



The Legal Side of Handling Covid-19



Pandemic Corona Virus Disease 2019 (Covid-19) hit parts of the world. Indonesia is not left behind. A positive number is in the thousands.

Not a number who died in the hundreds. In fact, the paramedics were affected. This is the most severe (non) natural disaster. Impacting here and there.

Physical, mental-economic, socio-cultural and even religious health. Hard efforts were made by the government to involve the public.

In terms of regulation, although it seems rather late the government launched a package of rules in 2020 to overcome Covid-19. There is Government Regulation in Lieu of Law (Perppu)

Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling Covid-19 Pandemic and / or In Order to Face Threats that Harm National Economy and / or Financial System Stability.

In addition, Government Regulation (PP) No. 21 of 2020 concerning Large-scale Social Restrictions in the Framework of Accelerating Covid-19 Handling was issued. Finally, Presidential Decree (Keppres) No. 11 of 2020 concerning Determination of the Covid-19 Public Health Emergency. It is said to be a bit late, because all three legal products above were issued at the same time, March 31, 2020.

Meanwhile, a number of partial policies, both central and regional, have been carried out, although there is no legal wrapping which is as clear and as strict as the three legal products above.

As published by the Minister of Education and Culture Circular Letter Number 4 of 2020 concerning the Implementation of Emergency Policy in the Distribution of Covid-19 which became the legal basis for canceling the National Examination (UN) and studying at home.

This circular was signed by the Minister of Education and Culture on March 24, 2020. Until the Indonesian National Police was so fast in response, they issued the Police Chief's Announcement Number Mak / 2 / III / 2020 concerning Compliance with Government Policy in Handling the Distribution of Covid-19.

This edict regulates various matters such as the prohibition of gathering large numbers of people as well as the matter of hoarding staples. All with a noble aim so that the distribution chain of the Covid-19 pandemic can be broken.

Legal Polemic

With regard to regulations dealing with Covid-19, from a legal standpoint there is quite a lot of polemic here and there. First, the matter of the president's statement, before the issuance of the three regulations above, gave a signal that he would choose the option of large-scale social restrictions (commonly abbreviated as PSBB) and if necessary followed by civil emergency.

In academic circles, the matter of PSBB options is indeed legal and is not too much of a problem. However, when the choice goes to civil emergency, this becomes problematic.

Because from a legal standpoint the provisions of civil emergency stem from Perppu Number 23 of 1959 concerning Revocation of Law Number 74 of 1957 and the Determination of Dangerous Conditions. Because, in the provisions of this Perppu, the civil emergency authority may order to confiscate goods that are suspected to interfere with security, find out all news and conversations that are essentially known to the telephone office (now it may be Telkom), limit communication tools and their use and so on.

Indeed, this provision is more in the context of rebellion, riots, including natural disasters (Article 1 Perppu 23/1959). There are two things objected by academics to Perppu.

First, it tends to be potentially misused if there is no clear public control. secondly, this Perppu is aimed at one of them addressing natural disasters while Covid-19 is a (non) natural disaster according to the formulation of Article 1 number 2 of Law Number 24 of 2007 concerning Disaster Management.

Whereas regarding Perppu Number 1 of 2020 concerning State Financial Policies and Financial System Stability for Handling Covid-19 Pandemic and / or In the Context of Facing Threats that Harm National Economy and / or Financial System Stability in the public, there are two objections.

First, the Perppu referred to tends to focus on the side of economic risk and the state budget but does not elaborate strategies for handling the Covid-19 pandemic in terms of health efforts. Even though this matter which is urgent must be anticipated.

Secondly, the provision in Article 27 of the Perppu referred to essentially the government's policy in handling the Covid-19 issue to save the economy from the crisis is not a state loss.

Not only that, officials who implement this Perppu such as BI officials, OJK and so on cannot be prosecuted civil and criminal if carrying out their duties in good faith and in accordance with statutory regulations.

For the writer, this clause should not be made because it is memorable for protection of the apparatus which may not be certain whether carrying out the task with a professional or not.

Let it be in the opinion of the author if there are allegations of irregularities in the future (for example) the task of law enforcement and judicial authorities that prove. Moreover, there are norms about good faith which are certainly not easy to prove.

Included, which is quite unique is PP No.21 of 2020 concerning Large-Scale Social Restrictions in the framework of the Acceleration of Covid-19 Handling.

First, the choice to issue a PP means that it must comply with Article 5 paragraph (2) of the 1945 Constitution that the President establishes a PP to implement the law.

Article 60 of the Health Quality Act (Law No.6 / 2018) mandates the criteria and implementation of which large-scale social restrictions are regulated by PP. Then PP No.21 of 2020 was published in the framework of implementing these two norms. However, unique, PP No.21 of 2020 turned out to be a general-abstract norm in accordance with the theory of legislation, but it became a concrete norm because of the acceleration of the Covid-19 Handler's Acceleration.

So, if there are other types of viruses or other outbreaks can not use PP No.21 of 2020. So this is excessive (overbodig). Not efficient.

Second, PP No.21 of 2020 is unusual because the article is very simple (only seven articles), it is not technically even inclined to repeat the contents of Law No.6 / 2018.

For example, a matter of school holidays Should be regulated technically, the school holiday is also followed by learning at home so that it can be the basis of distance learning law and so on. Unfortunately this does not appear in the government regulation.

Implementation

The end is indeed both the central and regional governments must sit together. Seriously discussing for law enforcement. So that chaotic chaos in the regulatory sector can be at least minimized in implementation.

With various agreements as a form of sensitivity to handle the Covid-19 pandemic. Can not turn a blind eye, in the regions translating is not the same as the above provisions concerning the PSBB.

There are some that do partial quarantine (even though the central government avoids the concept of regional quarantine). In fact, the community did not do a little one-sided closure (lockdown / quarantine area) in the area of his housing.

Not to mention the matter of social safety net packages that require escort so that those who get social assistance are on target, on time and in the right amount.

Given the escalation of opportunities for increasing poverty and increasing unemployment. So that requires data collection for it in real time to be right on target.

The author believes, with togetherness and commitment to crisis sensitivity, all of us, the government and the community can work together to overcome the Covid-19 pandemic. This will be a big social capital to become a big nation in the future.

Source: <https://bogor-kita.com/sisi-hukum-penanganan-covid-19/>