lockdown. It is generally interpreted as a total cessation of community activities in the country. Lockdown has been implemented by several countries, such as India and Malaysia. The state of Indonesia does not make lockdown a technical policy to deal with

¹ Pusat Analisis dan Evaluasi Hukum Nasional, *Analisis Dan Evaluasi Hukum Terkait Penanganan Wabah Penyakit Menular Serta Pengawasan Obat Dan Makanan* (Jakarta: BPHN, 2020).

² James Byrne, Sabrina S. Rapisarda, and Don Hummer, “An Imperfect Storm: Identifying the Root Causes of COVID-19 Outbreaks in the World’s Largest Corrections Systems,” *Victims & Offenders* 15, no. 7–8 (2020): 862–909, <https://doi.org/10.1080/15564886.2020.1838373>.

³ Kementerian Kesehatan Republik Indonesia, *Pedoman Pencegahan Dan Pengendalian Coronavirus Disease (COVID-19), Germas*, 4th ed. (Jakarta: Germas, 2020), https://infeksiemerging.kemkes.go.id/download/REV-04_Pedoman_P2_COVID-19__27_Maret2020_TTD1.pdf [Diakses 11 Juni 2021].

Covid-19. The technical policy carried out by the Indonesian government is Large-Scale Social Restrictions, namely by issuing Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions (can be called PSBB) in the Context of Accelerating the Handling of Corona Virus Disease 2019 (Covid-19).⁴

Local governments are the most responsible elements in their regions in handling Covid-19. Regional heads must make technical decisions that should not conflict with central government regulations. This is a problem at the local government level. There are regional heads who make technical policies that are not following central regulations. For example, the Tegal district government had taken local lockdown measures without the approval of the central government. This technical policy is causing problems. The action taken by the Tegal district government from the scientific perspective of public policy is called policy discretion, where some others implement criminal sanctions in order to strengthen the enforcement of the policy.⁵ Policy discretion is commonly exercised when there is an emergency so that tactical decisions must be made. Each regional head has carried out various technical policies in order to deal with Covid-19. More authority to local governments should be given. This is because the local government better understands the conditions in the area. So that tactical efforts can be made to the maximum.

This research are normative research using the library materials as the approach which are a basic data in science. Those library materials will be collect in the form of library and document studies.⁶

B. Discussion

Corona Virus Disease 2019 (Covid-19) has been declared by WHO as a pandemic, and the Government of Indonesia, based on Presidential Decree No. 11 of 2020 concerning the Determination of Public Health Emergency Corona Virus Disease 2019 (COVID-19), has declared COVID-19 as a mandatory public health emergency. Countermeasures are made. In the context of prevention efforts, health quarantine is carried out as stipulated in Law Number 6 of 2018 concerning Health Quarantine.

The implementation of health quarantine is a joint responsibility of the central government and regional governments as a form of protection for public health from diseases and/or public health risk factors so that the Covid-19 outbreak and public health emergency can be immediately overcome. Health quarantine is carried out through observation of diseases and public health risk factors for transportation means, people, goods, and the environment, as well as responses to public health emergencies in the form of health quarantine measures. one of the health quarantine measures in the form of Large-Scale Social Restrictions.

The spread of COVID-19 in Indonesia is currently increasing and expanding across regions and across countries, accompanied by the number of cases and/or the number of deaths. This increase has an impact on the political, economic, social, cultural, defence and security aspects, as well as the welfare of the people in Indonesia, so it is necessary to accelerate the handling of Covid-19 in the form of PSBB measures in order to suppress the wider spread of Covid-19. These actions include restrictions on certain activities of residents in an area suspected of being infected with Covid-19, including restrictions on the movement of people and/or goods for a particular province or district/city to prevent the spread of Covid-19. These restrictions are at

⁴ Susan Olivia, John Gibson, and Rus'an Nasrudin, "Indonesia in the Time of Covid-19," *Bulletin of Indonesian Economic Studies* 56, no. 2 (2020): 143–74, <https://doi.org/10.1080/00074918.2020.1798581>.

⁵ Sulikah Asmorowati, Violeta Schubert, and Ayu Puspita Ningrum, "Policy Capacity, Local Autonomy, and Human Agency: Tensions in the Intergovernmental Coordination in Indonesia's Social Welfare Response amid the COVID-19 Pandemic," *Journal of Asian Public Policy*, 2020, 1–15, <https://doi.org/10.1080/17516234.2020.1869142>.

⁶ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, 17th ed. (Jakarta: Rajawali Press, 2015).

least carried out through school and work holidays, restrictions on religious activities, and/or restrictions on activities in public places or facilities.

The Large-Scale Social Restriction Policy is an effort to strengthen the implementation of physical restrictions or physical distancing for handling and controlling Covid-19. In order to strengthen these physical distancing efforts, it is carried out by providing opportunities for local governments to in stages and in a structured way apply for Large-Scale Social Restrictions.⁷

Large-Scale Social Restrictions Policy is regulated in Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating Handling of Corona Virus Disease 2019 (Covid-19). Furthermore, the implementation of the government regulation was revealed in Minister of Health Regulation Number 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions in the Context of Accelerating Handling of Corona Virus Disease 2019 (Covid-19).

C. Policy Analysis of Regional Heads During the Covid-19 Pandemic

There is currently a worldwide pandemic that has a considerable impact on all sectors of human life. The World Health Organization (WHO) has designated Corona Virus Disease 2019 (Covid-19) as a pandemic threat. The definition of a pandemic itself is an epidemic that spreads simultaneously everywhere or covers wide geography.⁸ This case began in Wuhan, China and began to spread to almost all over the world. The spread of Covid-19 is very fast, and no one can predict the Covid-19 pandemic will end.⁹

The case of Covid-19, which is a global pandemic, clearly raises concerns from various groups, especially the public. The public's concern is increasingly felt by seeing a fairly rapid spike in cases and seeing the lack of readiness of several elements that are vital enough to fight the coronavirus. Seeing the high level of distribution that is so sufficient requires the government to immediately take strategic steps by establishing anticipatory policies to overcome the impact of Covid-19. On March 31, 2020, President Jokowi held a Press Conference with the aim of announcing to the public the policies he had chosen to address Covid-19 as a global pandemic that the Indonesian people are currently facing. At the press conference, President Jokowi issued a statement that the Large-Scale Social Restriction (PSBB) policy was the policy chosen in response to a health emergency. Law Number 6 of 2018 concerning Health Quarantine is the legal basis for this anticipatory policy. In Article 1 point 1 of the law, it is explained:

“Large-scale social restrictions are restrictions on certain activities of residents in an area suspected of being infected with a disease and/or contaminated in such a way as to prevent the possibility of spreading the disease or contamination.”

During the press conference, President Jokowi also emphasized that local governments should not implement their own policies in their territory that are not in accordance with the central government's protocol. Regional governments and private parties must comply with Large-Scale Social Restrictions determined by the central government; if they do not comply

⁷ Tsarina Maharani, “Jubir Pemerintah: Penerapan Physical Distancing Diperkuat Melalui Kebijakan PSBB,” Kompas.com, 2020, <https://nasional.kompas.com/read/2020/04/10/18195851/jubir-pemerintah-penerapan-physical-distancing-diperkuat-melalui-kebijakan>.

⁸ Indri Dwi Apriliyanti, Wisnu Prasetya Utomo, and Erwan Agus Purwanto, “Examining the Policy Narratives and the Role of the Media in Policy Responses to the COVID-19 Crisis in Indonesia,” *Journal of Asian Public Policy*, 2021, 1–17, <https://doi.org/10.1080/17516234.2021.1954770>.

⁹ Aprista Ristiyawati, “Efektifitas Kebijakan Pembatasan Sosial Berskala Besar Dalam Masa Pandemi Corona Virus 2019 Oleh Pemerintah Sesuai Amanat UUD NRI Tahun 1945,” *Administrative Law and Governance Journal* 3, no. 2 (June 1, 2020): 240–49, <https://doi.org/10.14710/alj.v3i2.240-249>.

with or hinder the implementation of Large-Scale Social Restrictions, they can be charged with criminal sanctions.

The policy regarding Large-Scale Social Restrictions in Indonesia was first implemented on April 10, 2020, in Jakarta, which was then followed by several other regions in Indonesia. There are several regulations related to the implementation of the Large-Scale Social Restrictions, including Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating the Handling of Corona Virus Disease 2019 (Covid-19), Regulation of the Minister of Health Number 9 of 2020 concerning Guidelines Large-Scale Social Restrictions in the Context of Accelerating Handling of Corona Virus Disease 2019 (Covid-19), as well as Law Number 2 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Pandemic Handling Corona Virus Disease 2019 (Covid-19) and/or In the Context of Facing Threats That Endanger the National Economy and/or Financial System Stability Become Law.

In reality, the implementation of Large-Scale Social Restrictions in each region in Indonesia is certainly different, and this can be viewed from several sides. In terms of the mechanism for the application of Large-Scale Social Restrictions, it is stated in Article of Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating the Handling of Corona Virus Disease 2019 (Covid-19), namely:

- 1) With the approval of the minister who administers government affairs in the health sector, the regional government may impose large-scale social restrictions or restrictions on the movement of people and goods for a particular province or regency/city;
- 2) Large-scale social restrictions, as referred to in paragraph (1), must be based on epidemiological considerations, magnitude of threat, effectiveness, resource support, operational technical, political, economic, social, cultural, defence and security considerations.

In addition, the conditions that must be met by a region to obtain a determination of Large-Scale Social Restrictions are also emphasized in Article 2 of the Regulation of the Minister of Health Number 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions in the Context of Accelerating Handling of Corona Virus Disease 2019 (Covid-19), which state :

To be able to establish large-scale social restrictions, a province/district/city area must meet the following criteria:

- a) The number of cases and/or the number of deaths due to the disease increased and spread significantly and rapidly to several regions; and
- b) There is an epidemiological link with similar events in other regions or countries.

In terms of the mechanism, it can be explained that some of the criteria that have been mentioned must be submitted by regional heads, both governors/regents and mayors, by submitting data on an increase in the number of cases, an increase in the number of distributions according to time, as well as the occurrence of local transmission. The data must then be accompanied by an epidemiological curve indicating that transmission has occurred in the area. In addition, in submitting applications for Large-Scale Social Restrictions, regional heads need to submit information on regional readiness regarding aspects of the availability of people's basic living needs, health infrastructure, budgeting and operationalization of social safety nets, and security aspects.

After the application is submitted, the Minister of Health will form a special team in collaboration with the Task Force for the Acceleration of Handling the Corona Virus to conduct an epidemiological study, taking into account the readiness aspect of the area concerned. Later, this special team will provide recommendations to the Minister of Health to impose Large-

Scale Social Restrictions. However, the Minister of Health reserves the right to reject the recommendation or accept the recommendation. With several mechanisms for implementing the Large-Scale Social Restrictions requirements that are too long, it is clear that they are very ineffective because many of these requirements will hamper the process of handling Covid-19.

Juridically, it is the authority of the central government to determine the mechanism for handling the Covid-19 pandemic. This is confirmed through Law Number 6 of 2018 concerning Health Quarantine which states that the central government is responsible for implementing health quarantine and can involve local governments. Therefore, the regional government's authority in regulating and implementing Large-Scale Social Restrictions is different from the central government, receiving special attention in the discussion of its constitutionality and legitimacy in handling the Covid-19 pandemic.

The state is an important entity in the fulfilment of citizens' human rights. This is because the fulfilment of the rights of citizens is the responsibility of the state as a result of the duty to respect, protect, and fulfil these human rights. If there is a violation of human rights, it is the duty of the state to recovery these rights. Such violations can be in the form of negligence (the state) itself or failure to take adequate steps in certain conditions.¹⁰ The state's obligations in the 1945 Constitution of the Republic of Indonesia are regulated in Article 28 paragraph (4) that the protection, promotion, enforcement and fulfilment of human rights are the responsibility of the state, especially the government.

In line with this, Constitutional Court Decision Number 87/PUUXIII/2015 also has a similar opinion. Whereas based on Article 4 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, the highest authority in the government is the President. Therefore the responsibility for the implementation of the government rests with the President (central government).¹¹ On the other hand, Article 18 paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that the Unitary State of the Republic of Indonesia consists of Provinces and Regencies/Cities and has regional governments regulated by law. This means that based on the article, it produces a legislative ratio, that although the final responsibility for daily administration is in the hands of the central government, regional governments have responsibility for administering government as long as it is included in the scope of its autonomy and acts on behalf of the state. Therefore, the implementation of government functions by local governments in the form of regional policies is an integral part of the central or national government. Based on this, it means that local governments are personified as state institutions that also have an obligation to fulfil the human rights of citizens as part of the state.

In handling the Covid-19 pandemic outbreak, legally through Law Number 23 of 2014 concerning Regional Government, it can be analysed that the authority for concurrent government affairs is government affairs that are divided between the central government and regional governments. Concurrent government affairs are divided into two matters, namely mandatory government affairs and elective government affairs, and the health sector is included in mandatory government affairs related to basic services. This is emphasized through Law Number 6 of 2018 concerning Quarantine, that the establishment of a health quarantine mechanism is the authority of the central government and regional governments, but the regional government is only a sub-ordinate in the implementation of handling the disease outbreak.

The political will carried out by the regional government in determining the policy of Large-Scale Social Restrictions has also been affirmed in the dimension of the spirit of regional

¹⁰ Rhona K.M. Smith et al., *Hukum Hak Asasi Manusia*, ed. Knut D. Asplund, 3rd ed. (Bantul: PUSHAM UII, 2015).

¹¹ Raines Wadi, "Konstitusionalitas Pemerintah Daerah Dalam Menetapkan Kebijakan Lockdown Pada Penanganan Covid-19," *SALAM: Jurnal Sosial Dan Budaya Syar-I* 7, no. 5 (April 14, 2020): 613–24, <https://doi.org/10.15408/sjsbs.v7i5.15319>.

autonomy espoused by the current 1945 Constitution of the Republic of Indonesia. Due to the contextualization of regional autonomy within the Indonesian state, it has moved from the spirit of centralization to decentralization, i.e. the current regional government is not only an administrative government (deconcentration) but has been based on a government based on autonomy and co-administration tasks, even further affirmed in the law. The 1945 Constitution of the Republic of Indonesia states that regional governments exercise the widest possible autonomy, except for government affairs which have been determined by law to be the affairs of the central government.

Along with this, the widest possible autonomy does not mean that the implementation of regional government can be carried out freely. However, it must still refer to the conception of the Unitary State of the Republic of Indonesia. Because in the sense of autonomy in a unitary state, it means that it contains the essence of maintaining the unitary state. Without unity, there is no autonomy. Autonomy also contains an element of supervision, where fears of abuse of power will be controlled through supervision. Therefore, when the autonomy right is exercised, it must be accompanied by the existing limits in the legislation. However, if the practice of handling the Covid-19 pandemic still requires local governments to follow and justify central government policies that experience ambivalence in the juridical order. Thus, indirectly local governments have been trapped in a constellation of centralized government with a deconcentration mechanism and only make regional heads or regional governments as representatives of the central government in the regions. Because in truth, deconcentration is not a principle in the administration of regional government but a way of administering central government affairs in the regions. Therefore, deconcentration cannot be institutionalized as part of the local government system, which is the antithesis of centralization.¹²

The authority of the regional government and the relationship between the central government in the spirit of decentralisation is also interpreted as the basis for deliberation on the framework of state governance, the maintenance and development of the principles of original government, and the basis of the rule of law.¹³ The contextualization of the decentralization scheme becomes logical when the basis of the rule of law is the legitimacy of the authority of local governments in establishing Large-Scale Social Restrictions in order to alleviate or become a scheme in fulfilling a legal certainty in handling the Covid-19 pandemic amid ambiguous policies carried out by the central government.

Although the main policies are still guided by those set by the central government, awareness of local governments in order to prevent the escalation of central government centralization by setting policies that create legal uncertainty is a necessity, especially in handling Covid-19. Departing from this, the dimension of regional autonomy has confirmed the mechanism. The practical paradigm of regional autonomy is not only having an ideal conception of the transfer of central authority to be regulated by the regions autonomously. However, there is also a need for initiatives originating from the regions to the central government in order to encourage the implementation of regional autonomy and ensure that the implementation of regional autonomy is successfully carried out within the framework of the Unitary State.¹⁴ Therefore, when local governments such as setting Large-Scale Social Restrictions in handling the Covid-19 pandemic, it is a form of initiative or response of local governments in alleviating the centralized nature of the central government.

1. Obstacles Faced by Regional Heads in Handling the Covid-19 Pandemic and Efforts to Solve It

The Covid-19 pandemic provides valuable lessons about managing a situation known as a health emergency. The implementation of the Large-Scale Social Restriction policy that uses

¹² Bagir Manan, *Menyongsong Fajar Otonomi Daerah*, 5th ed. (Yogyakarta: PSH FH UII, 2005).

¹³ Bagir Manan, *Hubungan Antara Pusat Dan Daerah Menurut UUD 1945* (Jakarta: Pustaka Sinar Harapan, 1994).

¹⁴ Jimly Asshiddiqie, *Konstitusi Dan Konstitusionalisme*. (Jakarta: Konstitusi Press, 2005).

the scenario of the division of authority between the central government and local governments faces a number of obstacles. The obstacles faced by regional heads in handling the Covid-19 pandemic and efforts to resolve them can be described as follows:

a. The central government's authority is still dominant in setting and implementing Large-Scale Social Restrictions.

Since March 31, 2020, President Jokowi Widodo has declared a health emergency related to the Covid-19 outbreak, which has had an impact on various sectors of activity, both economic and social. Jokowi declared a national health emergency through a Presidential Decree. The government then issued a Government Regulation on Large-Scale Social Restrictions and a Regulation of the Minister of Health for the implementation of Large-Scale Social Restrictions.

De facto, Indonesia is now in a period of emergency constitutional law so that national laws do not apply as in normal conditions. The implementation of this emergency law allows the state to do things outside of general legal principles, including overriding the authority of regional autonomy. The state of emergency imposed overrides the knowledge and ability of local governments in the process of handling the pandemic.

Local governments, which should be spearheading the handling of the pandemic, appear unable to make their own decisions and rely on the decisions of the central government.¹⁵ During the emergency period, local governments were heavily restrained by the central government. In setting Large-Scale Social Restrictions in an area, for example, the local governor, regent or mayor must make an application to the Minister of Health. This causes the regional government to take a long time, where everything in this pandemic situation must be carried out quickly and precisely.

Another example, the central government unilaterally decided to change the model of the teaching and learning process, even though not all students at all levels of education can follow it. The education office at the regional level is not given the opportunity to develop learning models that are suitable for the conditions of each region. Although legalized under conditions of emergency, the central government's restraints on regional governments are contrary to the spirit of regional autonomy that has been championed for a long time since the reformation.

Regional autonomy is one of the basic principles contained in the 1945 Constitution and should not be violated. The constitution itself is an agreement on the principles adopted by the Indonesian people. In terms of regional autonomy, Article 18 paragraph (5) of the 1945 Constitution of the Republic of Indonesia has clearly explained that regional autonomy is carried out as broadly as possible, except for matters that have clearly been determined as affairs of the central government. As long as the agreement has not changed, the constitution remains in effect and must be fully respected.

Regional autonomy aims to provide flexibility so that regions are able to maximize their potential so that regional disparities that occur can be suppressed. But this freedom was withdrawn during the pandemic, which eventually led to a slowdown in the implementation of pandemic handling in the regions. The movement of the population with special requirements and the continued operation of the Commuter Line trains in Jabodetabek (Jakarta, Bogor, Depok, Tangerang, and Bekasi) are some examples of disharmony in relations between the centre and the regions that are jointly

¹⁵ Gabriel Lele, "Concurrency as Crisis Decision-Making Governance: Lessons from Indonesia's Response to the COVID-19 Pandemic," *Regional & Federal Studies*, 2021, 1–26, <https://doi.org/10.1080/13597566.2021.1960513>.

fighting against the epidemic. Local governments are rendered powerless to stop some of the decisions taken by the central government.

In an effort to address the above problems, it is necessary to create collaboration between the central government and local governments. Collaboration is very important because local governments better understand social, cultural, geographical conditions, and all aspects related to their area so that they can formulate the right strategy to fight this pandemic for their respective communities.¹⁶

This form of collaboration is one of three models of the relationship between the central and local governments. The first collaboration between the central and local governments is a form of a relative model, in which the central government gives freedom to local governments while still giving recognition to the central government. In addition, there is an agency model, namely when local governments are only agents and technical implementers of policies made entirely by the central government, then there is an interaction model, which is the most flexible form of the model. In the interaction model, the central government gives very broad freedom to the regions to make policies, as long as the policies are considered beneficial to both parties.

Of the three, the relative model is the model agreed upon by the Indonesian government as the process of implementing regional autonomy. Even though in conditions of regional autonomy, the central government can become dominant so that it can have immunity to take actions that are not normal in the practice of emergency law. This immunity then makes the state and its apparatus unable to be prosecuted legally. However, this immunity must be carried out based on the precautionary principle that prioritizes the public interest.

In the future, there needs to be a solution to prevent the domination of the central government over regional governments, especially in a state of emergency, apart from military emergency. There need to be more specific laws and regulations to regulate the relationship between central and regional relations, especially in an emergency. Indonesia does not yet have regulations, both laws and all implementing regulations governing state emergencies.

Law Number 23 of 2014 concerning Regional Government only regulates changes in regional revenue and expenditure budgets in emergency conditions. Without having to make a new law, the government can revise Law Number 23 of 2014 concerning Regional Government 2014 by providing broad decentralization as mandated by the 1945 Constitution of the Republic of Indonesia, not only in terms of budget reallocation but also in policy-making by local governments.

The next hope is that the central and regional governments can work together to deal with national health emergencies, and the central government will continue to act within the corridors of the constitution.

b. There is no clear reference to articles regarding sanctions against PSBB.

When referring to regional regulations issued by regional heads, as is the case in Article 28 of Bogor Mayor Regulation 30 of 2020 concerning the Implementation of Large-Scale Social Restrictions in Handling Corona Virus Disease 2019 (Covid-19) in Bogor City as amended by Bogor Mayor Regulation 44 In 2020, that violations of the implementation of the PSBB are subject to sanctions in accordance with the provisions of laws and regulations, including criminal sanctions. It is not clear which laws and regulations the Mayor of Bogor referred to for sanctions.

¹⁶ Tauchid Komara Yuda, Janianton Damanik, and Nurhadi, "Examining Emerging Social Policy during COVID-19 in Indonesia and the Case for a Community-Based Support System," *Asia Pacific Journal of Social Work and Development* 31, no. 1-2 (2021): 13-22, <https://doi.org/10.1080/02185385.2020.1829499>.

This kind of thing clearly violates the principles of criminal law. Law enforcement officers (Police, Prosecutors, and Judges), when enforcing the law, will take action against violations that can only work based on the written law. When discussing criminal sanctions, the provisions containing the sanctions must meet the principle of legal legality. To be able to ensnare an act with the threat of sanctions both criminal and money fine, the government must do the following:

- 1) The law of the act must be written in the legislation;
- 2) The law of the act must be written clearly;
- 3) The law of the act must be written strictly (not open to other interpretations);
- 4) In its application, analogies, or equating certain actions with those contained in criminal threats, may not be applied.

Acts that are recommended in any form of legislation do not necessarily become a violation; it must be clearly stated in the provisions of the violation that the act is an act that is a violation of the law. If you examine Law Number 6 of 2018 concerning Health Quarantine, it is true that Large-Scale Social Restrictions are a form of implementing health quarantine as described in Article 15 of the law that Large-Scale Social Restrictions are a form of activity from health quarantine at the entrance and in the region. However, what must be considered in Article 93 of Law Number 6 of 2018 concerning Health Quarantine is the next element, namely causing a public health emergency.

In order to ensnare someone with a criminal threat, every element in the criminal article must be fulfilled. Article 93 contains an element of consequence that violations of actions in the PSBB can be punished if they cause a public health emergency. Meanwhile, what is meant by a public health emergency in Article 1 number 2 of Law Number 6 of 2018 concerning Health Quarantine is an extraordinary public health incident marked by the spread of infectious diseases and/or events caused by nuclear radiation, biological pollution, chemical contamination. Bioterrorism and food poses a health hazard and has the potential to spread across regions or across countries. This means that PSBB violations in the form of not complying with or obstructing the implementation of PSBB can be punished only if they result in extraordinary public health events marked by the spread of infectious diseases that have the potential to spread across regions or across countries.

It is true that President Joko Widodo has declared the Corona Virus Disease 2019 (Covid-19) Public Health Emergency status through Presidential Decree No. 11 of 2020, but unfortunately, the Presidential Decree does not explain what actions are categorized as acts that make the situation worse. Public health emergency.

Basically, in an emergency like this, the state is allowed to limit a person's rights with the argument of a health emergency through legal threats, but it must still be based on clear and precise laws.

As an effort to solve the problems above, it can be done by revising the Presidential Decree concerning the determination of public health emergencies. The revision must include any actions that exacerbate public health emergencies, then also a revision of the Minister of Health Regulation Number 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions in the Context of Accelerating the Handling of Corona Virus Disease 2019 (Covid-19), which must explain precisely what actions are taken. In the PSBB, which if not implemented, will result in a public health emergency, Bogor Mayor Regulation 30 of 2020 concerning the Implementation of Large-Scale Social Restrictions in Handling Corona Virus Disease 2019 (Covid-19) in

Bogor City as amended by Bogor Mayor Regulation 44 of 2020 must also be revised, so that it can implement PSBB in accordance with clear boundaries.

c. Improper application of criminal sanctions against PSBB violators in the Covid-19 pandemic situation.

The Minister of Health has determined the PSBB status through Minister of Health Regulation Number 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions in the Context of Accelerating Handling of Corona Virus Disease 2019 (Covid-19). Authorized agencies can enforce the law for PSBB violators, for example, staying in crowds in public places according to the provisions of the law. The law referred to is Law Number 6 of 2018 concerning Health Quarantine. In Article 93, it is stated that if the health quarantine violators are sentenced to a maximum imprisonment of one year and/or a maximum fine of Rp. 100,000,000 (one hundred million rupiahs).

PSBB is one manifestation of the health quarantine. In Bogor City, the Bogor City Government has enforced Bogor Mayor Regulation 30 of 2020 concerning the Implementation of Large-Scale Social Restrictions in Handling Corona Virus Disease 2019 (Covid-19) in Bogor City as amended by Bogor Mayor Regulation 44 of 2020 by taking firm action against violators. PSBB, namely without the threat of a fine of up to Rp. 100,000,000 (one hundred million rupiahs) or imprisonment.

Criminal sanctions for non-compliance by citizens should indeed be avoided, what must also be prioritized is persuasion through complete information about the meaning of PSBB, what happens, what are the consequences if they do not comply and alternatives in the form of income support for those who will lose their jobs due to the implementation of PSBB. With regard to PSBB, fines will definitely burden those who are vulnerable or who are forced to leave their homes in search of daily income. Not to mention those who do not have a home. Therefore, there are 3 (three) things that the government must ensure, namely:

- a) The right to public health, including the health of people who cannot comply with the PSBB;
- b) The right to work and the right to work. For example, the government requires all companies to allow their workers not to enter the workplace without being considered absent, without deducting their wages, and still being paid in full;
- c) Right to social housing. For those who are on the streets, neglected, without a job and without a home, the state cannot impose sanctions unless they have fulfilled their basic needs in the form of housing.

According to the author, the sentence of imprisonment is inappropriate, does not solve the problem, and is contrary to the purpose of giving the sentence. Therefore, fines and work problems can be alternative punishments for PSBB violators because fines in the future can become input funds for prevention again. Meanwhile, regarding social work sanctions, they can be diverted, such as participating in spraying disinfectants.

An effort to overcome the obstacles above, namely, the application of criminal sanctions against PSBB violators, is an ultimum remedium or last resort. The best step is for law enforcement officials to prioritize persuasive efforts so that people obey because they really understand what the consequences are of staying out of the house during the pandemic. The apparatus can apply mandatory reporting and ask for promises to violators not to repeat their actions. If you violate it several times, you can be fined.

D. Conclusion

Based on the previous description, several conclusions can be drawn as follows:

1. The authority of regional heads in issuing various policies during the Covid-19 pandemic refers to Law Number 6 of 2018 concerning Quarantine, Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating Handling of Corona Virus Disease 2019 (Covid-19).), Regulation of the Minister of Health Number 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions in the Context of Accelerating Handling of Corona Virus Disease 2019 (COVID-19).
2. The obstacles faced by regional heads in handling the Covid-19 pandemic and its resolution include the still dominant authority of the central government in regulating and implementing PSBB. In an effort to solve this problem, it is necessary to create collaboration between the central government and local governments. The next obstacle is the unclear reference to the article on sanctions for PSBB violators. As an effort to solve this problem, it can be done by revising a number of laws and regulations related to the regulation and implementation of PSBB, which must explain precisely what actions in the PSBB which if not implemented will result in a public health emergency, then local regulations can administer PSBB is in accordance with clear boundaries, especially in terms of imposing sanctions to the violators. Another obstacle is the lack of precise application of criminal sanctions against PSBB violators in the Covid-19 pandemic situation, where's the sanction aren't really clear and improper to implement. As an effort to overcome this obstacle, namely, the application of criminal sanctions against PSBB violators is the ultimum remedium or last resort. The best step is for law enforcement officials to prioritize persuasive efforts so that the public obeys them.

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